

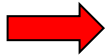
Internal Revenue Code Section 25A(b)

American Opportunity and Lifetime Learning Credits

(a) Allowance of credit.

In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the amount equal to the sum of-

- (1) the American Opportunity Tax Credit, plus
- (2) the Lifetime Learning Credit.



(b) American Opportunity Tax Credit.

(1) Per student credit.

In the case of any eligible student for whom an election is in effect under this section for any taxable year, the American Opportunity Tax Credit is an amount equal to the sum of-

- (A) 100 percent of so much of the qualified tuition and related expenses paid by the taxpayer during the taxable year (for education furnished to the eligible student during any academic period beginning in such taxable year) as does not exceed \$2,000, plus
- (B) 25 percent of such expenses so paid as exceeds \$2,000 but does not exceed \$4,000.

(2) Limitations applicable to American Opportunity Tax Credit.

(A) Credit allowed only for 4 taxable years. An election to have this section apply with respect to any eligible student for purposes of the American Opportunity Tax Credit under subsection (a)(1) may not be made for any taxable year if such an election (by the taxpayer or any other individual) is in effect with respect to such student for any 4 prior taxable years.

(B) Credit allowed for year only if individual is at least ½ time student for portion of year. The American Opportunity Tax Credit under subsection (a)(1) shall not be allowed for a taxable year with respect to the qualified tuition and related expenses of an individual unless such individual is an eligible student for at least one academic period which begins during such year.

(C) Credit allowed only for first 4 years of postsecondary education. The American Opportunity Tax Credit under subsection (a)(1) shall not be allowed for a taxable year with respect to the qualified tuition and related expenses of an eligible student if the student has completed (before the beginning of such taxable year) the first 4 years of postsecondary education at an eligible educational institution.

(D) Denial of credit if student convicted of a felony drug offense. The American Opportunity Tax Credit under subsection (a)(1) shall not be allowed for qualified tuition and related expenses for the enrollment or attendance of a student for any academic period if such student has been convicted of a Federal or State felony offense consisting of the possession or distribution of a controlled substance before the end of the taxable year with or within which such period ends.

(3) Eligible student.

For purposes of this subsection , the term "eligible student" means, with respect to any academic period, a student who-

(A) meets the requirements of section 484(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(1)), as in effect on the date of the enactment of this section , and

(B) is carrying at least ½ the normal full-time work load for the course of study the student is pursuing.

(4) Restrictions on taxpayers who improperly claimed American Opportunity Tax Credit in prior years.

(A) Taxpayers making prior fraudulent or reckless claims.

(i) In general. No American Opportunity Tax Credit shall be allowed under this section for any taxable year in the disallowance period.

(ii) Disallowance period. For purposes of subparagraph (A), the disallowance period is-

(I) the period of 10 taxable years after the most recent taxable year for which there was a final determination that the taxpayer's claim of the American Opportunity Tax Credit under this section was due to fraud, and

(II) the period of 2 taxable years after the most recent taxable year for which there was a final determination that the taxpayer's claim of the American Opportunity Tax Credit under this section was due to reckless or intentional disregard of rules and regulations (but not due to fraud).

(B) Taxpayers making improper prior claims. In the case of a taxpayer who is denied the American Opportunity Tax Credit under this section for any taxable year as a result of the deficiency procedures under subchapter B of chapter 63, no American Opportunity Tax Credit shall be allowed under this section for any subsequent taxable year unless the taxpayer provides such information as the Secretary may require to demonstrate eligibility for such credit.

(c) Lifetime Learning Credit.

(1) Per taxpayer credit.

The Lifetime Learning Credit for any taxpayer for any taxable year is an amount equal to 20 percent of so much of the qualified tuition and related expenses paid by the taxpayer during the taxable year (for education furnished during any academic period beginning in such taxable year) as does not exceed \$10,000.

(2) Special rules for determining expenses.

(A) Coordination with American Opportunity Tax Credit. The qualified tuition and related expenses with respect to an individual who is an eligible student for whom a American Opportunity Tax Credit under subsection (a)(1) is allowed for the taxable year shall not be taken into account under this subsection .

(B) Expenses eligible for Lifetime Learning Credit. For purposes of paragraph (1) , qualified tuition and related expenses shall include expenses described in subsection (f)(1) with respect to any course of instruction at an eligible educational institution to acquire or improve job skills of the individual.

(d) Limitations based on modified adjusted gross income.

(1) In general.

The American Opportunity Tax Credit and the Lifetime Learning Credit shall each (determined without regard to this paragraph) be reduced (but not below zero) by the amount which bears the same ratio to each such credit (as so determined) as-

(A) the excess of-

(i) the taxpayer's modified adjusted gross income for such taxable year, over

(ii) \$80,000 (\$160,000 in the case of a joint return), bears to

(B) \$10,000 (\$20,000 in the case of a joint return).

