

99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

### § 25A. Hope 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 Hope Scholarship Credit, plus
- (2) the Lifetime Learning Credit.

#### (b) Hope Scholarship 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 Hope Scholarship 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 \$1,000, plus
- (B) 50 percent of such expenses so paid as exceeds \$1,000 but does not exceed the applicable limit.

##### (2) Limitations applicable to Hope Scholarship Credit

###### (A) Credit allowed only for 2 taxable years

An election to have this section apply with respect to any eligible student for purposes of the Hope Scholarship 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 2 prior taxable years.

###### (B) Credit allowed for year only if individual is at least ½ time student for portion of year

The Hope Scholarship 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 2 years of postsecondary education

The Hope Scholarship 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 2 years of postsecondary education at an eligible educational institution.

###### (D) Denial of credit if student convicted of a felony drug offense

The Hope Scholarship 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) Applicable limit

For purposes of paragraph (1)(B), the applicable limit for any taxable year is an amount equal to 2 times the dollar amount in effect under paragraph (1)(A) for such taxable year.

#### (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 (\$5,000 in the case of taxable years beginning before January 1, 2003).

##### (2) Special rules for determining expenses

###### (A) Coordination with Hope Scholarship

The qualified tuition and related expenses with respect to an individual who is an eligible student for whom a Hope Scholarship 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) Limitation based on modified adjusted gross income

###### (1) In general

The amount which would (but for this subsection) be taken into account under subsection (a) for the taxable year shall be reduced (but not below zero) by the amount determined under paragraph (2).

###### (2) Amount of reduction

The amount determined under this paragraph is the amount which bears the same ratio to the amount which would be so taken into account as—

- (A) the excess of—

- (i) the taxpayer’s modified adjusted gross income for such taxable year, over
- (ii) \$40,000 (\$80,000 in the case of a joint return), bears to

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

**(3) Modified adjusted gross income**

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.

**(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**

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.

**(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, and

(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.

**(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.

**(h) Inflation adjustments**

**(1) Dollar limitation on amount of credit**

**(A) In general**

In the case of a taxable year beginning after 2001, each of the \$1,000 amounts under subsection (b)(1) shall be increased by an amount equal to—

(i) such dollar amount, multiplied by  
(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting “calendar year 2000” for “calendar year 1992” in subparagraph (B) thereof.

**(B) Rounding**

If any amount as adjusted under subparagraph (A) is not a multiple of \$100, such amount shall be rounded to the next lowest multiple of \$100.

**(2) Income limits**

**(A) In general**

In the case of a taxable year beginning after 2001, the \$40,000 and \$80,000 amounts in subsection (d)(2) shall each be increased by an amount equal to—

(i) such dollar amount, multiplied by  
(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting “calendar year 2000” for “calendar year 1992” in subparagraph (B) thereof.

**(B) Rounding**

If any amount as adjusted under subparagraph (A) is not a multiple of \$1,000, such amount shall be rounded to the next lowest multiple of \$1,000.

**(i) American opportunity tax credit**

In the case of any taxable year beginning after 2008 and before 2018—

**(1) Increase in credit**

The Hope Scholarship Credit shall be 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) Credit allowed for first 4 years of post-secondary education**

Subparagraphs (A) and (C) of subsection (b)(2) shall be applied by substituting “4” for “2”.

**(3) Qualified tuition and related expenses to include required course materials**

Subsection (f)(1)(A) shall be applied by substituting “tuition, fees, and course materials” for “tuition and fees”.

**(4) Increase in AGI limits for Hope Scholarship Credit**

In lieu of applying subsection (d) with respect to the Hope Scholarship Credit, such credit (determined without regard to this paragraph) shall be reduced (but not below zero) by the amount which bears the same ratio to such credit (as so determined) as—

(A) the excess of—  
(i) the taxpayer’s modified adjusted gross income (as defined in subsection (d)(3)) 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).

**(5) Portion of credit made refundable**

40 percent of so much of the credit allowed under subsection (a) as is attributable to the Hope Scholarship Credit (determined after application of paragraph (4) and without regard to this paragraph 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.

