

HERE'S WHAT YOU NEED TO KNOW

Oklahoma Tax Credits for Private-School Tuition

Oklahoma's political leaders in 2023 enacted universal school choice, providing refundable tax credits for taxpayers who incur homeschool expenses or private-school tuition expenses. The Oklahoma Tax Commission (OTC) is charged with prescribing rules and requirements for this new tax-credit program.

Q1: I saw on the news that Oklahoma state lawmakers were debating "school choice" legislation this year. Did that pass?

Yes. Legislation creating the Oklahoma Parental Choice Tax Credit Program passed by a wide margin (36-10 in the state Senate and 61-31 in the state House) and was signed into law by Gov. Kevin Stitt on May 25, 2023.

Q2: Who is eligible to participate?

A2: Every student is eligible. The law says that any Oklahoma resident "who is eligible to enroll in a public school in this state" is eligible (but not required) to participate in this new tax-credit program. This includes children who are as young as age four on or before September 1.

Q3: How does it work?

A3: A taxpayer is allowed to claim a state income-tax credit of up to $7,500 per child per year for "qualified expenses," namely, "tuition and fees at a private school accredited by the State Board of Education or another accrediting association." That taxpayer most commonly will be a biological or adoptive parent, but could also be a "grandparent, aunt, uncle, legal guardian, custodian, or other person with legal authority to act on behalf of an eligible student." (The taxpayer must make sure that no other person is claiming a credit for the same student.)

Q4: But what if I don't have that much state-income-tax liability?

A4: You are still eligible. The reason is that this is a "refundable" tax credit: If the tax-credit amount exceeds your tax bill, the excess amount is "refunded" to you in the form of a debit card or a direct deposit.

Q5: How much money per student are we talking about?

A5: The maximum credit amount per student varies according to the household's total adjusted gross income during the second preceding tax year.

Household Adjusted Gross Income (AGI)	**Maximum Tax Credit Amount (per child in private school)**
$75,000 or less	$7,500*
$75,000.01 – $150,000	$7,000*
$150,000.01 – $225,000	$6,500*
$225,000.01 – $250,000	$6,000*
$250,000 or more	$5,000*

**Or the amount of tuition and fees for the private school, whichever is less*

Q6: Does the program begin this fall?

A6: No. The credit is available "for the tax year 2024 and subsequent tax years."

Q7: Okay then, what do I need to do?

A7: The Oklahoma Tax Commission (OTC) is charged with prescribing rules, requirements, applications, and deadlines for this new tax-credit program, and is currently doing so. This blog post will be updated accordingly. In short, the law says the taxpayer will submit the following to the OTC:

- "an affidavit from the private school in which the eligible student is enrolled or is expected to enroll with the tuition and fees to be charged the taxpayer for the applicable school year" and
- an application "to receive the credit in two installments, each of which shall be half of the expected amount of tuition and fees for the private school based on the affidavit." The OTC will then make installment payments based on the expected tuition and fee amount given on the affidavit, giving first preference to those taxpayers whose household AGI is less than $150,000.

The taxpayer is required to "retain all receipts of qualified expenses as proof of the amounts paid each tax year the credit is claimed and shall submit them to the Commission upon request."

Q8: If program eligibility is universal, why would the OTC have to give first preference to certain taxpayers when making installment payments?

A8: The reason is that there's a cap on the total amount of tax credits. (The cap is $150 million in tax year 2024, $200 million in tax year 2025, and $250 million in tax years 2026 and following.) "Instead of equal treatment of all families," Oklahoma City University law professor Andrew Spiropoulos pointed out, the law "varies the level of support based on income and, worse yet, places an overall cap on the amount of the tax credit, meaning that eligible families may end up with nothing. Ominously, these limitations characterize the program as a tax break to be dispensed with in hard times instead of a permanent program of family empowerment."

Q9: Can I participate in Oklahoma's other private-school-choice programs while also claiming this tax credit?

A9: Yes. In addition to this new Oklahoma Parental Choice Tax Credit Program, you may recall that Oklahoma has two other private-school-choice programs—the Lindsey Nicole Henry Scholarships for Students with Disabilities Program (LNH), created in 2010, and the Oklahoma Equal Opportunity Education Scholarship program, created in 2011. This new law says eligible students may accept an LNH Scholarship while participating in the Oklahoma Parental Choice Tax Credit Program. The law does not forbid participation in the Oklahoma Equal Opportunity Education Scholarship program while participating in the Oklahoma Parental Choice Tax Credit Program.

Q10: Are there any rules and regulations I need to know about?

A10: The law says the State Board of Education may promulgate rules to ensure that a student who is claimed by a taxpayer receiving a tax credit is not enrolled in a public school. In addition, taxpayers claiming the credit must comply with the rules and requirements established by the OTC in its administration of the program.

Q11: How do I find a good private school?

A11: There are many websites that offer school ratings and parent reviews, including GreatSchools, PrivateSchoolReview, SchoolDigger, Yelp, and Niche. In addition, Oklahoma's new law directs the Oklahoma State Department of Education to "implement a commercially viable, cost-effective, and user-friendly system for users to publicly rate, review, and share information about education service providers."

Q12: Is there anything else I need to know?

A12: Be aware that participation in the tax-credit program "shall have the same effect as a parental revocation of consent" pursuant to Individuals with Disabilities Education Act (IDEA). This means the local school district is no longer required to provide special-education services.

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