

701—41.5(422) Itemized deductions. Deductions may be itemized on the Iowa return to the same extent that they are allowable on the federal return with the following exceptions:

41.5(1) To the extent that Iowa income taxes were included in itemized deductions allowable for federal income tax purposes, they must be subtracted from the itemized deductions to be deducted on the Iowa return.

41.5(2) For the tax years beginning on or after January 1, 2004, and before January 1, 2008, the itemized deduction for state sales and use taxes is allowed on the Iowa return only if the taxpayer elected to deduct state sales and use taxes as an itemized deduction in lieu of the deduction for state income taxes on the federal return under Section 164 of the Internal Revenue Code.

If the taxpayer elected to deduct state income taxes as an itemized deduction on the federal return, taxpayer cannot claim an itemized deduction for state sales and use taxes on the Iowa return. In addition, if taxpayer claimed the standard deduction in accordance with Section 63 of the Internal Revenue Code on the federal return, taxpayer cannot claim an itemized deduction for state sales and use taxes on the Iowa return.

If the taxpayer is allowed to deduct state sales and use taxes as an itemized deduction on the Iowa return, taxpayer cannot claim an itemized deduction on the Iowa return for either the school district surtax imposed under Iowa Code section 257.21 or the emergency medical services income surtax imposed under Iowa Code chapter 422D.

41.5(3) Adoption expense deduction. Unreimbursed amounts paid by the taxpayer in the adoption of a child if placed by a licensed agency under Iowa Code chapter 238, by an agency that meets the provisions of the interstate compact in Iowa Code section 232.158 or by a person making an independent placement under Iowa Code chapter 600, which exceed 3 percent of the taxpayer's net income, or the combined net income of a husband and wife in the case of married taxpayers filing a joint return, will be allowed as a deduction in the year paid. Qualifying expenses include all medical, hospital, legal fees, welfare agency fees, and all other costs relating to the adoption of a child. Those expenses claimed for adoption purposes may not be claimed elsewhere on the individual income tax return.

41.5(4) Deduction for expenses for the care of certain disabled relatives.

a. For tax years beginning on or after January 1, 1983, a deduction from net income may be taken for expenses incurred by a taxpayer for care of a disabled person who is unable to live independently. Such care must be provided in the home in which the taxpayer resides throughout the year. A person is considered to be incapable of living independently if as a result of a physical or mental defect the person is incapable of caring for the person's hygienical or nutritional needs or requires the full-time attention of another person for personal safety or the safety of others. The fact that an individual, by reason of a physical or mental defect, is unable to engage in any substantial gainful activity, or is unable to perform the normal household functions of a homemaker or to care for minor children, does not of itself establish that the individual is physically or mentally incapable of self-care. An individual who is physically handicapped or is mentally defective, and for such reason requires the constant attention of another person, is considered to be physically or mentally incapable of self-care.

To qualify for the deduction, in addition to being disabled, the person must be the grandchild, child, parent or grandparent of the taxpayer or the taxpayer's spouse, and

- (1) Be receiving medical assistance benefits under Iowa Code chapter 249A; or
- (2) Be eligible to receive such benefits under the income and resource levels established in Iowa Code chapter 239B; or
- (3) Would be eligible to receive such benefits if living in a health-care facility licensed under Iowa Code chapter 135C.

Expenses incurred for a taxpayer's disabled spouse do not qualify for the deduction.

b. The deductible amount is limited to \$5,000 for each disabled person cared for in the taxpayer's home and the expenses must not be otherwise deductible as a deduction from net income under Iowa Code section 422.9.

c. Qualifying expenses include a proportionate share of food expenses as well as amounts spent directly on the disabled person for such items as clothing, medical care, dental care and transportation.

Medical expenses incurred for a disabled relative, which are eliminated from federal itemized deductions because of the federal adjusted gross income percentage limitation, may be included in the deduction for expenses incurred for the care of the disabled relative providing the other requirements are met. Following are examples to illustrate the portion of medical expenses incurred which would be deductible.