**(6) Coordination with midwestern disaster area benefits**

In the case of a taxpayer with respect to whom section 702(a)(1)(B) of the Heartland Disaster Tax Relief Act of 2008 applies for any taxable year, such taxpayer may elect to waive the application of this subsection to such taxpayer 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.

(Added Pub. L. 105-34, title II, §201(a), Aug. 5, 1997, 111 Stat. 799; amended Pub. L. 107-16, title IV, §401(g)(2)(A), June 7, 2001, 115 Stat. 59; Pub. L. 111-5, div. B, title I, §1004(a), Feb. 17, 2009, 123 Stat. 313; Pub. L. 111-148, title X, §10909(b)(2)(C), (c), Mar. 23, 2010, 124 Stat. 1023; Pub. L. 111-312, title I, §§101(b)(1), 103(a)(1), Dec. 17, 2010, 124 Stat. 3298, 3299; Pub. L. 112-240, title I, §§103(a)(1), 104(c)(2)(D), Jan. 2, 2013, 126 Stat. 2319, 2322.)

**INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS**

*For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.*

**REFERENCES IN TEXT**

The date of the enactment of this section, referred to in subsecs. (b)(3)(A) and (f)(2)(A), is the date of enactment of Pub. L. 105-34 which was approved Aug. 5, 1997.

The Higher Education Act of 1965, referred to in subsec. (f)(2)(B), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title IV of the Act is classified generally to subchapter IV (§1070 et seq.) of chapter 28 of Title 20, Education, and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

Section 702(a)(1)(B) of the Heartland Disaster Tax Relief Act of 2008, referred to in subsec. (i)(6), is section 702(a)(1)(B) of Pub. L. 110-343, div. C, title VII, Oct. 3, 2008, 122 Stat. 3912, which is not classified to the Code.

**AMENDMENTS**

2013—Subsec. (i). Pub. L. 112-240, §103(a)(1), substituted “after 2008 and before 2018” for “in 2009, 2010, 2011, or 2012” in introductory provisions.

Subsec. (i)(5) to (7). Pub. L. 112-240, §104(c)(2)(D), redesignated pars. (6) and (7) as (5) and (6), respectively, substituted “section 26(a)” for “section 26(a)(2) or paragraph (5), as the case may be” in par. (5), and struck out former par. (5) which related to credit allowed against alternative minimum tax.

2010—Subsec. (i). Pub. L. 111-312, §103(a)(1), substituted “, 2010, 2011, or 2012” for “or 2010” in introductory provisions.

Subsec. (i)(5)(B). Pub. L. 111-148, §10909(b)(2)(C), (c), as amended by Pub. L. 111-312, §101(b)(1), temporarily substituted “25D” for “23, 25D.” See Effective and Termination Dates of 2010 Amendment note below.

2009—Subsecs. (i), (j). Pub. L. 111-5 added subsec. (i) and redesignated former subsec. (i) as (j).

2001—Subsec. (e). Pub. L. 107-16, §401(g)(2)(A), amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows:

“(1) IN GENERAL.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified tuition and related expenses of an individual unless the taxpayer elects to have this section apply with respect to such individual for such year.

“(2) COORDINATION WITH EXCLUSIONS.—An election under this subsection shall not take effect with respect to an individual for any taxable year if any portion of any distribution during such taxable year from an education individual retirement account is excluded from gross income under section 530(d)(2).”

#### EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by section 103(a)(1) of Pub. L. 112-240 applicable to taxable years beginning after Dec. 31, 2012, see section 103(e)(1) of Pub. L. 112-240, set out as a note under section 24 of this title.

Amendment by section 104(c)(2)(D) of Pub. L. 112-240 applicable to taxable years beginning after Dec. 31, 2011, see section 104(d) of Pub. L. 112-240, set out as a note under section 23 of this title.

#### EFFECTIVE AND TERMINATION DATES OF 2010 AMENDMENT

Amendment by section 103(a)(1) of Pub. L. 111-312 applicable to taxable years beginning after Dec. 31, 2010, see section 103(d) of Pub. L. 111-312, set out as a note under section 24 of this title.

