

## Part III - Administrative, Procedural and Miscellaneous

### Election to Claim Education Tax Credit

Notice 99-32

#### PURPOSE

This notice announces that the final regulations under § 25A of the Internal Revenue Code will permit taxpayers to elect to claim the Hope Scholarship Credit and the Lifetime Learning Credit by attaching Form 8863, Education Credits (Hope and Lifetime Learning Credits), to a Federal income tax return (or amended return) for the taxable year in which the credit is claimed.

#### BACKGROUND

Section 25A provides two education tax credits, the Hope Scholarship Credit and the Lifetime Learning Credit. In general, § 25A provides that, if certain requirements are met, a taxpayer may claim an education tax credit based on the qualified tuition and related expenses of the taxpayer, the taxpayer's spouse, and any dependent of the taxpayer for whom the taxpayer properly claims a dependency deduction under § 151. The education tax credits are available for taxable years beginning after 1997. Section 25A(e)(1) provides that a taxpayer must elect to claim an education tax credit.

#### DISCUSSION

On January 6, 1999, the Treasury Department and the Internal Revenue Service issued proposed regulations under § 25A. See 64 Fed. Reg. 794 (1999). Section 1.25A-1(d) of the proposed regulations provides that no education tax credit is allowed unless a taxpayer elects to claim the credit on the taxpayer's timely filed (including

extensions) Federal income tax return for the taxable year in which the credit is claimed. The proposed regulations provide that the election is made by attaching Form 8863 to that Federal income tax return.

The Treasury Department and the Service have determined that taxpayers should be able to make the election under § 25A on an original or amended return. Thus, the regulations when finalized will provide that a taxpayer claims an education tax credit by attaching Form 8863 to a Federal income tax return for the taxable year in which the credit is claimed. The election procedure provided in the final regulations will apply to taxable years beginning after 1997. Therefore, for taxable year 1998 and later years, a taxpayer may elect to claim an education tax credit by attaching Form 8863 to a timely filed original Federal income tax return, or an original Federal income tax return or an amended return filed after the due date of the return and before the expiration of the period of limitation for filing a claim for credit or refund for the taxable year in which the credit is claimed.

#### DRAFTING INFORMATION

The principal author of this notice is Donna Welch of the Office of the Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this notice contact her on (202) 622-4910 (not a toll-free call).