

SC REVENUE RULING #99-4

SUBJECT: College Tuition Tax Credit
(Income Tax)

EFFECTIVE DATE: Tax years beginning after 1997

SUPERSEDES: All previous documents and any oral directives in conflict herewith.

REFERENCES: S. C. Code Ann. Section 12-6-3385 (Supp. 1999)

AUTHORITY: S. C. Code Ann. Section 12-4-320 (Supp. 1999)
SC Revenue Procedure #97-8

SCOPE: A Revenue Ruling is the Department of Revenue's official advisory opinion of how laws administered by the Department are to be applied to a specific issue or a specific set of facts, and is provided as guidance for all persons or a particular group. It is valid and remains in effect until superseded or modified by a change in the statute or regulations or a subsequent court decision, Revenue Ruling or Revenue Procedure.

On June 19, 1998, the Governor signed Act No. 418 to add Code Section 12-6-3385. This section provides a refundable individual income tax credit for college tuition effective for tax years beginning after 1997. The purpose of this ruling is to address some common questions that have arisen concerning this tax credit.

QUESTIONS:

1. Who is an eligible student?

To qualify for the tuition tax credit, an individual enrolled in an institution of higher learning must meet all of the following requirements:

1. have graduated from high school during or after May 1997;

2. within 12 months before enrolling in the institution of higher learning:
 - a. graduated from a South Carolina high school,
 - b. completed a South Carolina high school home school program, or
 - c. graduated from a preparatory high school outside of South Carolina while a dependent of a parent or guardian who is a legal resident of South Carolina has custody of the student;
3. be eligible for in-state tuition;
4. be admitted, enrolled, and classified as a degree-seeking undergraduate or be enrolled in a certificate or diploma program of at least 1 year and be in good standing at the institution (whether or not a student is in good standing is determined by the qualifying institution); and,
5. have completed at least 15 credit hours a semester (or its equivalent) as determined by the Commission on Higher Education for every regular semester ending during the tax year for which the student was enrolled. (A student is considered to have “completed” a course regardless of the grade achieved, however, a student receiving an incomplete or withdrawing from a course is not considered to have “completed” a course for purposes of the 15 credit hour requirement.)

NOTE: There is not a minimum Scholastic Aptitude Test (SAT) requirement or grade point average requirement to qualify for the tuition credit, however, the student must be in good standing at the institution to claim the credit.

2. Who is not an eligible student?

The tuition tax credit is not available to an individual enrolled in an institution of higher learning who:

1. obtained a GED;
2. is a Palmetto Fellowship recipient;
3. is a Legislative Incentives for Future Excellence (LIFE) Scholarship recipient;
4. is in default of a federal Title IV or South Carolina educational loan or owes a refund on a student financial aid program; or,
5. has been adjudicated delinquent or been convicted or pled guilty or nolo contendere to any felonies, or any alcohol or drug related offenses. (NOTE: This ineligibility requirement does not apply to a student whose record has been expunged.)

3. Can a student who does not currently meet the credit requirements later qualify?

Yes. A student may currently be a Palmetto Fellowship or LIFE scholarship recipient or be in default of a student loan, but later lose the scholarship or repay the loan. At such time when the student meets all the tuition credit eligibility requirements, the student is eligible for the tuition credit for the remaining time in the 4-year credit period. (See Question 12 for the maximum years a credit may be claimed.)

For example, a student is a LIFE scholarship recipient for the 1998-1999 school year (fall 1998 and spring 1999 semesters), but does not qualify for the LIFE scholarship in the 1999-2000 school year (fall 1999 and spring 2000 semesters.) The student is a qualifying student meeting all requirements of the tuition tax credit in the fall 1999 semester and may claim the tuition tax credit for that semester providing the student completed 15 credit hours in both the spring 1999 and fall 1999 semesters. The student may not claim the credit for the spring 1999 semester since the student was a LIFE scholarship recipient.

