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HSLDA's position on Tax Credits Generally

As parents become increasingly dissatisfied with the performance of public schools, their interest in alternatives in the form of private, religious, charter, and homeschools is growing. However, the method of education funding remains a big obstacle between students and the quality education parents seek for their children. Most parents already pay for their child's public education through taxes. When parents choose to educate their child privately, they are effectively paying twice for education—once for a public education they do not use and once for a private or homeschool education they do use.

In response to this problem, lawmakers at both the state and federal level have proposed varying forms of education tax credits and education tax deductions. They are designed to rectify the discrepancy by allowing parents to be reimbursed, at least partially, for tuition and other expenses for non-public education. A tax credit can be claimed (subtracted) against the amount of tax owed whereas a tax deduction is subtracted from a taxpayer's gross income, lowering the total amount of earnings on which the final tax is paid. Typically, a credit or deduction will be equal to the amount of actual education expenses.

For example, someone owing \$3,000, eligible for a \$500 credit, would ultimately owe the government \$2,500. The credit eases the financial burden for parents who choose to educate their children through private or homeschool. In this way, parents not using public education do not have to pay the full amount for a service they do not use.

While many opponents of the education tax credit say that it will detrimentally affect the public school system by taking away funding from necessary programs, supporters realize that giving parents more freedom will encourage healthy rivalry between schools and that this competition will promote improved performance.

Although a credit or deduction could be helpful for homeschoolers, HSLDA opposes any tax break legislation that could come with governmental regulations. Homeschoolers have fought far too long and much too hard to throw off the chains of government regulation that hinder effective education and interfere with liberty. It would be inconsistent and foolhardy to accept tax incentives in exchange for government regulation. However, HSLDA

supports tax credits that promote educational choice without threatening any regulation of homeschoolers.

There are many different education tax credit models currently being proposed and discussed. Some include an actual tax credit for personally incurred educational expenses for one's own child; others set up a middleman (usually called a scholarship tuition organization, STO) that collects donations from individuals and corporations which receive a credit for the gifts to the STO. Usually, the STO is required to distribute at least 90% of all funds received to schools or students for educational expenses. Regardless of the education tax credit model, HSLDA continues to support and fight for education tax credits at the local, state and federal levels in order to eliminate the "double" taxation of private and homeschool parents.

Below are a list of education tax credit laws already on the books and information about key education tax credit legislation being offered by state and federal lawmakers.

Current Education Tax Credit Laws

Since 1987, Iowa, Minnesota, Arizona, and Illinois have each enacted education tax credit laws geared toward helping low income families, combating poor quality of public education, and helping students with learning disabilities. These credits are available for *individuals*, while Florida, Indiana, Pennsylvania and New Hampshire have laws that allow the creation of "scholarship tuition organizations", also known as STOs. These STO's receive donations from businesses that in turn are given a tax credit based on their contribution. A summary of each tax credit laws is below. Actual statutes should be consulted for full details and restrictions.

Iowa's Tuition Credit

Iowa was the first state to pass legislation providing for a tuition credit. In 1987, the Iowa General Assembly added to Iowa Code § 422.12 a credit "equal to twenty-five percent of the first one thousand dollars which the taxpayer has paid to others for each dependent in grades kindergarten through twelve, for tuition and textbooks of each dependent in attending an elementary or secondary school situated in Iowa, which school is accredited or approved under section 256.11." However, because competent private instruction (CPI) does not constitute a school that "is accredited or approved under section 256.11," most homeschool families will not be able to claim this credit.

Arizona's Scholarship Tuition Organization

Ten years later, Arizona followed in Iowa's steps with a credit applicable when cash contributions are made to a 501(c)(3) scholarship tuition organization (STO). The STO, in turn, grants scholarships to individual students for their private or public education. An individual can receive up to a \$500 deduction for contributions to a qualified STO. Corporations and joint filers can receive up to a \$1,000 deduction as outlined in section 43-1089 of the Arizona Revised Statutes.

