422.11S School tuition organization tax credit.

1. The taxes imposed under this subchapter, less the credits allowed under section 422.12, shall be reduced by a school tuition organization tax credit equal to seventy-five percent of the amount of the voluntary cash or noncash contributions made by the taxpayer during the tax year to a school tuition organization, subject to the total dollar value of the organization's tax credit certificates as computed in subsection 8. The tax credit shall be claimed by use of a tax credit certificate as provided in subsection 7.

2. To be eligible for this credit, all of the following shall apply:

a. A deduction pursuant to section 170 of the Internal Revenue Code for any amount of the contribution is not taken for state tax purposes.

b. The contribution does not designate that any part of the contribution be used for the direct benefit of any dependent of the taxpayer or any other student designated by the taxpayer.

c. The value of a noncash contribution shall be appraised pursuant to rules of the director.

3. Any credit in excess of the tax liability is not refundable but the excess for the tax year may be credited to the tax liability for the following five tax years or until depleted, whichever is the earlier.

4. Married taxpayers who file separate returns or file separately on a combined return form must determine the tax credit under subsection 1 based upon their combined net income and allocate the total credit amount to each spouse in the proportion that each spouse's respective net income bears to the total combined net income. Nonresidents or part-year residents of Iowa must determine their tax credit in the ratio of their Iowa source net income to their all source net income. Nonresidents or part-year residents who are married and elect to file separate returns or to file separately on a combined return form must allocate the tax credit between the spouses in the ratio of each spouse's Iowa source net income to the combined Iowa source net income of the taxpayers.

5. An individual may claim the tax credit allowed a partnership, limited liability company, S corporation, estate, or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, estate, or trust.

6. For purposes of this section:

a. *"Eligible student"* means a student who is a member of a household whose total annual income during the calendar year before the student receives a tuition grant for purposes of this section does not exceed an amount equal to four times the most recently published federal poverty guidelines in the federal register by the United States department of health and human services.

b. *"Qualified school"* means a nonpublic elementary or secondary school in this state which is accredited under section 256.11 and adheres to the provisions of the federal Civil Rights Act of 1964 and chapter 216.

c. *"School tuition organization"* means a charitable organization in this state that is exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code and that does all of the following:

(1) Allocates at least ninety percent of its annual revenue in tuition grants for children to allow them to attend a qualified school of their parents' choice.

(2) Only awards tuition grants to children who reside in Iowa.

(3) Provides tuition grants to students without limiting availability to only students of one school.

(4) Only provides tuition grants to eligible students.

(5) Prepares an annual reviewed financial statement certified by a public accounting firm.

7. *a.* In order for the taxpayer to claim the school tuition organization tax credit under subsection 1, a tax credit certificate issued by the school tuition organization to which the contribution was made shall be included with the person's tax return. The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the amount of the contribution, the amount of the credit, and other information required by the department.

b. The department shall authorize a school tuition organization to issue tax credit certificates for contributions made to the school tuition organization. The aggregate amount of tax credit certificates that the department shall authorize for a school tuition organization for a calendar year shall be determined for that organization pursuant to subsection 8. However, a school tuition organization shall not be authorized to issue tax credit certificates unless the organization is controlled by a board of directors consisting of at least seven members. The names and addresses of the members shall be provided to the department and shall be made available by the department to the public, notwithstanding any state confidentiality restrictions.

c. Pursuant to rules of the department, a school tuition organization shall initially register with the department. The organization's registration shall include proof of section 501(c)(3) status and provide a list of the schools the school tuition organization serves. Once the school tuition organization has registered, it is not required to subsequently register unless the schools it serves changes.

d. Each school that is served by a school tuition organization shall submit a participation form annually to the department by November 1 providing the following information:

(1) Certified enrollment as of October 1, or the first Monday in October if October 1 falls on a Saturday or Sunday.

(2) The school tuition organization that represents the school. A school shall only be represented by one school tuition organization.

