



CRS Report for Congress

The Tax Deduction for Classroom Expenses of Elementary and Secondary School Teachers

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Summary

An above-the-line deduction for certain classroom expenses paid or incurred during the school year by eligible elementary and secondary school (K-12) teachers, among other educators, was authorized in the Job Creation and Worker Assistance Act of 2002 (P.L. 107-147). After the deduction expired on January 1, 2006, the 109th Congress reauthorized it retroactively for two years, to December 31, 2007, in the Tax Relief and Health Care Act of 2006 (P.L. 109-432). Numerous bills were introduced during the 110th Congress that would have amended the educator expense deduction and/or extended it temporarily or permanently beyond December 31, 2007. The House passed H.R. 6049, the Renewable Energy and Job Creation Act of 2008, on May 21, 2008; it included a one-year extension of the deduction. The Senate attached its version of H.R. 6049 to a financial rescue bill (H.R. 1424) that it passed on October 1, 2008. The Senate substitute language extends the classroom expense deduction to December 31, 2009. On October 3, 2008, the House voted favorably on H.R. 1424, which includes the Tax Extenders and Alternative Minimum Tax Relief Act of 2008 at Division C. H.R. 1424 was signed into law (P.L. 110-343) on October 3.

Characteristics of the Educator Classroom Expense Deduction

As part of P.L. 107-147, Congress initiated a new temporary tax benefit to help K-12 teachers, among other school personnel, defray some of the expenditures they voluntarily make to enhance the quality of their students' education. Specifically, §62(a)(2)(D) of the Internal Revenue Code (IRC) states that eligible educators employed by public (including charter) and private K-12 schools (as determined by state law) may subtract from gross income up to \$250 in expenses associated with their purchase of the following items *for use by the educator in the classroom*: books; supplies (other than nonathletic supplies for

health or physical education courses); computer equipment, software, and services; other equipment; and supplementary materials.¹ Homeschooling expenses are not mentioned.

These expenses can be deducted as an adjustment to gross income. The “above-the-line” adjustment can be taken whether or not taxpayers itemize their deductions.

An eligible educator is defined, in Section 62(d)(1)(A), as an individual who *with respect to any tax year* is a(n)

- K-12 teacher,
- instructor,
- counselor,
- principal, or
- aide

in a school for a minimum of 900 hours in a school year.

The amount of deductible classroom expenses is not limited by the taxpayer’s income. However, educators must reduce the total amount they have expended on eligible items by any interest from an Education Savings Bond, or distribution from a Section 529 Program or Coverdell Education Savings Account that was excluded from income. In other words, if educators or members of their tax filing unit utilize earnings from these savings vehicles to pay tuition or other qualified educational expenses, only the classroom expenses that exceed the value of these income exclusions are deductible.

The allowable amount of expenses would be entered on the appropriate line on Form 1040 or Form 1040A. Filers of Form 1040EZ cannot take this adjustment to income.

There are a few ambiguities concerning the deduction that relate to the hours requirement. While the educator presumably would claim the deduction for the tax year (January-December) during which they incurred unreimbursed classroom expenses, they must have worked 900 hours in a school during the school year (September-June) to be eligible for the tax benefit. Would an individual who began working as a teacher at the start of the September 2006-June 2007 school year be able to take the deduction in tax year 2006 for expenditures made during the first term if they had not yet fulfilled the hours rule but expected to do so by the end of the school year? The linkage between the hours rule and the school year suggests another unclear point: Does the work time of eligible school personnel during July and August — as part of summer school or a year-round schedule, for example — count toward the requirement?

¹ Classroom expenses that may be deducted also must qualify under Section 162 as trade or business expenses (i.e., the expenses must be ordinary and necessary but not capital in nature). Presumably, then, the cost of computers (as well as computer software with a useful life of more than one year) must be capitalized and their depreciation claimed as an educator classroom expense deduction or as a miscellaneous itemized deduction. The latter tax benefit is addressed later in this report.

Related Federal Tax Provisions

Trade or Business Expenses. There is a permanent deduction for trade or business expenses in Section 162 of the IRC. It coexists with the temporary targeted deduction.²

Although business expenses have been deductible for many years, concern about misuse led to the imposition of limitations on their deductibility. Trade or business expenses generally are a component of miscellaneous itemized deductions. Taxpayers can only take a deduction to the extent the total of miscellaneous deductions exceeds 2% of their adjusted gross income (AGI).

Eligible school personnel may want to utilize the Section 162 deduction because it covers a broader range of expenditures compared to the classroom expense deduction.³ But, to do so, they must itemize their deductions (i.e., they must have deductible expenses, such as interest on a home mortgage, that exceed the standard deduction).

Alternatively, the classroom expenses deduction allows educators to avoid having to meet the 2% of AGI floor on miscellaneous itemized deductions. Most other taxpayers with earned income who have trade or business expenses must exceed the 2% floor for miscellaneous expenses in order to take a deduction for job-related expenses.⁴ In addition, the miscellaneous itemized deduction for trade or business expenses is not allowed for purposes of the alternative minimum tax, unlike the treatment of above-the-line deductions.