4. What institutions qualify?

Currently tuition paid to the institutions of higher learning listed in Exhibit A qualifies for the credit. The list of institutions in Exhibit A is derived from the following statutory criteria for qualifying institutions of higher learning and designated institutions:

1. A South Carolina public institution is any state-supported-post secondary educational institution, including technical and comprehensive educational institutions. See South Carolina Code Section 59-103-5.
2. An independent institution is any independent eleemosynary junior or senior college in South Carolina whose major campus and headquarters are located within South Carolina and which is accredited by the Southern Association of Colleges and Secondary Schools. See South Carolina Code Section 59-113-50.
3. A public or independent bachelor's level institution chartered before 1962 whose major campus and headquarters are located within South Carolina;
4. An independent bachelor's level institution which has attained an Internal Revenue Code Section 501(c)(3) tax status and is accredited by the Southern Association of Colleges and Secondary Schools or the New England Association of Colleges and Schools; or
5. A public or independent two-year institution which has attained an Internal Revenue Code Section 501(c)(3) tax status.

5. What institutions do not qualify?

An institution does not qualify if its sole purpose is:

1. religious or theological training, or
2. granting professional degrees.

6. What qualifies as tuition?

Qualifying tuition is the amount charged by a 2-year or 4-year public institution of higher learning, including required fees, necessary for undergraduate enrollment.

Qualifying tuition at an independent institution is, however, defined as the “average tuition at the 4-year public institutions of higher learning,” not to exceed the actual tuition charged. The average tuition at 4-year institutions of higher learning has been determined by the Commission on Higher Education to be \$3,454 per school year or \$1,727 per regular semester for the spring 1998 semester and the 1998-1999 school year (fall 1998 and spring 1999 semesters.) See Questions 16, 17, and 18 for credit computations for schools on a traditional semester system and for schools not on a traditional semester system.

Required fees do not include fees or charges for books, room and board, student activities, athletics, meal plans, insurance, equipment, transportation, or personal, living, or family expenses.

7. What are scholarship grants that reduce tuition?

Any amounts received toward tuition payment by scholarship grants must be deducted before calculating the credit. Examples of scholarship grants include academic scholarships, athletic scholarships, South Carolina tuition grants, Pell grants, and Supplemental Educational Opportunity Grants. Grants which do not reduce tuition, and are not used to pay tuition, *e.g.*, a grant for room and board, are not deducted from tuition before calculating the credit.

Scholarship grants do not include student loans, educational assistance plans under Internal Revenue Code Section 127, payments for teaching, research or other services performed by the student whether or not required as a condition for receiving a tuition reduction, or veteran educational assistance benefits. Therefore, tuition amounts paid with the student’s earnings, a loan, a gift, inheritance, or personal savings constitute tuition paid by the student for purposes of the tuition tax credit.

Further, to the extent contributions to the South Carolina Tuition Prepayment Program are considered paid by the student (beneficiary of the Program), the prepayment amounts constitute tuition paid by the student. Likewise, if tuition is paid by the student with money from an Education IRA, the payment constitutes tuition paid by the student (beneficiary of the IRA.) In both instances, the qualifying student, not the parent, is eligible to claim the tuition tax credit.

8. What is the credit amount?

For a student attending a 4-year institution, the credit is equal to 25% of the tuition paid during a taxable year, not to exceed \$850.

For a student attending a 2-year institution, the credit is equal to 25% of the tuition paid during a taxable year, not to exceed \$350.

For a student attending both a 2-year and a 4-year institution in the same tax year, the credit is equal to 25% of the tuition paid during the taxable year, not to exceed \$850. The credit amount for any student per tax year may not exceed \$850 in any circumstance.

NOTE: Before calculating the credit amount two adjustments may be necessary:

1. Students attending an independent institution must reduce the actual tuition paid to that of the “average tuition at the four-year public institutions of higher learning,” not to exceed the actual tuition charged. See Question 6 for the average tuition amounts to use in computing the 1998 credit amount and Exhibit A for a list of 4-year independent institutions. NOTE: The “average tuition” amount will be adjusted annually by the Commission on Higher Education, and
2. Scholarship grants received toward tuition payments must be deducted from qualifying tuition.

If both adjustments apply, they must be made in the order listed above.