Amendment by Pub. L. 111-148 terminated applicable to taxable years beginning after Dec. 31, 2011, and section is amended to read as if such amendment had never been enacted, see section 10909(c) of Pub. L. 111-148, set out as a note under section 1 of this title.

Amendment by Pub. L. 111-148 applicable to taxable years beginning after Dec. 31, 2009, see section 10909(d) of Pub. L. 111-148, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-5 applicable to taxable years beginning after Dec. 31, 2008, see section 1004(d) of Pub. L. 111-5, set out as an Effective and Termination Dates of 2009 Amendment note under section 24 of this title.

#### EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-16, title IV, §401(h), June 7, 2001, 115 Stat. 60, provided that: “The amendments made by this section [amending this section and sections 135, 530, and 4973 of this title] shall apply to taxable years beginning after December 31, 2001.”

#### EFFECTIVE DATE

Pub. L. 105-34, title II, §201(f), Aug. 5, 1997, 111 Stat. 806, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting this section and section 6050S of this title and amending sections 135, 6213, and 6724 of this title] shall apply to expenses paid after December 31, 1997 (in taxable years ending after such date), for education furnished in academic periods beginning after such date.

“(2) LIFETIME LEARNING CREDIT.—Section 25A(a)(2) of the Internal Revenue Code of 1986 shall apply to expenses paid after June 30, 1998 (in taxable years ending after such date), for education furnished in academic periods beginning after such dates.”

#### TREATMENT OF POSSESSIONS

Pub. L. 111-5, div. B, title I, §1004(c), Feb. 17, 2009, 123 Stat. 314, as amended by Pub. L. 111-312, title I, §103(a)(2), Dec. 17, 2010, 124 Stat. 3299; Pub. L. 112-240, title I, §103(a)(2), Jan. 2, 2013, 126 Stat. 2319, provided that:

“(1) PAYMENTS TO POSSESSIONS.—

“(A) MIRROR CODE POSSESSION.—The Secretary of the Treasury shall pay to each possession of the United States with a mirror code tax system amounts equal to the loss to that possession by reason of the application of section 25A(i)(6) [now 25A(i)(5)] of the Internal Revenue Code of 1986 (as added by this section) with respect to taxable years beginning after 2008 and before 2018. Such amounts shall be determined by the Secretary of the Treasury based on information provided by the government of the respective possession.

“(B) OTHER POSSESSIONS.—The Secretary of the Treasury shall pay to each possession of the United States which does not have a mirror code tax system amounts estimated by the Secretary of the Treasury as being equal to the aggregate benefits that would have been provided to residents of such possession by reason of the application of section 25A(i)(6) [now 25A(i)(5)] of such Code (as so added) for taxable years beginning after 2008 and before 2018 if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply with respect to any possession of the United States unless such possession has a plan, which has been approved by the Secretary of the Treasury, under which such possession will promptly distribute such payments to the residents of such possession.

“(2) COORDINATION WITH CREDIT ALLOWED AGAINST UNITED STATES INCOME TAXES.—Section 25A(i)(6) [now 25A(i)(5)] of such Code (as added by this section) shall not apply to a bona fide resident of any possession of the United States.

“(3) DEFINITIONS AND SPECIAL RULES.—

“(A) POSSESSION OF THE UNITED STATES.—For purposes of this subsection, the term ‘possession of the United States’ includes the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands.

“(B) MIRROR CODE TAX SYSTEM.—For purposes of this subsection, the term ‘mirror code tax system’ means, with respect to any possession of the United States, the income tax system of such possession if the income tax liability of the residents of such possession under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

“(C) TREATMENT OF PAYMENTS.—For purposes of section 1324(b)(2) of title 31, United States Code, the payments under this subsection shall be treated in the same manner as a refund due from the credit allowed under section 25A of the Internal Revenue Code of 1986 by reason of subsection (i)(6) [now (i)(5)] of such section (as added by this section).”

### § 25B. Elective deferrals and IRA contributions by certain individuals

#### (a) Allowance of credit

In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the applicable percentage of so much of the qualified retirement savings contributions of the eligible individual for the taxable year as do not exceed \$2,000.