(2) Modified adjusted gross income.

For purposes of this subsection, the term "modified adjusted gross income" means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911 , 931 , or 933 .

(e) Election not to have section apply.

A taxpayer may elect not to have this section apply with respect to the qualified tuition and related expenses of an individual for any taxable year.

(f) Definitions.

For purposes of this section -

(1) Qualified tuition and related expenses.

(A) In general. The term "qualified tuition and related expenses" means tuition and fees required for the enrollment or attendance of-

(i) the taxpayer,

(ii) the taxpayer's spouse, or

(iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151,

at an eligible educational institution for courses of instruction of such individual at such institution.

(B) Exception for education involving sports, etc. Such term does not include expenses with respect to any course or other education involving sports, games, or hobbies, unless such course or other education is part of the individual's degree program.

(C) Exception for nonacademic fees. Such term does not include student activity fees, athletic fees, insurance expenses, or other expenses unrelated to an individual's academic course of instruction.

(D) Required course materials taken into account for American Opportunity Tax Credit. For purposes of determining the American Opportunity Tax Credit, subparagraph (A) shall be applied by substituting "tuition, fees, and course materials" for "tuition and fees".

(2) Eligible educational institution.

The term "eligible educational institution" means an institution-

(A) which is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this section , and

(B) which is eligible to participate in a program under title IV of such Act.

(g) Special rules.

(1) Identification requirement.

(A) In general. No credit shall be allowed under subsection (a) to a taxpayer with respect to the qualified tuition and related expenses of an individual unless the taxpayer includes the name and taxpayer identification number of such individual on the return of tax for the taxable year.

(B) Additional identification requirements with respect to American Opportunity Tax Credit.

(i) Student. The requirements of subparagraph (A) shall not be treated as met with respect to the American Opportunity Tax Credit unless the individual's taxpayer identification number was issued on or before the due date for filing the return of tax for the taxable year.

(ii) Taxpayer. No American Opportunity Tax Credit shall be allowed under this section if the taxpayer identification number of the taxpayer was issued after the due date for filing the return for the taxable year.

(iii) Institution. No American Opportunity Tax Credit shall be allowed under this section unless the taxpayer includes the employer identification number of any institution to which qualified tuition and related expenses were paid with respect to the individual.

(2) Adjustment for certain scholarships, etc.

The amount of qualified tuition and related expenses otherwise taken into account under subsection (a) with respect to an individual for an academic period shall be reduced (before the application of subsections (b) , (c) and (d)) by the sum of any amounts paid for the benefit of such individual which are allocable to such period as-

(A) a qualified scholarship which is excludable from gross income under section 117 ,

(B) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or under chapter 1606 of title 10, United States Code, and

(C) a payment (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for such individual's educational expenses, or attributable to such individual's enrollment at an eligible educational institution, which is excludable from gross income under any law of the United States.

(3) Treatment of expenses paid by dependent.

If a deduction under section 151 with respect to an individual is allowed to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins-

(A) no credit shall be allowed under subsection (a) to such individual for such individual's taxable year,

(B) qualified tuition and related expenses paid by such individual during such individual's taxable year shall be treated for purposes of this section as paid by such other taxpayer, and

(C) a statement described in paragraph (8) and received by such individual shall be treated as received by the taxpayer.

(4) Treatment of certain prepayments.

If qualified tuition and related expenses are paid by the taxpayer during a taxable year for an academic period which begins during the first 3 months following such taxable year, such academic period shall be treated for purposes of this section as beginning during such taxable year.

(5) Denial of double benefit.

No credit shall be allowed under this section for any expense for which a deduction is allowed under any other provision of this chapter.

(6) No credit for married individuals filing separate returns.

If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

(7) Nonresident aliens.

If the taxpayer is a nonresident alien individual for any portion of the taxable year, this section shall apply only if such individual is treated as a resident alien of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013 .

(8) Payee statement requirement.

Except as otherwise provided by the Secretary, no credit shall be allowed under this section unless the taxpayer receives a statement furnished under section 6050S(d) which contains all of the information required by paragraph (2) thereof.

(h) Repealed.

(i) Portion of American Opportunity Tax Credit made refundable.

Forty percent of so much of the credit allowed under subsection (a) as is attributable to the American Opportunity Tax Credit (determined after application of subsection (d) and without regard to this paragraph [Ed. Note: So in original. Probably should be "this subsection".] and section 26(a)) shall be treated as a credit allowable under subpart C (and not allowed under subsection (a)). The preceding sentence shall not apply to any taxpayer for any taxable year if such taxpayer is a child to whom subsection (g) of section 1 applies for such taxable year.

(j) Regulations.

The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section , including regulations providing for a recapture of the credit allowed under this section in cases where there is a refund in a subsequent taxable year of any amount which was taken into account in determining the amount of such credit.