



**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

2003 Senate Bill 268	Senate Substitute Amendment 1
<i>Memo published:</i> January 21, 2004	<i>Contact:</i> Mary Offerdahl, Staff Attorney (266-2230)

2003 Senate Bill 268 creates an education tax credit that a “claimant” (defined as a sole proprietor, partner, member of a limited liability company, corporation, or shareholder of a tax-option corporation) may claim against the claimant’s income tax if the claimant pays the tuition of an individual enrolled in a degree-granting program at a “qualified postsecondary institution.” A claimant that is a partner, member of a limited liability company, or shareholder of a tax-option corporation claims the credit in proportion to his or her ownership interest in the business. The bill defines “qualified postsecondary institution” to include a University of Wisconsin System institution, a technical college system institution, a regionally accredited four-year nonprofit college or university having its regional headquarters and principal place of business in Wisconsin, or a school approved by the Educational Approval Board under s. 45.54, Stats., that delivers education and has a physical presence in Wisconsin.

The education credit is generally 50% of the qualified tuition that the claimant paid or incurred for the individual during the taxable year, but it is 75% if the individual’s taxable income in the year prior to beginning the program was not more than 185% of the federal poverty line. The bill requires the Department of Revenue (DOR) to annually submit a report to the Legislature that identifies each qualified postsecondary institution that has received tuition payments paid by a claimant for the fiscal year and specifies the total amount of the tuition for each such institution claimed as an education credit in the fiscal year.

Senate Substitute Amendment 1 specifies that it changes statutes “as affected by 2003 Wisconsin Act 99” and makes changes to the bill that can be grouped into the following five items.

1. If 50% of the tuition that the claimant paid or incurred during the taxable year is claimed as a credit:
 - Written certification requirement: No education credit is allowed unless the claimant’s tax return includes written certification from a qualified postsecondary institution concerning the

amount of tuition that the claimant paid or incurred during the taxable year for an individual to participate in an education program of the qualified postsecondary institution.

2. If 75% of the tuition that the claimant paid or incurred during the taxable year is claimed as a credit:

- Two written certification requirements:

No education credit is allowed unless the claimant's tax return includes written certification from a qualified postsecondary institution concerning the amount of tuition that the claimant paid or incurred during the taxable year for an individual to participate in an education program of the qualified postsecondary institution.

No education credit is allowed unless the claimant's tax return includes written certification from a qualified postsecondary institution that the taxable income of the individual for whom the claimant has paid or incurred tuition during the taxable year for the individual to participate in an education program of the qualified postsecondary institution is not more than 185% of the poverty line.

- If the individual for whom the claimant has paid or incurred tuition is claimed as a dependent on another person's tax return, the individual's taxable income shall be the taxable income of the person on whose return the individual is claimed as a dependent.

3. Regarding the requirement that DOR report to the Legislature:

- The substitute amendment requires the DOR to submit the report biennially, rather than annually, and to cover the previous biennium, rather than the fiscal year.
- Instead of requiring the DOR to identify in the report each qualified postsecondary institution "that has received tuition payments paid by a claimant," the substitute amendment requires the DOR to identify in the report each qualified postsecondary institution "for which it has received written certification from a claimant under par. (bm)." The certification referred to is the written certification required to be included in a claimant's tax return from a qualified postsecondary institution, as discussed above under items 1. and 2.

4. No credit allowed for tuition for a claimant's or managing employee's family member unless all of the following apply:

- The family member was employed an average of at least 20 hours a week by the claimant or the claimant's business during the one-year period prior to participating in the education program.
- The family member is enrolled in, and making satisfactory progress towards completing, a degree-granting program substantially related to the claimant's business.

The substitute amendment defines the terms "family member" and "managing employee."

5. No credit allowed unless the claimant certifies to the DOR that the claimant will not be reimbursed for any amount of tuition for which the claimant claims a credit.

Legislative History

On January 14, 2004, the Senate Committee on Homeland Security, Veterans and Military Affairs, and Government Reform introduced and recommended for adoption Senate Substitute Amendment 1 by a vote of Ayes, 5; Noes, 0, and recommended passage of the bill, as amended, by a vote of Ayes, 5; Noes, 0.

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