8. *a.* For purposes of this subsection:

(1) *"Certified enrollment"* means the enrollment at schools served by school tuition organizations as indicated by participation forms provided to the department each October.

(2) *"Total approved tax credits"* means for the 2006 calendar year, two million five hundred thousand dollars, for the 2007 calendar year, five million dollars, for calendar years beginning on or after January 1, 2008, but before January 1, 2012, seven million five hundred thousand dollars, for calendar years beginning on or after January 1, 2012, but before January 1, 2014, eight million seven hundred fifty thousand dollars, for calendar years beginning on or after January 1, 2014, but before January 1, 2019, twelve million dollars, for calendar years beginning on or after January 1, 2019, but before January 1, 2020, thirteen million dollars, for calendar years beginning on or after January 1, 2020, but before January 1, 2022, fifteen million dollars, and for calendar years beginning on or after January 1, 2022, twenty million dollars.

(3) *"Tuition grant"* means grants to students to cover all or part of the tuition at a qualified school.

b. Each year by December 1, the department shall authorize school tuition organizations to issue tax credit certificates for the following calendar year. However, for the 2006 calendar year only, the department, by September 1, 2006, shall authorize school tuition organizations to issue tax credit certificates for the 2006 calendar year. For the 2006 calendar year only, each school served by a school tuition organization shall submit a participation form to the department by August 1, 2006, providing the certified enrollment as of the third Friday of September 2005, along with the school tuition organization that represents the school. Tax credit certificates available for issue by each school tuition organization shall be determined in the following manner:

(1) Total the certified enrollment of each participating qualified school to arrive at the total participating certified enrollment.

(2) Determine the per student tax credit available by dividing the total approved tax credits by the total participating certified enrollment.

(3) Multiply the per student tax credit by the total participating certified enrollment of each school tuition organization.

9. A school tuition organization that receives a voluntary cash or noncash contribution pursuant to this section shall report to the department, on a form prescribed by the department, by January 12 of each calendar year all of the following information:

a. The name and address of the members and the chairperson of the governing board of the school tuition organization.

b. The total number and dollar value of contributions received and the total number and dollar value of the tax credits approved during the previous calendar year.

c. A list of the individual donors for the previous calendar year that includes the dollar value of each donation and the dollar value of each approved tax credit.

d. The total number of children utilizing tuition grants for the school year in progress and the total dollar value of the grants.

e. The name and address of each represented school at which tuition grants are currently being utilized, detailing the number of tuition grant students and the total dollar value of grants being utilized at each school served by the school tuition organization.

2006 Acts, ch 1163, §1, 2; 2007 Acts, ch 161, §20, 22; 2007 Acts, ch 186, §9 – 13, 31; 2007 Acts, ch 215, §111; 2011 Acts, ch 131, §95, 158; 2012 Acts, ch 1021, §74; 2013 Acts, ch 122, §4 – 7; 2014 Acts, ch 1026, §85; 2014 Acts, ch 1093, §14; 2018 Acts, ch 1161, §35, 36, 44; 2019 Acts, ch 152, §4 – 8, 46, 47; 2020 Acts, ch 1062, §94; 2020 Acts, ch 1118, §98; 2021 Acts, ch 76, §71; 2021 Acts, ch 139, §32 – 34

Referred to in §2.48, 22A.6, 422.5, 422.16, 422.33

For future amendment to subsection 4, effective January 1, 2023, see 2018 Acts, ch 1161, §122, 133, 134; 2021 Acts, ch 177, §1

For the legislative intent of 2019 amendments by 2019 Acts, ch 152, §4 – 8, see 2019 Acts, ch 152, §13

2021 amendment to subsection 1 applies retroactively to January 1, 2021, for tax years beginning on or after that date; 2021 Acts, ch 139, §34

See Code editor's note on simple harmonization at the beginning of this Code volume

Subsection 1 amended

Subsection 8, paragraph a, subparagraph (2) amended