

**ARC 6240C****REVENUE DEPARTMENT[701]****Adopted and Filed****Rule making related to tuition and textbook tax credit**

The Revenue Department hereby amends Chapter 42, “Adjustments to Computed Tax and Tax Credits,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 422.68.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 422.12 as amended by 2021 Iowa Acts, House File 847, sections 7 and 8.

*Purpose and Summary*

This rule making implements statutory changes related to eligibility for the tuition and textbook tax credit and the rate of the credit. 2021 Iowa Acts, House File 847, increased the tax credit rate to 25 percent of the first \$2,000 of eligible expenses from 25 percent of the first \$1,000 of eligible expenses for tax years beginning on or after January 1, 2021. The legislation also expanded eligibility for the credit to taxpayers whose dependents receive private instruction. Previously, the credit was limited to taxpayers whose dependents attend a public or private elementary or secondary school in Iowa.

The rule making clarifies that a tuition or textbook expense must be required for attendance by an elementary or secondary school in Iowa or for attendance for dependents receiving private instruction to be eligible for the credit. The rule making provides a list of examples of tuition items that may be eligible for the credit. The rule making also adds examples of extracurricular expenses that will or will not qualify for the credit.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 20, 2021, as **ARC 5990C**. A public hearing was held on November 15, 2021, via videoconference.

The Department received four public comments. The comments all stated that the Department’s proposed amendments were contrary to the intent of the statutory change, were not practical to administer, and may have been confusing to taxpayers.

Several changes from the Notice have been made. Language specifically requiring tuition or textbook expenses to be those required by an accredited elementary or secondary school in subrules 42.4(1) and 42.4(2) has been removed. Also, language was added in subrule 42.4(3) to clarify that expenses in the enumerated examples will qualify for the credit both for taxpayers whose dependents attend school and for taxpayers whose dependents receive private instruction. Additionally, two references to 2021 Iowa Acts, House File 847, have been removed since the amendments in the legislation have been codified in the 2022 Iowa Code.

*Adoption of Rule Making*

This rule making was adopted by the Department on February 16, 2022.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa beyond that of the legislation it is intended to implement.

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*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rule making will become effective on April 13, 2022.

The following rule-making action is adopted:

Amend rule 701—42.4(422) as follows:

**701—42.4(422) Tuition and textbook credit for expenses incurred for dependents attending grades kindergarten through 12 in Iowa.** ~~Effective for tax years beginning on or after January 1, 1998, taxpayers~~ Taxpayers who pay tuition and textbook expenses of dependents who attend grades kindergarten through 12 in an Iowa school may receive a tax credit of 25 percent of up to ~~\$1,000~~ \$2,000 (\$1,000 for tax years beginning prior to January 1, 2021) of qualifying expenses for each dependent ~~attending who receives private instruction, as defined in Iowa Code section 422.12(1) "c," or attends an elementary or secondary school located in Iowa. A taxpayer whose dependent receives private instruction is only eligible for the tuition and textbook credit for tax years beginning on or after January 1, 2021.~~

~~In~~ For a taxpayer whose dependent attends an elementary or secondary school, in order for the taxpayer to qualify for the tax credit for tuition and textbooks tuition and textbook credit, the elementary school or secondary school that 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 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. ~~The following definitions and criteria apply to the determination of the tax credit for amounts paid by the taxpayer for tuition and textbooks for a dependent attending an elementary or secondary school in Iowa:~~

**42.4(1) Tuition.** For purposes of the tuition and textbook tax credit, "tuition" means any charge ~~made by an elementary or secondary school~~ 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 of only those subjects that are legally and commonly taught in public elementary or secondary 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 elementary or secondary school. Expenses paid by a taxpayer, including a taxpayer whose dependent receives private instruction, for equipment and materials other than textbooks must be for equipment and materials required for attendance in Iowa in order to be eligible for the tuition and textbook tax credit. The following are examples of equipment and materials that may qualify for the credit provided they are required for attendance in school or for providing private instruction:

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- a. Pocket folders and binders.
- b. Spiral notebooks and loose-leaf paper.
- c. Writing utensils, including pens, pencils, highlighters, colored pencils, crayons, and markers.
- d. Backpacks.
- e. Rulers.
- f. Calculators.
- g. Scissors.
- h. Computers, including rental fees paid to a school for the use of a computer.

“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. In addition, “tuition” does not include amounts paid to an individual or other entity for ~~private instruction of a dependent who attends an elementary or secondary school in Iowa.~~ instruction that is supplementary to elementary or secondary school instruction or private instruction. Amounts paid to an elementary or secondary school or to a person providing private instruction for meals, lodging, or clothing for a dependent do not qualify for the tax credit for tuition. “Tuition” also does not include expenses for Internet services or Internet upgrades to facilitate remote learning.

