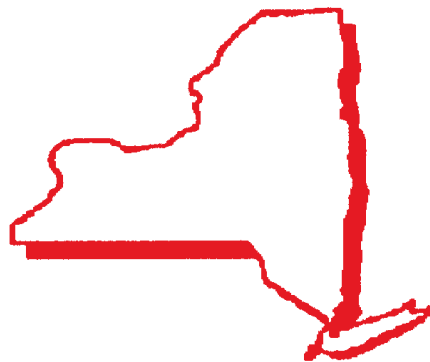


FAQs: NEW YORK STATE COLLEGE TUITION CREDIT AND ITEMIZED DEDUCTION

For tax year 2008



The information presented is current as of this publication's print date. Visit our Web site at www.nystax.gov for up-to-date information.

NOTE: A Publication is an informational document that addresses a particular topic of interest to taxpayers. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in Department policies could affect the validity of the information contained in a publication. Publications are updated regularly and are accurate on the date issued.

FAQs: New York State College Tuition Credit and Itemized Deduction

This publication provides guidance on the New York State college tuition credit and itemized deduction. You can claim the New York State credit or deduction even if you claim a federal credit or deduction for qualified college tuition expenses.

General

1) **Q:** What is the college tuition credit?

A: If you are a full-year New York State resident, the *college tuition credit* is a tax credit allowed against your New York State personal income tax for the qualified college tuition expenses paid by you (or treated as paid by you) for an eligible student.

2) **Q:** Who qualifies for the college tuition credit?

A: You qualify for the college tuition credit if you are a full-year New York State resident who paid qualified college tuition expenses in 2008 to an institution of higher education on behalf of an eligible student. You also qualify for the credit for expenses paid by someone other than yourself on behalf of an eligible student, if you claim the eligible student as a dependent on your return. For purposes of the credit, these expenses are treated as paid by you.

If you are the eligible student, you may claim the credit if you are not claimed as a dependent on another person's New York State income tax return.

3) **Q:** What is the college tuition itemized deduction?

A: The *college tuition itemized deduction* is the amount of qualified college tuition expenses paid by you (or treated as paid by you) for an eligible student, that you may deduct when calculating your New York taxable income.

4) **Q:** Who qualifies for the college tuition itemized deduction?

A: You qualify for the college tuition itemized deduction if you are a full-year New York State resident, a part-year resident, or a full-year nonresident who paid qualified college tuition expenses in 2008 to an institution of higher education on behalf of an eligible student. You also qualify for the deduction for expenses paid by someone other than yourself on behalf of an eligible student, if you claim the eligible student as a dependent on your return. For purposes of the deduction, these expenses are treated as paid by you.

If you are the eligible student, you may claim the deduction if you are not claimed as a dependent on another person's New York State income tax return.

- 5) **Q:** For which tax years does the college tuition credit or itemized deduction apply?
- A:** The credit or itemized deduction applies to tax years beginning in 2001 and thereafter. If you had qualifying college tuition expenses in 2005, 2006, or 2007 but did not claim either the credit or deduction on your New York State personal income tax return, you may still claim these tax benefits by filing an amended tax return for the tax year during which the expenses were paid. For information on filing an amended New York State income tax return, see the instructions for Form IT-150-X, *Amended Resident Income Tax Return (short form)*, Form IT-201-X, *Amended Resident Income Tax Return (long form)*, or Form IT-203-X, *Amended Nonresident and Part-Year Resident Income Tax Return*.
- For most taxpayers, the statute of limitations has expired for filing an amended personal income tax return and claiming the college tuition credit or itemized deduction for tax years prior to 2005.
- 6) **Q:** I am a full-year resident. Can I claim both the college tuition credit and the itemized deduction?
- A:** No. Full-year residents may claim either the credit or the itemized deduction, but not both.
- 7) **Q:** Do nonresidents and part-year residents qualify for the college tuition credit?
- A:** No, nonresidents and part-year residents do not qualify for the college tuition credit. However, they are eligible to claim the college tuition itemized deduction.
- 8) **Q:** Does an eligible student have to be enrolled in a degree program or attend college full-time to qualify for the college tuition credit or itemized deduction?
- A:** No, the eligible student does not have to be enrolled in a degree program or attend full-time for the tuition expenses to qualify.
- 9) **Q:** Does tuition paid to take a graduate-level course or to obtain a post-baccalaureate or other graduate degree qualify for the college tuition credit or itemized deduction?
- A:** No. Tuition paid to take a graduate-level course, or for the enrollment or attendance in a course of study leading to the granting of a post-baccalaureate or other graduate degree, does not qualify for the credit or itemized deduction.