EXAMPLE 1. Mr. and Mrs. Smith care for Mrs. Smith's mother in their home. Mrs. Smith's mother is physically unable to live independently and qualifies for medical assistance benefits under Iowa Code chapter 249A. Mr. and Mrs. Smith paid medical expenses of \$1,500 for themselves and \$500 for Mrs. Smith's mother. The medical expenses for Mrs. Smith's mother are includable as federal itemized deductions. Mr. and Mrs. Smith's federal adjusted gross income is \$20,000. For 1983, the federal deduction for medical expenses would be \$1,000 (\$2,000 minus 5 percent of \$20,000 or \$1,000). Since the deductible amount for federal tax purposes is \$1,000 or 50 percent of the total medical expenses of Mr. and Mrs. Smith and Mrs. Smith's mother, there remains 50 percent of the \$500 expense for Mrs. Smith's mother (or \$250) which can be included in the Iowa deduction for a disabled relative.

EXAMPLE 2. Mr. and Mrs. Smith's medical expenses were \$400 and Mrs. Smith's mother's expenses were \$200. None of the \$600 in expenses would be deductible as a federal itemized deduction but the mother's \$200 in expenses would be includable in the Iowa deduction for expenses incurred for a disabled relative.

d. Expenses not directly related to care of a disabled relative are not deductible. This category includes rent, mortgage interest, utilities, house insurance and taxes. Such expenses would be incurred without the disabled relative in the home and unless an expense can be directly attributed to the disabled relative, it may not be deducted.

e. In the event that the person being cared for is receiving assistance benefits under Iowa Code chapter 239B, the expenses qualifying for deduction shall be the net difference between the expenses actually incurred in caring for the person which are not otherwise deductible as a deduction to net income and the assistance benefits under Iowa Code chapter 239B. Iowa Code chapter 239B covers family investment program payments.

f. In order to claim a deduction for expenses for care of a disabled relative, a schedule of qualifying expenses must be provided with the tax return as well as a statement from a qualified physician certifying that the disabled individual is unable to live independently. Such certification must be filed with the tax return in the initial year for the deduction and every third year thereafter.

41.5(5) Deduction for payments of tuition and textbooks for dependents in grades kindergarten through 12 in Iowa. For tax years beginning on or after January 1, 1987, but prior to January 1, 1996, individuals who itemize deductions for Iowa income tax purposes may claim a deduction of up to \$1,000 per dependent for amounts paid for tuition and textbooks for those dependents attending grades kindergarten through 12 in Iowa. Taxpayers who itemize deductions on Iowa individual income tax returns for tax years beginning on or after January 1, 1996, and have tuition and textbook expenses may claim the tax credit described in 701—subrule 42.2(8) if they meet the qualifications for the credit. In order to qualify a taxpayer for the deduction for tuition and textbooks, the elementary school or secondary school the dependent is attending must meet the standards for accreditation of public and nonpublic schools in Iowa provided in Iowa Code section 256.11.

In addition, the elementary school or secondary school the dependent is attending must not be operated for profit and must adhere to the provisions of the United States Civil Rights Act of 1964, and the provisions of Iowa Code chapter 216 which is known as the Iowa civil rights Act of 1965.

Amounts paid for tuition and textbooks for attendance of a dependent in a nursery school or a prekindergarten school or a school for postgraduates of a secondary school do not qualify for the deduction for tuition and textbooks.

The deduction for tuition and textbooks is not allowed on returns for taxpayers that have federal adjusted gross incomes of \$45,000 or more. In the case of married taxpayers, the deduction is not allowed if the combined federal adjusted gross income of the taxpayer and spouse is \$45,000 or more. For tax years beginning on or after January 1, 1991, taxpayers' net incomes instead of their federal adjusted gross incomes are used to determine whether or not the taxpayers are eligible for the tuition and

textbook deduction or the tuition and textbook credit. Therefore, a taxpayer filing a 1991 state income tax return would not be eligible for the tuition and textbook deduction if the taxpayer's Iowa net income was \$45,000 or more even if the taxpayer's federal adjusted gross income was less than \$45,000.