Minnesota's Education Tax Credit and Tax Deduction

Minnesota's tax credit is similar to the Iowa statute, but it allows for 75 percent of education-related expenses instead of 25 percent, and up to \$1000 per qualified child. The maximum credit is reduced for families with a household income over \$33,500. "Education-related expenses for a qualifying child in kindergarten through grade 12" are covered in the credit. Minnesota Statutes § 290.0674 was added in 1998 and specifies qualifying expenses as tuition, textbooks, up to \$200 for personal computer hardware, and transportation, but with more detailed specifications for each category.

Minnesota also allows parents to claim a tax deduction for qualified expenses. Minnesota Statutes § 290.01. The maximum deduction amount is \$1,625 per student in grades K-6, and \$2,500 per student in grades 7-12. The deductions may be used for expenses which would otherwise fall within the tax credit program, but the same expenses may not be used to claim both a credit and a deduction.

Illinois Education Tax Credit

In 1999, the Illinois legislature passed legislation that allows parents to receive a tax credit equal to 25% of any amount they expend in excess of \$250 for tuition, book fees, and lab fees, but not to exceed \$500 annually. This credit is available to any public or private school student. (Under Illinois law, homeschooled students have the same legal status as private school students.) This provision is covered in 35 Illinois Compiled Statutes 5/201.

Louisiana Tuition Deduction

In 2008, the Louisiana legislature passed a tuition deduction that allows taxpayers to deduct 50% of any educational expenses paid for the homeschooling of their dependent children, up to \$5,000 per child or the total taxable income of the individual, whichever is less. For the purposes of this section, "educational expenses" is defined to include "amounts expended for the purchase of textbooks and curricula necessary for [the] homeschooling of each child." Louisiana Revised Statutes § 47:297.11. A similar provision applies to educational expenses incurred in connection with sending a child to public or private school.

Indiana Education Tax Deduction

Parents who have unreimbursed private education expenses can deduct up to \$1,000 for each dependent child. A deduction allows you to reduce your taxable income, while a credit allows you to reduce the actual tax owed. On average, a homeschooling family will be able to pay \$34 less in taxes per school-age child.

Under Indiana Code (IC) § 6-3-2-22 (2011), parents can claim the deduction if their child is in "attendance" at a non-public school. This deduction will apply to homeschool programs because they fall within the definition of a nonpublic school under IC § 20-18-2-12. Education at home has been recognized as a nonpublic school by a number of Indiana court cases, some dating back more than 100 years.

To claim the deduction, parents must have unreimbursed educational expenditures that occurred in the previous calendar year. Educational expenditures include computer software, textbooks, workbooks, curricula, school supplies (other than personal computers), and other written materials used primarily for academic instruction.

The tax credits listed above are for individuals. Florida, Pennsylvania, and Rhode Island offer tax credits for businesses that make contributions to scholarship tuition organizations (STO).

New Hampshire STO

NH RSA 77-G was passed in 2012 over then Governor Lynch's veto. The law permits businesses in the state to apply a tax credit against the business profits tax or the business enterprise tax of up to 85% for each donation to a qualified STO. No donor is permitted to receive more than 10% of the available aggregate tax credits.

Florida's STO

In Florida, businesses can contribute up to 75 percent of the amount of tax they owe to scholarship-granted organizations and receive dollar-for-dollar credit. Under section 220.187 of Florida Statutes, in effect since 2002, organizations can receive this credit, but the state has limited the number of credits it grants to \$118 million annually.

Pennsylvania's STO

In 2001, Pennsylvania's Act 4 amended the Public School Code to allow up to a \$300,000 tax credit for businesses that contribute to scholarship organizations. (See 24 Pennsylvania Consolidated Statutes §§ 20-2001-B – 20-2008-B.) The credit received is 75 percent of the total amount they donate, up to the \$300,000 cap. In 2004, the maximum amount of credits—\$40 million—was exhausted by September. Currently, the maximum amount is \$67 million. (See 24 PA. Cons. Stat. § 20-2006-B.)