Definitions

- 10) **Q:** Who is an eligible student?
- A:** *Eligible students* include you, your spouse, or your dependent(s) (for whom an exemption for New York State income tax purposes is allowed).
- 11) **Q:** What are qualified college tuition expenses, for purposes of the college tuition credit or itemized deduction?
- A:** *Qualified college tuition expenses* mean the tuition required for the enrollment or attendance of the eligible student at an institution of higher education. **Only expenses for undergraduate enrollment or attendance qualify.** It does not matter whether the expenses were paid by cash, check, credit card, or with borrowed funds. *Qualified tuition expenses* do not include tuition paid to take a graduate-level course, or tuition payments required for enrollment or attendance in a course of study leading to the granting of a post-baccalaureate or other graduate degree.
- 12) **Q:** For purposes of the college tuition credit or itemized deduction, are expenses paid from a qualified state tuition program (such as New York's 529 College Savings Program) considered to be payments of qualified college tuition expenses?
- A:** Yes. For purposes of the credit or itemized deduction, qualified college tuition expenses paid on behalf of an eligible student from a qualified state tuition program (such as New York's 529 College Savings Program) are considered to be payments of qualified college tuition expenses. If the student is claimed as a dependent on your tax return, these payments are treated as paid by you.
- 13) **Q:** I paid college tuition expenses to an institution of higher education that are deductible on my federal income tax return. Are these expenses considered qualified college tuition expenses?
- A:** Tuition expenses for the undergraduate enrollment or attendance of the eligible student at an institution of higher education are considered qualified college tuition expenses. You may claim the New York State college tuition credit or itemized deduction for these expenses, even though you deducted them on your federal return. However, tuition paid to take a graduate-level course, or tuition payments required for enrollment or attendance in a course of study leading to the granting of a post-baccalaureate or other graduate degree do not qualify for the New York State college tuition credit or itemized deduction.

14) **Q:** I paid college tuition expenses to an institution of higher education that I used to claim a federal education credit. Are these expenses considered qualified college tuition expenses?

A: Tuition expenses for undergraduate enrollment or attendance of the eligible student at an institution of higher education are considered qualified college tuition expenses. You may claim the New York State college tuition credit or itemized deduction for these expenses, even though you used them to claim the HOPE or Lifetime Learning federal education credits. However, tuition paid to take a graduate-level course, or tuition payments required for enrollment or attendance in a course of study leading to the granting of a post-baccalaureate or other graduate degree do not qualify for the New York State college tuition credit or itemized deduction.

15) **Q:** Are there any college expenses that are not considered qualified college tuition expenses for purposes of the college tuition credit or itemized deduction?

A: Yes, the following are not qualified college tuition expenses for purposes of the credit or itemized deduction:

- Tuition paid to take a graduate level course, or for enrollment or attendance in a course of study leading to the granting of a post-baccalaureate or other graduate degree.
- Tuition paid through the receipt of scholarships or financial aid (for this purpose, *financial aid* does not mean student loans, or other loans and grants that must be repaid either before or after the student ceases attending school).
- Amounts paid for room and board, insurance, medical expenses (including student health fees), transportation, or other similar personal, living, or family expenses.
- Fees for course-related books, supplies, equipment, and nonacademic activities, even if the fees must be paid to the institution as a condition of enrollment or attendance.

16) **Q:** What is an institution of higher education?

A: An *institution of higher education* means any institution of higher education or any business, trade, technical, or other occupational school located inside or outside of New York State, that:

- is recognized and approved by either the regents of the University of New York, or by a nationally-recognized accrediting agency or association accepted by the regents; and
- provides a course of study leading to the granting of a post-secondary degree, certificate, or diploma (although, as mentioned in question 8, the eligible student does not need to be enrolled in a degree program).