The following definitions and criteria apply to the itemized deduction for amounts paid for tuition and textbooks:

a. "Tuition" means any charges for the expense of personnel, buildings, equipment and materials other than textbooks, and other expenses of elementary or secondary schools which relate to the teaching only of those subjects legally and commonly taught in public schools in Iowa. "Tuition" includes charges by a qualified school for summer school classes or for private instruction of a child who is physically unable to attend classes at the site of the school.

"Tuition" does not include charges or fees which relate to the teaching of religious tenets, doctrines, or worship in cases where the purpose of the teaching is to inculcate the religious tenets, doctrines, or worship. It does not include amounts paid to an individual instructor for private instruction of a dependent. "Tuition" also does not include amounts paid to a school which pertain to "extracurricular activities" which are described in paragraph "c" of this subrule. Amounts paid to a school for meals, lodging, or clothing of a dependent do not qualify for the deduction for "tuition."

b. "Textbooks" means books and other instructional materials used in elementary and secondary schools in teaching only those subjects legally and commonly taught in public elementary and secondary schools in Iowa. Fees or charges by the school for required supplies or materials for classes in art, home economics or shop qualify for the deduction as "textbooks."

"Textbooks" does not include amounts paid for instructional materials used in the teaching of religious tenets, doctrines, or worship in cases where the purpose of the teaching is to inculcate the religious tenets, doctrines, or worship. The deduction for "textbooks" also does not include amounts incurred for books, supplies, or materials used for "extracurricular activities." "Extracurricular activities" are described in paragraph "c" of this subrule.

c. "Extracurricular activities" includes sporting events such as football, wrestling, basketball, volleyball, and track. It also includes plays or dramatic events, speech activities such as debates, concerts, dances, band contests, choral contests and events, contests and activities of a similar nature. Driver's education is considered to be an "extracurricular activity" for purposes of the deduction for tuition and textbooks. Therefore, even if driver's education is taken for credit toward a student's graduation requirements, amounts paid for tuition or for textbooks for driver's education may not be taken as part of the deduction for tuition and textbooks.

d. Divorced or separated taxpayers who pay amounts for tuition and textbooks for their children attending grades kindergarten through 12 in Iowa can claim the deduction for tuition and textbooks only if the amounts paid are for children the taxpayers can claim as dependents on their Iowa returns for the tax year.

e. Records to be retained to support the deduction for tuition and textbooks. Taxpayers claiming a deduction for amounts paid for tuition and textbooks must complete statements and information documenting the deduction. The statement must include the following information: name of each dependent for which the deduction is claimed; name and address of each school the dependent attended where amounts were paid for tuition and textbooks; amounts paid for tuition which qualify for the deduction; amounts paid for textbooks which qualify for the deduction; total amount paid for tuition and textbooks which qualifies for the deduction for each dependent (not to exceed \$1,000); and the total amount paid by the taxpayer for tuition and textbooks for all dependents which qualifies for the deduction. This statement should be retained so it may be provided to the department of revenue in case of audit. Other records supporting the deduction which should also be retained include canceled checks, receipts, statements of charges for tuition and textbooks from primary and secondary schools, and any other documents which support the deduction.