9. When is the credit first available?

The credit is effective for taxable years beginning after 1997 for students graduating from high school during or after May, 1997. Accordingly, amounts paid for tuition in the 1998 tax year (winter/interim term 1998, spring semester 1998, summer semester 1998, fall semester 1998, and tuition prepaid in 1998 for the spring 1999 semester) for qualifying students, should be used to determine the tuition tax credit claimed on the 1998 South Carolina individual income tax return due April 15, 1999. Amounts paid in the 1997 tax year are not eligible for the credit.

NOTE: The requirement for completion of at least 15 hours a semester is based on every regular semester in which the student is enrolled during the tax year and is not based on each semester offered during the school year.

Examples best explain when the credit is first available. The examples assume the students are qualifying students enrolled in a qualifying institution on a traditional semester system.

EXAMPLES	TAX YEAR TUITION PAID	SEMESTERS ENROLLED	HOURS COMPLETED DURING TAX YEAR	CREDIT ALLOWED FOR TUITION PAID DURING TAX YEAR
Student A	1998 1998	Spring 98 Fall 98	15 15	yes
Student B	1998	Fall 98	12	no
Student C	1998	Fall 98	15	yes
Student D	1998 1998	Fall 98 Spring 99	15 15 to be completed in >99	yes
Student E	1998 1998	Summer 98 Fall 98	6 12	no
Student F	1998 1998	Summer 98 Fall 98	6 15	yes
Student G	1998 1998	Spring 98 Fall 98	12 15	no
Student H	1998	Spring 99	15 to be completed in '99	yes

These examples illustrate that a student must complete at least 15 semester hours of every regular semester (fall or spring semester) for which the student was enrolled each tax year in order to qualify for the credit. If the student enrolls in one semester in a tax year, but not both, it does not affect the student's qualification for the credit (see example of Student C). Further, summer school hours enrolled do not enter into the calculation of the 15 hour semester requirement (see example of Student's E and F).

Students A, C, D, and F completed 15 hours per regular semester enrolled and qualify for the credit. Note that Student C was only enrolled for one regular semester in the 1998 tax year and qualifies for the credit. Also, note that Student D is allowed a credit for tuition paid for the fall 1998 semester and prepaid in the 1998 tax year for the spring 1999 semester since the student completed 15 semester hours for each regular semester enrolled for in 1998 (the fall semester). The number of hours Student D is enrolled for in 1999 is not used in the 1998 credit calculation.

Student H qualifies for the credit in 1998 for tuition prepaid in 1998 for the spring 1999 semester. The 15 hour requirement is not applicable since the student was not enrolled in college in 1998.

Student's B and G did not complete 15 hours in each regular semester they were enrolled and do not qualify for the credit in 1998. Each may qualify for the remaining portion of the credit in future years. (See Question 12 for the maximum years the credit may be claimed.)

Student E completed only 12 hours (not the required 15) in the fall 1998 semester (summer school hours are not counted in the 15 semester hour requirement) and does not qualify for the credit in 1998 even though 18 total hours are earned during the 1998 tax year in the summer and fall semesters.

10. What is the equivalent of 15 hours for institutions not on a traditional semester system?

Code Section 12-6-3385(B)(3)(b) provides that a qualifying student must complete at least 15 hours a semester, or its equivalent, as determined by the Commission on Higher Education, for every regular semester ending during the tax year.

A qualifying student attending an institution on a system other than a traditional semester system must complete at least the number of hours approved by the Commission on Higher Education for every regular term (*e.g.*, fall, winter/interim, spring) enrolled each tax year in order to qualify for the credit. Whether or not a student is enrolled for summer school and how many hours taken does not enter into the determination of whether this requirement has been met.

As of the date of this ruling, the Commission on Higher Education has not approved the full time equivalent hours for any institution not on the traditional semester system. When the Department receives the Commission's approved list of equivalent hours we intend to publish it in an information letter.

Questions concerning equivalent hours for any school not on a traditional semester system should be directed to:

Director, Student Services
Commission on Higher Education
1333 Main Street, Suite 200
Columbia, South Carolina 29201-3245
Phone - 803-737-2260 Fax - 803-737-2297

11. What is the semester hour equivalent for a student with a disability?

The American with Disabilities Act may permit certain disabled students to qualify for the credit by completing a lesser number of “equivalent hours.” The Commission on Higher Education determines “equivalent hours.” The Director of Student Services of the Commission has informed the Department to instruct each student with a disability to contact the Office of Disability at the qualifying institution for a determination of the required “equivalent hours” required for the credit. A written statement authorizing the number of equivalent hours must be attached to the South Carolina tax return each year the tuition credit is claimed.