- 17) **Q:** Is there a maximum amount of qualified college tuition expenses allowed when calculating the college tuition credit or itemized deduction?
- A:** Yes. The maximum expenses allowed are \$10,000 per eligible student. There is no limit on the number of eligible students for whom you may claim a credit.
- 18) **Q:** I paid tuition expenses to attend a course at an institution of higher education, and, after the successful completion of the course, my employer reimbursed me for my tuition expenses. Are these reimbursed tuition expenses eligible for the college tuition credit or itemized deduction?
- A:** No. Expenses reimbursed to you from your employer are not eligible for the college tuition credit or itemized deduction. When calculating your credit or itemized deduction, you must reduce the total of your qualified college tuition expenses by any refunds of qualified expenses, scholarships, or financial aid you receive, including employer reimbursements for qualified tuition expenses you paid.

How to claim the college tuition credit or itemized deduction

- 19) **Q:** How do I claim the college tuition credit?
- A:** To claim the college tuition credit, complete Form IT-272, *Claim for College Tuition Credit or Itemized Deduction*, and attach it to your New York State resident income tax return.
- 20) **Q:** What if the amount of the college tuition credit exceeds my personal income tax for the year?
- A:** If the credit exceeds your personal income tax for the year, the Tax Department will refund the excess credit without interest.
- 21) **Q:** How do I calculate the amount of college tuition credit I am allowed to claim?
- A:** If your total qualified college tuition expenses for all eligible students are \$5,000 or more, the credit for 2008 is 4% of your qualified college tuition expenses (up to \$10,000 per eligible student). Accordingly, for tax year 2008, the maximum tuition credit you may claim is \$400 per eligible student.
- If your total qualified college tuition expenses for all eligible students are less than \$5,000, the credit is equal to your qualified college tuition expenses or \$200, whichever is less.

22) **Q:** How do I claim the college tuition itemized deduction?

A: To claim the New York State college tuition itemized deduction, first itemize your deductions for federal and state income tax purposes.

- Full-year New York State residents must complete Form IT-272, *Claim for College Tuition Credit or Itemized Deduction*. Use the worksheets in the instructions for Form IT-272 to calculate your college tuition itemized deduction. Attach Form IT-272 to your Form IT-201, *Resident Income Tax Return*.
- Nonresidents and part-year residents do not complete Form IT-272. See the instructions for Form IT-203-B, *Nonresident and Part-Year Resident Income Allocation and College Tuition Itemized Deduction Worksheet*, to calculate your itemized deduction.

Transfer the amount calculated to the applicable line on the New York State itemized deduction worksheet on Form IT-201 or Form IT-203, *Nonresident and Part-Year Resident Income Tax Return*, whichever is applicable.

23) **Q:** How do I calculate the college tuition itemized deduction?

A: The college tuition itemized deduction for 2008 is equal to the amount of your qualified college tuition expenses paid, up to \$10,000 per eligible student.

24) **Q:** I am a full-year New York State resident but changed my New York City resident status during 2008. I claimed the college tuition itemized deduction on my full-year New York State resident income tax return. How do I calculate my part-year New York City resident college tuition itemized deduction on my part-year city form (Form IT-360.1)?

A: Your part-year New York City college tuition itemized deduction for 2008 is equal to the amount of qualified college tuition expenses you paid on behalf of an eligible student during the period you were a resident of New York City, up to \$10,000 per eligible student. For more information, see the instructions for Form IT-360.1, *Change of City Resident Status*.

Special rules

25) **Q:** My parents claim me as a dependent on their New York State income tax return. May I claim the college tuition credit or itemized deduction for the qualified tuition expenses that I pay?

A: No. If you are claimed as a dependent on your parent's New York State return, you cannot claim the college tuition credit or itemized deduction. However, the qualified college tuition

expenses paid by you are considered paid by the taxpayer who claims you as a dependent. Accordingly, your parents may claim the credit or deduction for those expenses.