f. Proration of amounts paid for tuition which pertain to classes for subjects legally and commonly taught in public schools in Iowa. To the extent that the total amount paid to a school for tuition for a dependent attending grades kindergarten through 12 at a primary or secondary school pertains to classes for subjects legally and commonly taught in public schools in Iowa, the amount paid is deductible. In

instances where there are separate tuition charges for extracurricular activities or for classes for religious instruction, those tuition charges do not qualify for the deduction for tuition and textbooks. However, in situations where the total tuition charges of a school for a dependent cover extracurricular activities and classes for religious instruction as well as classes for subjects legally and commonly taught in public schools in Iowa, a proration of the tuition must be made to determine the portion of the tuition charges that are deductible. The tuition deduction for a dependent may be calculated on the basis of the time spent by the dependent in classes for subjects legally and commonly taught in Iowa's public schools to the total time spent by the dependent in school. For example, a taxpayer paid \$500 to a private school for tuition for a dependent for a semester. During the semester, the dependent had eight class periods each school day. The dependent spent one period in a class for religious instruction. The dependent had another period in the school day spent in practice for an extracurricular activity. The dependent spent the rest of the school day in classes for subjects legally and commonly taught in Iowa's public schools. Seventy-five percent of the dependent's time at the school was spent in classes for subjects legally and commonly taught in Iowa's public schools. Therefore, 75 percent of the tuition paid for the semester or \$375 qualifies for the deduction for tuition and textbooks.

g. Allocation of amounts paid for tuition and textbooks between married taxpayers filing separately. In the case of married taxpayers who have paid amounts for tuition and textbooks for a dependent attending an elementary school or secondary school in Iowa, the deduction for tuition and textbooks must be allocated between the spouses if the taxpayers elect to file separate Iowa returns or separately on the combined return form. The deduction for tuition and textbooks must be allocated between the spouses in the ratio of each spouse's net income to the combined net income of both spouses unless one spouse can prove that all the amounts paid for tuition and textbooks were paid by that spouse.

41.5(6) Rescinded IAB 11/24/04, effective 12/29/04.

41.5(7) Deduction of multipurpose vehicle registration fee. For tax years beginning on or after January 1, 1992, and before January 1, 2005, individuals who itemize deductions for Iowa income tax purposes may claim a deduction for 60 percent of the amount of the registration fee paid for a multipurpose vehicle under Iowa Code section 321.124, subsection 3, paragraph "h." "Multipurpose vehicle" means a motor vehicle designed to carry not more than ten people and constructed either on a truck chassis or with special features for occasional off-road operation. The registration certificate for a multipurpose vehicle has the letters "MV" printed next to the word "style" on the certificate.

This subrule applies only to model year 1992 and older model year multipurpose vehicles. The registration fees for multipurpose vehicles for the 1993 model year and for model years after 1993 are the same as for other motor vehicles where the fees for newer model year vehicles are based on the value and weight of the vehicle. In order to qualify for this deduction, no part of the multipurpose vehicle registration fee may have been deducted as an itemized deduction under Section 164 of the Internal Revenue Code or as an ordinary and necessary business expense.

See also subrule 41.5(9), which provides for the deduction for registration fees for older motor vehicles. Subrule 41.5(7) also applies to multipurpose vehicles to the extent those vehicles are for the 1993 model year or for model years after 1993.

For tax years beginning on or after January 1, 2005, the itemized deduction for Iowa income tax for multipurpose vehicle registration fees is the same as allowed under Section 164 of the Internal Revenue Code for federal tax purposes.

41.5(8) Medical expense deduction limitation. For tax years beginning on or after January 1, 1996, to the extent that a taxpayer has a medical care expense deduction on the federal return under Section 213 of the Internal Revenue Code, the taxpayer must compute the medical care expense deduction on the Iowa return by excluding those health insurance premiums deducted in computing net income in accordance with Iowa Code subsection 422.7(29) and rule 701—40.48(422).