12. How many years can the credit be claimed?

The credit may be claimed for no more than 4 consecutive years after the qualifying student first enrolls in an eligible institution. The credit is available for a total of no more than 5 tax years since the maximum 4-year credit period runs from the date the student first enrolls and continues for 4 years from that date so that the credit is allowed for tuition paid for no more than 8 consecutive regular semesters and any summer school tuition paid during the 4 year period.

For example, if a student enrolls in a qualifying 4-year institution on August 17, 1998, the credit period is for qualifying tuition paid for school enrollment from August 17, 1998 to August 16, 2002. The credit may be claimed on the 1998, 1999, 2000, 2001, and 2002 South Carolina income tax returns.

NOTE: Since the credit is effective for tax years beginning after 1997, a student graduating in May 1997 and attending college in 1997 will begin counting the 4-year credit period with the first semester enrolled in the 1998 tax year so that the student will not lose a portion of the 4-year credit period.

NOTE: Exceptions may be granted to extend the “four year consecutive” credit period due to medical necessity as defined by the Commission on Higher Education. Questions concerning extension of the credit period due to medical necessity should be directed to the Commission on Higher Education’s Director of the Division of Student Services at the address provided in Question 10.

The following examples indicate the tax years the tuition credit may be claimed. The examples assume, unless stated otherwise, the students are qualifying students graduating from high school in May 1998 and enrolled in fall semesters August 17 through December 15 and spring semesters from January 7 through May 12 for the years indicated.

Tax	School	TAX YEARS TUITION PAID
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Year	Semester	Student A	Student B	Student C	Student D	Student E
1998	Fall 98	1998	1998	1998-2 yr school	1998-2 yr school	did not attend
1999	Spring 99 Fall 99	1999 1999	1998 1999	withdraw from school	1998-2 yr school 1999-2 yr school	did not attend
2000	Spring 00 Fall 00	2000 2000	1999 2000	2000-2 yr school 2000-2 yr school	2000-4 yr school	1999 2000
2001	Spring 01 Fall 01	2001 2001	2000 2001	2001-2 yr school 2001-2 yr school	2001-4 yr school	2000 2001
2002	Spring 02 Fall 02	2002 N/A	2001 N/A	2002-2 yr school 2002-2 yr school	2002-4 yr school 2002-4 yr school	2001 2002
2003	Spring 03 Fall 03	N/A N/A	N/A N/A	2003-2 yr school 2003-2 yr school	2003-4 yr school 2003-4 yr school	2003 2003

Student A - The credit may be claimed for all tuition payments made in 5 tax years - 1998, 1999, 2000, 2001, and 2002 (but only for tuition paid for semesters (and any summer sessions) ending on or before August 16, 2002).

Student B - The credit may be claimed for all tuition payments made in 4 consecutive years - years beginning August 17, 1998, 1999, 2000, 2001, and ending August 16, 2002. The prepayment of the spring 2002 tuition in the tax year 2001, however, results in the acceleration of the credit. No credit may be claimed in 2002 and thereafter.

Student C - The credit may be claimed only for tax years 1998, 2000, 2001 and 2002 (but only for tuition paid for semesters ending on or before August 16, 2002). The semesters the student did not attend in 1999 is still a year for purposes of counting the “four consecutive years” of the credit period. NOTE: The attendance of a 2-year college for more than 2 years does not affect the 4 consecutive years of the credit period.

Student D - The credit may be claimed in tax years 1998, 1999, 2000, 2001, and 2002 (but only for tuition paid for the spring or summer 2002 semesters). The transfer from a 2-year to a 4-year school does not affect the “four consecutive years” of the credit period. No credit is allowed, however, for tuition paid for fall 2002 or spring and fall 2003.

