



The Tax Lawyer

Ten Rules For Deducting Career Education

Robert W. Wood, 02.16.10, 6:00 PM ET

Education comes in all shapes and sizes and is something one should never outgrow. But no matter how much you love learning, arguably the best education is one paid for with help from someone else, such as Uncle Sam. Parents--provided they don't earn too much--can claim a [\\$2,500 per child American Opportunity Tax Credit](#) for their undergraduate college student children. But adults who already have an undergraduate degree, or go to school only part time, or who have a felony drug conviction, don't qualify for this credit.

Adults may be able to claim the Lifetime Learning Credit equal to 20% of qualified education expenses up to \$10,000--for a maximum credit of \$2,000. Unfortunately, the income cutoff for Lifetime Learning is even lower than for the undergraduate credit; it begins to phase out for singles with modified adjusted gross income above \$48,000 and couples above \$96,000. (For details on educational credits, see IRS [Publication 970](#).)

Fortunately, there's another option: deducting your educational expenses as a job or career expense. For self-employed folks operating as sole proprietors, that means writing it off as a business expense on Schedule C. For employees, it means claiming it as a miscellaneous itemized deduction, specifically an "unreimbursed employee business expense." For those in the higher brackets, this can work out to a nice educational subsidy, with Uncle Same picking up 35% of the cost of your courses.

Here are 10 things you should know about deducting educational expenses.

1. You can't deduct courses your employer paid for.

Your employer can pay for up to \$5,250 a year of classes for you--without it counting as income to you--so long as it's a benefit formally offered to all workers. Not surprisingly, any course your employer sprang for, you can't deduct.

2. Lots of surprising expenses qualify.

For deduction purposes, the definition of job related "education" is surprisingly lax. Skills courses, personal development courses, and even certain activities not involving formal instruction may be considered education. It's usually possible to predict what the IRS will disallow, after you bone up on the two-option test discussed below.

3. You can use either of two tests.

An educational expense will qualify if it meets either one of two tests. First test: The expense maintains or improves skills that are required in your employment or your current trade or business. Treas. Reg. § 1.162-5(a)(1). Examples include negotiation seminars for a salesperson, employment law or employee benefit seminars for HR managers, and finance courses for bookkeepers. Second test: The expense meets the express requirements of your employer or of applicable law or regulations, imposed as a condition to the retention of your employment, status, or rate of pay. Treas. Reg. § 1.162-5(a)(2). Examples include update courses required to maintain a law or accounting license, police marksmanship courses, truck driver transportation updates, *etc.*

4. "Educational" has broad meaning.

In *McCulloch v. Commissioner*, T.C. Memo 1988-84 (1988), an elementary school teacher who took a sabbatical in Ireland reading children's literature was able to deduct it. In *Voigt v. Commissioner*, 74 T.C. 82 (1980), *nonacq.*, 1981-2 C.B. 3., a social worker was able to deduct the cost of her *own* psychoanalysis as educational. The Tax Court agreed that it maintained or improved her skills. (Of course, she might also have deducted it as a medical expense. For more on medical expense deductions, [click here](#).) In another case, an airline engineer deducted the costs of flying his own plane. See *Bosler v.*

Commissioner, 77 T.C. 1124 (1981), *acq.*, 1984-2 C.B. 1, *aff'd in unpub. op.*, (9th Cir. Dec. 22, 1983).

5. Required doesn't really mean "required."

You can claim an educational expense is "required" to maintain or improve skills in your employment even if it is of marginal value. In fact, the way the tax law has been interpreted, "required" doesn't really mean required. If a seminar on positive thinking seems helpful to a bank teller's job, it is deductible.

6. But it can't qualify you for a new career.

If education qualifies you for a *new* trade or business, it *doesn't* qualify for a tax deduction. That means if you incur education expenses to obtain a law degree or a CPA license, you can't deduct that cost. In contrast, you can deduct the cost of a Tony Robbins Personal Power seminar because you think it will help you connect better with your customers and be a better hair dresser. It may seem illogical, but that's the way the tax law works.

7. The "new career" standard is objective.

Can you get around this rule by making it clear that you don't *intend* to get a new job, and just want to improve your skills in your existing job? Suppose you go to night law school to become savvier about contracts, thus making you a better copy machine salesman? Nope, no deduction. Why? Because even though you *subjectively* may not want to change careers--and in fact you might never leave your copy machine sales job--your law degree does qualify you to do something else.

Thus, a CPA couldn't deduct the cost of a law degree even though he undertook it only to improve his skills and never intended to practice law. *O' Donnell v. Commissioner*, 62 T.C.781 (1974), *aff'd*, 519 F.2d 1406 (7th Cir. 1975). Even an IRS agent who tried to deduct law school was denied! *Weiler v. Commissioner*, 54 T.C. 398 (1970). Moreover, the cost of a basic college degree is almost never deductible as a work or career related educational expense, since a bachelor's degree qualifies the graduate for a host of new jobs.

8. Your specific circumstances are relevant.

Whether you qualify for a new profession is *objective*. Nevertheless, there are *subjective* elements. For example, all manner of people have tried to deduct the cost of an MBA, with mixed results. From an objective perspective, an MBA doesn't (on its face) qualify you for a new job or a new career the way a law or medical degree does. In fact, whether an MBA qualifies you for a new career will depend on your own situation.

9. It pays to marshal your evidence

If you want an example of how to play your cards right in deducting educational expenses, consider the recently decided case of *Lori Singleton-Clarke v. Commissioner*, T.C. Summ. Op. 2009-182. Just reading her big victory in Tax Court is a good education (although not deductible). Singleton-Clarke had a nursing degree, and had worked as a nurse or in administrative posts for 24 years. She was already working in a managerial capacity when she decided to boost her skills with an online MBA. The IRS disallowed her claimed deductions, and she appealed to the Tax Court. The IRS argued Singleton-Clarke not only *qualified* for a new job with her MBA, but in fact *got* one shortly after getting her degree. The Tax Court, however, believed Ms. Singleton-Clarke when she said she got the MBA to become more effective in her then-present duties and later switched jobs to work closer to home. Moreover, she showed she would have gotten the new job *anyway*--with or without the MBA!

10. Don't count on deducting an MBA

Don't assume that getting an MBA will now always be tax deductible. After Singleton-Clarke's victory, it may be easier to deduct the costs of an MBA, but you could still have a fight with the IRS on your hands, and you still could lose. There's a long line of tax cases considering the MBA, and many taxpayers have failed to qualify, primarily based on the "new job or career" rationale.

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