41.5(9) Deduction of older motor vehicle registration fee. For tax years beginning on or after January 1, 2002, and before January 1, 2005, individuals who itemize deductions for Iowa income tax purposes may claim a deduction for 60 percent of the annual registration fee paid for certain older motor vehicles. This deduction applies to a 1994 model year vehicle or a newer model year vehicle that is nine model years old or older. This deduction also applies to a 1993 or older motor vehicle which has been transferred

to a new owner or to a 1993 or older model vehicle that was brought into Iowa on or after January 1, 2002. However, the deduction otherwise allowed pursuant to this subrule is not allowed to the extent that the vehicle was used in the taxpayer's trade or business so that the deduction for the registration of the vehicle has already been allowed in the computation of Iowa net income.

For tax years beginning on or after January 1, 2005, the itemized deduction for Iowa income tax for older motor vehicle registration fees is the same as allowed under Section 164 of the Internal Revenue Code for federal tax purposes.

41.5(10) Additional first-year depreciation allowance. For tax periods ending on or after September 10, 2001, any federal itemized deductions that are determined based on a percentage of a taxpayer's federal adjusted gross income may have to be adjusted for Iowa tax purposes. These itemized deductions for Iowa individual tax purposes are based on federal adjusted gross income as adjusted by the disallowance of the additional first-year depreciation allowance authorized in Section 168(k) of the Internal Revenue Code as described in rule 701—40.60(422).

EXAMPLE: Mr. and Mrs. Jones reported \$50,000 in federal adjusted gross income on their 2002 federal income tax return. Mr. and Mrs. Jones paid medical expenses of \$5,000 for 2002, but could only claim an itemized deduction for medical expenses for federal tax purposes equal to \$1,250, or to the extent the medical expenses exceeded 7.5 percent of their federal adjusted gross income (\$50,000 times 7.5% = \$3,750. \$5,000 - \$3,750 = \$1,250). Mr. and Mrs. Jones reported a \$5,000 increase in Iowa adjusted gross income due to the disallowance of additional first-year depreciation on their Iowa return for 2002. Mr. and Mrs. Jones can claim an itemized deduction on the 2002 Iowa return for medical expenses of \$875, or to the extent the medical expenses exceeded 7.5 percent of their adjusted gross income for Iowa purposes of \$55,000 (\$55,000 times 7.5% = \$4,125. \$5,000 - \$4,125 = \$875).

41.5(11) Charitable contributions made in January 2005 for relief of victims of the Indian Ocean tsunami. For cash contributions made after December 31, 2004, and before February 1, 2005, to charitable organizations for the purpose of helping victims of the Indian Ocean tsunami, the taxpayer may claim this contribution as an itemized deduction on the 2004 Iowa income tax return if the taxpayer elected to claim this contribution as an itemized deduction on the 2004 federal tax return. If the taxpayer elected to claim the cash contribution made in January 2005 as an itemized deduction on the 2005 federal tax return, then it must be claimed as an itemized deduction on the 2005 Iowa return.

41.5(12) Medical expense deduction for certain unreimbursed expenses relating to a human organ transplant. For tax years beginning on or after January 1, 2005, a taxpayer who claims a deduction for unreimbursed travel and lodging expenses relating to a human organ transplant in accordance with rule 701—40.66(422) cannot claim an itemized deduction for medical expenses under Section 213(d) of the Internal Revenue Code for these same expenses for Iowa tax purposes.

41.5(13) Charitable contributions relating to the injured veterans grant program. For tax years beginning on or after January 1, 2006, a taxpayer who claims a deduction for contributions to the injured veterans grant program in accordance with 701—subrule 40.68(2) cannot claim an itemized deduction for charitable contributions under Section 170 of the Internal Revenue Code for the same contribution for Iowa tax purposes.

41.5(14) Charitable contributions relating to school tuition organizations. For tax years beginning on or after January 1, 2006, a taxpayer who claims a school tuition organization tax credit in accordance with rule 701—42.30(422) cannot claim an itemized deduction for charitable contributions under Section 170 of the Internal Revenue Code for the amount of the contribution to the school tuition organization for Iowa tax purposes.

This rule is intended to implement Iowa Code Supplement sections 422.7 and 422.9.