~~Amounts paid to an individual or organization for home schooling of a dependent or the teaching of a dependent outside of an elementary or secondary school may not be claimed for purposes of the tuition and textbook tax credit.~~

**42.4(2) Textbooks.** For purposes of the tuition and textbook tax credit, “textbooks” means books and other instructional materials used ~~in elementary and secondary schools in Iowa~~ to teach only those subjects legally and commonly taught in public elementary and secondary schools in Iowa. “Textbooks” includes fees or charges ~~by the elementary or secondary school~~ for required supplies or materials for classes in art, home economics, shop<sub>2</sub>, or similar courses. “Textbooks” also includes books and materials used for extracurricular activities, such as sporting events, musical events, dramatic events, speech activities, driver’s education, or programs of a similar nature.

“Textbooks” does not include amounts paid for books or other 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, doctrine, or worship. ~~“Textbooks” also~~ For tax years beginning before January 1, 2021, “textbooks” does not include amounts paid for books or other instructional materials used in teaching a dependent subjects in the home or outside of an elementary or secondary school. For tax years beginning on or after January 1, 2021, “textbooks” does include amounts paid for books or other instructional materials used in teaching a dependent subjects in the home or outside of an elementary or secondary school if that dependent is receiving private instruction.

**42.4(3) Extracurricular activities.** For purposes of the tuition and textbook tax credit, amounts paid for dependents to participate in or to attend extracurricular activities may be claimed as part of the tuition and textbook tax credit. “Extracurricular activities” includes sporting events, musical events, dramatic events, speech activities, driver’s education ~~if provided at a school~~, and programs of a similar nature.

a. The following are specific examples of expenditures related to a dependent’s participation in or attendance at extracurricular activities offered by a qualifying school or offered in the course of private instruction that may qualify for the tuition and textbook tax credit:

- (1) Fees for participation in ~~school~~ sports activities.
- (2) Fees for field trips.
- (3) Rental fees for instruments for ~~school~~ bands or orchestras but not rental fees in rent-to-own contracts.
- (4) Driver’s education fees, ~~if paid to a school.~~
- (5) Cost of activity tickets or admission tickets to ~~school~~ sporting, music<sub>2</sub>, and dramatic events.
- (6) Fees for events such as homecoming, winter formal, prom, or similar events.
- (7) Rental of costumes for ~~school~~ plays.
- (8) Purchase of costumes for ~~school~~ plays if the costumes are not suitable for street wear.
- (9) Purchase of track shoes, football shoes, or other athletic shoes with cleats, spikes, or other features that are not suitable for street wear.

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(10) Costs of tickets or other admission fees to attend banquets or buffets for ~~school~~ academic or athletic awards.

(11) Trumpet grease, woodwind reeds, guitar picks, violin strings, and similar types of items for maintenance of instruments used in ~~school~~ bands or orchestras.

(12) Band booster club or athletic booster club dues, but only if dues are for the dependent ~~attending the school~~ attending and not the parent or adult.

(13) Rental of a formal gown or a tuxedo for ~~school~~ a dance or ~~other school~~ similar event.

(14) Dues paid to ~~school~~ clubs or ~~school-sponsored~~ organizations such as chess club, photography club, debate club, or similar organizations.

(15) Amounts paid for music that will be used in ~~school~~ music programs, including vocal music programs.

(16) Fees paid for required general materials for shop class, agriculture class, home economics class, or auto repair class and general fees for equivalent classes.

(17) Fees for a dependent's bus trips to attend school or private instruction if paid to the school or the provider of private instruction.

(18) Costs of band or athletic uniforms.

(19) Costs of instrument lessons.

*b.* The following are specific examples of expenditures related to a dependent's participation in or attendance at extracurricular activities offered by a school or offered in the course of private instruction that will not qualify for the tuition and textbook credit.

(1) Purchase of a musical instrument used in a ~~school~~ band or orchestra.

(2) Purchase of basketball shoes or other athletic shoes that are readily adaptable to street wear.

(3) Amounts paid for special testing such as SAT or PSAT, and for Iowa talent search tests.

(4) Payments for senior trips, band trips, and other overnight ~~school~~ activity trips which involve payment for meals and lodging.

(5) Fees paid to K-12 schools or to a private instructor for courses for college credit.

(6) Amounts paid for T-shirts, sweatshirts, and similar clothing that is appropriate for street wear.

(7) Amounts paid for special programs at universities and colleges ~~for high school students~~.

~~(8) Payment for private instrumental lessons, voice lessons or similar lessons.~~

~~(9) (8)~~ Amounts paid for a ~~school~~ yearbook, annual, or class ring.

~~(10) (9)~~ Fees for special materials paid for shop class, agriculture class, auto repair class, home economics class, and similar classes. For purposes of this paragraph, "special materials" means materials used for personal projects of the dependents, such as materials to make furniture for personal use, automobile parts for family automobiles, and other materials for projects for personal or family benefit.

(10) Purchase of a formal gown or a tuxedo for a dance or similar event.

(11) Amounts paid for sports-related social events.

**42.4(4)** No change.

This rule is intended to implement Iowa Code section 422.12.

[Filed 2/18/22, effective 4/13/22]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/9/22.