Student E - The credit may not be claimed for this student in any tax year. Since the student graduated from high school in May 1998, and did not enroll in college until Spring 2000, over 12 months has elapsed before enrolling and the student is not a “qualifying” student.

13. Who may claim the credit?

The credit may be claimed by either:

1. the student paying the tuition, or
2. an individual paying the tuition who is eligible to claim the student as a dependent on his or her federal income tax return.

Since the credit is per student, an individual paying the tuition for more than one dependent claimable on the taxpayer's federal income tax return can claim a tuition credit for each qualifying student dependent.

If a parent makes tuition payments in tax years 1998 and 1999 and the student makes tuition payments in tax years 2000 and 2001, then the parent may claim the credit in 1998 and 1999 and the student may claim the credit in 2000 and 2001.

Further, if the parent and student each pay a portion of the tuition payments, 50% each for example, then 50% of the appropriate credit amount may be claimed by the parent and 50% of the appropriate credit amount may be claimed by the student. In no case can the total credit claimed for a student each year exceed the maximum credit amount. See Question 8.

14. What is a refundable credit?

A tax credit is only refundable when specifically provided in the statute. The tuition tax credit is South Carolina's only refundable credit. A refundable credit reduces South Carolina income tax owed and provides a refund if no tax is owed. The credit is not related to adjusted gross income or tax liability.

15. How is the credit claimed?

The credit is computed on Form I-319 and claimed on the South Carolina individual income tax return - SC1040 or SC1040NR. (The credit cannot be claimed on a SC1040A-short form.) A complete copy of the taxpayers federal income tax return must be attached to the South Carolina individual income tax return.

16. How is the credit computed for a qualifying student attending a public or private institution on a traditional semester system?

An example best explains the computation. This example is based on the following facts: (1) institutions are qualifying 4-year institutions and (2) students are qualifying students paying one semester of tuition during the tax year.

CREDIT COMPUTATION	PUBLIC INSTITUTION		INDEPENDENT INSTITUTION*	
Tuition charged for semester during tax year	\$1,700		\$6,500	
Required enrollment fees	\$ 100		\$ 200	
Total qualified tuition & fees charged during taxable year* (not to exceed \$3,454 per year or \$1,727 per regular semester for private institutions listed in Exhibit A in the spring 1998 semester and the 1998-99 school year - special rules apply for schools not on a traditional semester system - see Question 18)		\$1,800		\$1,727*
Scholarship (applied toward tuition payment)	\$ 300		\$ 300	
SC Tuition & Pell Grants (applied toward tuition payment)	\$ 500		\$ 0	
Less: Total scholarship grants received during the taxable year		(\$ 800)		(\$ 300)
Tuition qualifying for the credit		\$1,000		\$1,427
Tuition Credit - 25% of tuition paid, not to exceed \$850 a year		\$ 250		\$ 357

17. How is the credit computed for a qualifying student also attending summer school?

An example best explains the computation. This example is based on the following facts: (1) institutions are qualifying 4-year institutions and (2) students are qualifying students paying for 6 credit hours of summer school tuition during the tax year.

CREDIT COMPUTATION	PUBLIC INSTITUTION		INDEPENDENT INSTITUTION*	
Tuition charged for summer semester during tax year	\$700		\$1,200	
Required enrollment fees	\$100		\$ 200	
Total qualified tuition & fees charged for summer school* (for private institutions this number cannot exceed \$3,454 times the number of credit hours completed in summer school divided by 30)		\$800		\$691*
Less: Total scholarship grants received during the taxable year		(\$0)		(\$0)
Tuition qualifying for the credit		\$800		\$691
Tuition Credit - 25% of tuition paid, not to exceed \$850 a year		\$200		\$173

In determining the total qualifying summer school tuition and fees that are eligible for the credit for private institutions, the average tuition at 4-year public institutions of higher learning must be determined as required in Section 12-6-3385(B)(4). The average tuition is based on the average tuition of \$3,454 for the full 1998-1999 school year (or \$1,727 per regular fall 1998 and spring 1999 semesters) as determined by the Commission on Higher Education multiplied by a fraction. The numerator of the fraction is the actual number of hours completed in summer school and the denominator is 30 hours (the total number of hours required to qualify for the credit for the fall and spring semesters.)