Rhode Island's STO

In 2006, the Rhode Island Business Entity Scholarship Tax Credit Program was signed into law. This program allows business entities to claim a credit for 75% of the contributions they make to a Scholarship Granting Organization, or 90% of the same if the second-year donation is worth at least 80% of the first year's donation, with a maximum credit of \$100,000, and a state-wide cap of \$1 million. In order for students to be eligible for these corporate scholarships, they must be from a family whose income is at or below 250% of the federal poverty level. Rhode Island Gen. Laws § 44-62.

Individuals				
	Year Enacted	Max Amount	Expenses Allowed	Statute Reference
Iowa	1987	\$250	tuition, textbooks	§ 422.12
Arizona	1997	\$1,000 individual	STO Donations	§ 43-1089
		\$2,000 joint		
Minnesota	1998	\$1,000	tuition,	§ 290.0674
			textbooks,	
			transportation,	
			computer equipment	
Illinois	1999	\$500	tuition,	35 ILCS 5/201
			materials	
Louisiana	2008	\$5,000	textbooks,	§ 47:297.11
			curriculum	
For Businesses				
Florida	2000	75% of tax liability	STO donations	§ 220.187
Pennsylvania	2001	\$300,000	STO donations	§ 20-2001-B et seq.
Rhode Island	2006	\$100,000	STO donations	§ 44-62
New Hampshire	2012	85% of contribution to STO	STO Donations	§ 77-G

Federal Tax Credit Bills

As education choice is becoming more popular and vouchers—a direct governmental grant to private and charter schools—are gaining prevalence, education tax credit legislation is also increasing in volume on both a federal and a state level.

For example, Senator David Vitter (LA) introduced The Home School Opportunities Make Education Sound Act (HOMES Act – S. 3076) in June 2008. The goal of the HOMES Act was to amend the Internal Revenue Code of 1986 to provide an optional tax deduction for parents who choose to homeschool their children. The legislation provides for a tax deduction of \$500 per child (with an annual limit of \$2,000) for education related expenses, including books, supplies, academic tutoring, special needs services, and computer equipment. Families who do not itemize their tax returns would still be eligible for a similar standard deduction. Furthermore, this legislation would have applied to all homeschool programs, including those in states that only have a private school statute.

For the most up-to-date information on federal legislation, visit [HSLDA's Federal Relations legislation page](#).

State Tax Credit Bills

States periodically introduce education tax credit legislation, which HSLDA wholeheartedly supports. Unfortunately, of the many bills that have been introduced in recent years, very few have been passed into law. However, HSLDA continues to monitor and lobby for such measures.

Constitutionality Issues

While these tax credits enable parents to keep their money and use it for education, some opponents raise questions concerning their constitutionality. In three states with existing education tax credit laws—Arizona¹, Illinois², and Minnesota³—suits have been brought against the tax credit laws. The suits were based on the Establishment Clause because these credits also apply to religious school tuition. Furthermore, opponents cite the Blaine Amendment, which prohibits appropriating funds to religious or sectarian schools.

All three court cases, however, have upheld the constitutionality of tax credits because government money is not being directly given to these schools. The courts ruled that state recognition of tax credits does not involve giving any government funds to institutions.

The ACLU has brought a similar suit against the New Hampshire tax credit law. HSLDA is working with those preparing to defend the law. This lawsuit does not allege any federal constitutional defects and seeks to avoid the standing issues which were problems for the Arizona lawsuit by virtue of RSA 491:22 that appear to give taxpayers standing to challenge unauthorized or unlawful acts by the taxing authority.

Endnotes

1. *Kotterman v. Killian*, 972 P.2d 606 Ariz. (1999).
2. *Griffith v. Bower*, 319 Ill. App. 3d 993 5 Dist. (2001).
3. *Mueller v. Allen*, 463 U.S. 388 (1983).