

The American Opportunity tax credit (the Hope credit, as modified for 2009 and 2010) for “qualified tuition and related expenses” (see below) may allow you to save on your taxes for higher education expenses you incur for yourself, your spouse, or your dependents.

The maximum American Opportunity tax credit you can claim is \$2,500 for 2009 or 2010 *per student*. (The credit for 2009 and 2010 is 100% of the first \$2,000 of qualifying expenses and 25% of the next \$2,000.) Since the limit is per student and not per taxpayer, if you incur qualifying expenses for yourself and two children, for example, your credit for 2009 or 2010 may be as high as \$7,500 ($\$2,500 \times 3$).

The American Opportunity tax credit is only available for the first four years of the undergraduate education of the student at an eligible educational institution. In general, accredited schools offering credit towards a bachelor's or associate's degree (or other recognized post-high school credential), and certain vocational schools are eligible educational institutions.

The student must be eligible, too—i.e., enrolled in a degree or certificate program at the eligible institution on at least a half-time basis. The student also must never have been convicted of a federal or state felony drug offense.

The credit is not allowed for an education expense that is deductible (for example, as a business expense). However, taxpayers can elect to claim either the credit or an above-the-line deduction for qualified tuition and related expenses.

If a tax-exempt distribution from a Coverdell education savings account (formerly known as an education individual retirement account (education IRA)), or qualified tuition program (also known as a 529 plan) is received for the student in the same year, the American Opportunity tax credit may still be claimed, but only with respect to expenses not covered by the distribution.

To be eligible for the credit for a year, the qualified expenses must be paid during the year for education furnished during an academic period (e.g., semester) starting within the year or within the first three months of the following year. Accordingly, for some expenses you'll have a choice: For a semester beginning in January of Year 2, you can pay the expenses either in Year 1 or 2 and claim the credit for the year of payment.

The credit is 40% refundable—i.e., not only can it reduce your regular tax bill to zero, it can also result in a refund. For example, someone who has at least \$4,000 in qualified expenses and who would thus qualify for the maximum credit of \$2,500, but who has no tax liability to offset that credit against, would qualify for a \$1,000 (40% of \$2,500) refund from the government. Additionally, the credit is allowable against the alternative minimum tax (AMT). If the expenses on which the credit is based are later refunded, you may have to recapture the credit you claimed, i.e., your tax in the year of the refund may be increased due to a recomputation of the credit claimed in the earlier year.

“Qualified tuition and related expenses” are for tuition, books, and academic fees required for enrollment or attendance at an eligible educational institution. They don't include student activity fees, athletic fees, insurance, room and board, transportation costs or other personal living expenses. The cost of a course or education involving sports, games or hobbies doesn't qualify unless it's part of the student's degree program. Qualified expenses for purposes of the credit are reduced by tax-exempt scholarships and fellowships, certain military benefits, and any other tax exempt payments of those expenses (other than gifts or bequests).

The credit is "phased out" ratably for married taxpayers filing jointly with adjusted gross income (AGI) (with certain modifications), for 2009 and 2010, between \$160,000 and \$180,000. That is, for joint filers, the credit is reduced if modified AGI for 2009 or 2010 is between \$160,000 and \$180,000, and it is unavailable if AGI is \$180,000 or more. For taxpayers filing as single or head of household, the phase-out range for 2009 or 2010 is \$80,000 to \$90,000. Finally, no credit is available at all for taxpayers who are married and filing separately, regardless of their AGI.

The American Opportunity tax credit isn't allowed to an individual who is claimed as a dependent on another's tax return. Instead, the credit for that individual is claimed on the return claiming him or her as a dependent. In such a case, the credit is based on the qualified expenses paid by both. A student who isn't claimed as a dependent can claim the credit on his or her own return, based on the expenses paid by the student. In either case, amounts paid on behalf of the student directly to the educational institution by a third party, such as a grandparent, are treated as paid by the student.