The temporary above-the-line deduction also means that eligible educators in higher income families may not have to subject classroom expenses of \$250 or less to the limit on itemized deductions. Higher income taxpayers must reduce their allowable itemized deductions by a percentage of their income in excess of an inflation-adjusted threshold. The reduction is calculated after the 2% floor on miscellaneous itemized deductions.

Use of the educator classroom expense deduction also interacts with other tax provisions through its reduction of AGI. By lowering their AGI, the adjustment to income enables taxpayers to claim more of those deductions subject to an AGI floor (e.g., medical

² Educators may use both the temporary classroom expense deduction and the permanent deduction for unreimbursed employee business expenses; however, taxpayers cannot take both deductions for the same expenses.

³ For example, Section 62(a)(2)(D) requires that items be used in the classroom by the individual who purchased them. Thus, principals apparently could not take the deduction for books they bought for the use of teachers in their classrooms. In addition, school counselors or other eligible educators who subscribe to professional journals or pay dues to professional societies and/or unions, for example, could apply these expenses toward the trade or business expense deduction but not the classroom expense deduction. Another example of a non-classroom expense covered by Section 162 is education related to one's current job. This last unreimbursed job-related expense will be discussed later in the report.

⁴ Certain occupations that can fully deduct work-related expenses from gross income are performing artists, and state and local officials working on a fee basis. Individuals with disabilities also can fully deduct expenses they incur that enable them to work.

and miscellaneous deductions). It also may affect the amount of certain credits (e.g., the Earned Income Tax Credit).

Contributions to Schools. Educators continue to have another tax benefit available to them that could improve the quality of students' education. They, like other taxpayers, may make charitable contributions to public and private schools of magazine subscriptions, for example, that the schools then can distribute to those same teachers (or others) for classroom use.⁵

Educators and others can make such charitable contributions and avoid the previously discussed 2% floor applicable to miscellaneous itemized deductions. Taxpayers must be able to itemize their deductions to take a charitable contribution deduction, however.

The choice between taking an educator classroom expense deduction and a charitable contribution deduction for computer expenses has an additional complication. When computers are taken as an educator expense deduction or a miscellaneous itemized deduction, taxpayers can consider only the annual depreciation associated with the computer as a trade or business expense. When computers are donated to schools or certain charitable organizations, however, taxpayers can consider the actual value (e.g., purchase price if new and fair market value if used) as a charitable deduction.

Legislative Activity

The classroom expense deduction is one of a number of temporary education-related tax provisions that Congress has to periodically reconsider. (For additional information, see CRS Report RS21870, *Education Tax Benefits: Are They Permanent or Temporary?*, by Linda Levine.)

Almost 10 months after the deduction expired on January 1, 2004, the 108th Congress passed H.R. 1308, The Working Families Tax Relief Act of 2004. Among many other things, P.L. 108-311 extended the provision retroactive to its expiration date and to December 31, 2005. (The classroom expense deduction was not included in either the House- or Senate-passed version of the bill. It first appeared in the conference report (H.Rept. 108-696).)

The Tax Relief and Health Care Act of 2006 was introduced in the waning days of the 109th Congress. It addressed numerous "tax extenders," including the classroom expense deduction for educators. P.L. 109-432 retroactively reauthorized the classroom expense deduction, enabling eligible educators to take the deduction in tax years 2006 and 2007.

In its FY2008 revenue proposals, the Administration requested that the classroom expense deduction for teachers and other eligible educators be made permanent. The cost

⁵ Section 170(c)(1) of the IRC relates to charitable contributions to public entities, including public schools. Section 170(c)(2) covers corporations, foundations, and other enterprises organized and operated exclusively for educational among other specified purposes (e.g., private schools and certain charitable organizations).

in revenue forgone of making permanent the unamended tax provision was estimated by the Administration to be \$18 million in FY2008, \$180 million in FY2009, \$183 million in FY2010, \$185 million in FY2011, and \$188 million in FY2012, for a total of \$754 million over the five-year period.

Several bills were introduced during the 110th Congress that would make the tax provision permanent among other modifications.⁶ The House passed H.R. 6049, the Renewable Energy and Job Creation Act of 2008, on May 21, 2008. It included a one-year extension of the deduction. The Senate attached its version of H.R. 6049 to a financial rescue bill (H.R. 1424) that it passed on October 1, 2008. The Senate substitute language extends the classroom expense deduction to December 31, 2009. On October 3, 2008, the House voted favorably on H.R. 1424, which includes the Tax Extenders and Alternative Minimum Tax Relief Act of 2008 at Division C; it was signed into law (P.L. 110-343) on October 3. The JCT estimated the cost of extending the classroom expense deduction at \$214 million in FY2009 and \$196 million in FY2010.

⁶ H.R. 3595 would make the deduction permanent while, in addition to making the provision permanent, H.R. 549 and S. 505 would increase the amount of the deduction to \$400 and include professional development expenses of educators. In contrast, H.R. 3605 would raise the deduction to \$500 and include professional development expenses.