NOTE: In the above example tuition for public schools is based on the actual tuition paid.

NOTE: To be a qualifying student, a student must complete a certain number of hours during each regular semester in which the student is enrolled. See Question 9 for examples.

18. How is the credit computed for a qualifying student attending an institution on a system other than a traditional semester system?

An example best explains the computation. This example is based on the following facts: (1) the student is enrolled in ABC College that has been determined by the Commission on Higher Education to use equivalent hours of a 12 hour fall term, 6 hour winter term, and 12 hour spring term, (2) the student is a qualifying student, and (3) the student pays all tuition in 1998 for winter, spring, and fall terms.

CREDIT COMPUTATION	TERM 1 Winter 1998	TERM 2 Spring 1998	TERM 3 Fall 1998	TOTAL
Tuition charged for term during tax year	\$ 2,000	\$6,000	\$6,000	\$14,000
Required enrollment fees	\$ 100	\$ 100	\$ 100	300
Total qualified tuition & fees charged during taxable year* (limited to \$3,454 (\$3,455 due to rounding) or amounts computed as shown below for fall/winter/spring terms)	\$ 691*	\$1,382*	\$1,382*	\$ 3,455
Less: Total scholarship grants received during the taxable year	0	0	0	0
Tuition qualifying for the credit	\$ 691	\$1,382	\$1,382	\$3,455
Tuition Credit - 25% of tuition paid, not to exceed \$850 a year				limited to \$ 850

* Special rules apply to the total qualified tuition and fees for schools not on a traditional semester system. Based on the “equivalent hours” required by the Commission on Higher Education, the maximum tuition that may be claimed for each term enrolled in by a qualifying student will be prorated based on approved equivalent hours listed below for the 1998-1999 school year. For example, the \$864 winter term amount for DEF University was calculated as \$3,454 average tuition times 8/32 equivalent hours.

ABC COLLEGE		DEF UNIVERSITY		XYZ COLLEGE	
Fall - 12 hrs.	\$1,382	Fall - 12 hrs.	\$1,295	Fall - 12 hrs.	\$1,480
Winter - 6 hrs.	\$ 691	Winter - 8 hrs.	\$ 864	Interim - 4 hrs.	\$ 494
Spring - 12 hrs.	\$1,382	Spring - 12 hrs.	\$1,295	Spring - 12 hrs.	\$1,480
30 hours**	\$3,455	32 hours**	\$3,454	28 hours**	\$3,454

**Hours deemed equivalent to 30 hours on a regular semester system by the Commission on Higher Education.

EXHIBIT A

4-Year Public Institutions	4-Year Independent Institutions*	2-Year Institutions
Credit - 25% of tuition paid, not to exceed \$850 per tax year	Credit - 25% of tuition paid, not to exceed \$850 per tax year	Credit - 25% of tuition paid, not to exceed \$350 per tax year
Citadel Clemson University Coastal Carolina University College of Charleston Francis Marion University Lander University Medical University of SC South Carolina State University University of South Carolina USC at Aiken USC at Spartanburg Winthrop University	Allen University Anderson College Benedict College Bob Jones University Charleston Southern University Claflin College Coker College Columbia College Columbia International University Converse College Erskine College Furman University Johnson and Wales Limestone College Morris College Newberry College North Greenville College Presbyterian College Southern Wesleyan College Voorhees College Wofford College	Aiken Technical Central Carolina Technical College Chesterfield-Marlboro Technical College Denmark Technical College Florence Darlington Technical College Greenville Technical College Horry-Georgetown Technical College Midlands Technical College Orangeburg Calhoun Technical College Piedmont Technical College Spartanburg Methodist College Spartanburg Technical College Technical College of the Lowcountry Tri-County Technical College Trident Technical College USC at Beaufort USC at Lancaster USC at Salkehatchie USC at Sumter USC at Union Williamsburg Technical College York Technical College

*Tuition expenses are limited per school year for 4-year independent institutions.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/ Burnet R. Maybank III

Burnet R. Maybank, III, Director

Columbia, South Carolina
 January 11 _____, 19 99