- 26) **Q:** I am an eligible student, but my qualified college tuition expenses were paid by someone other than my parents or me. May I claim the college tuition credit or itemized deduction for these expenses?
- A:** Generally, qualified college tuition expenses paid on behalf of an eligible student by someone other than the student (such as a relative) are treated as paid by the student. Accordingly, if you are not claimed as a dependent on someone's New York State income tax return, you may claim the credit or itemized deduction for those expenses. However, if you are claimed as a dependent on another person's New York State income tax return, qualified college tuition expenses paid (or treated as paid) by you are treated as paid by the person who claims you as a dependent. Therefore, the person who claims you as a dependent may claim the credit or deduction for those expenses.
- 27) **Q:** I was entitled to claim an eligible student as a dependent on my federal return but chose not to, so that the eligible student could claim the federal education credit on her federal tax return. However, I intend to claim the eligible student as a dependent on my New York State income tax return. May I claim the New York State college tuition credit or itemized deduction for qualified college tuition expenses paid on behalf of a student that I claim as a dependent on my New York State return, but choose not to claim as a dependent on my federal return?
- A:** Yes, you may claim the college tuition credit or itemized deduction for qualified college tuition expenses paid on behalf of an eligible student claimed as a dependent on your New York State income tax return, even if you choose not to claim the student as a dependent on your federal return. However, an eligible student claimed as a dependent on your New York State return cannot claim the college tuition credit or deduction for those expenses.
- 28) **Q:** Are there any special rules for married persons filing a separate return when claiming the college tuition credit or itemized deduction?
- A:** If you and your spouse are filing separate returns and you qualify to claim the credit, you must each file a separate Form IT-272, *Claim for College Tuition Credit or Itemized Deduction*, to claim your credit. Alternately, one spouse may claim the college tuition credit, and the other spouse may claim the itemized deduction. You must each claim your separately calculated credit or deduction based only on the amount of qualified college tuition expenses you paid (or were treated as paid by you) for yourself, your spouse, or a person whom you claim as a dependent on your separate return. You cannot claim a credit or deduction for qualified college tuition expenses that you paid for your spouse's dependent. (These expenses are treated as paid by your spouse for purposes of the credit or deduction.)

- 29) **Q:** Is there a limit on the number of eligible students for whom I may claim the college tuition credit or itemized deduction?
- A:** No, there is no limit on the number of eligible students for whom you may claim the credit or itemized deduction. However, the maximum amount of qualified college tuition expenses allowed for each eligible student is \$10,000 (see question 17).
- 30) **Q:** I am a full-year New York State resident and paid qualified college tuition expenses on behalf of two eligible students. May I claim the college tuition credit for one eligible student and the college tuition itemized deduction for the other?
- A:** No. You may claim either the credit or the itemized deduction, but not both.
- 31) **Q:** My wife and I are full-year New York State residents filing a joint return. May I claim the college tuition credit for the qualified tuition expenses that I paid, and may my wife claim the college tuition itemized deduction for the expenses she paid?
- A:** No. If you are filing a joint return, you can claim the credit or itemized deduction, but not both.

Credit or itemized deduction - which is better?

- 32) **Q:** I am a full-year New York State resident and qualify to claim either the college tuition credit or itemized deduction. How do I determine whether the credit or the itemized deduction offers me the better tax savings?
- A:** See the worksheet in the instructions for Form IT-272, *Claim for College Tuition Credit or Itemized Deduction*, to help you determine whether the credit or the itemized deduction provides the greater tax savings.



The New York State Department of Taxation and Finance

The place for all electronic services

Visit our Online Tax Center (OTC), your gateway to all electronic services.

Use the OTC to make payments, file certain returns, view account information, and more. Access is available 24 hours a day, 7 days a week (except for scheduled maintenance).

Look for the OTC logo on our Web site home page

www.nystax.gov

Need help?



Internet access: www.nystax.gov

Access our Answer Center for answers to frequently asked questions; check your refund status; check your estimated tax account; download forms, publications; get tax updates and other information.



Fax-on-demand forms: Forms are

available 24 hours a day,
7 days a week.

1 800 748-3676



Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.

Refund status: (518) 457-5149
In-state callers without free long distance: 1 800 443-3200
(Automated service for refund status is available 24 hours a day, 7 days a week.)

Personal Income Tax Information Center: (518) 457-5181
In-state callers without free long distance: 1 800 225-5829
To order forms and publications: (518) 457-5431
In-state callers without free long distance: 1 800 462-8100



Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): If you have access to a TTY, contact us at 1 800 634-2110. If you do not own a TTY, check with independent living centers or community action programs to find out where machines are available for public use.



Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, call the information center.