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Subtitle A—Training and Investment Incentives

PART I—PROVISIONS RELATING TO EDUCATION AND TRAINING

SEC. 14101. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) PERMANENT EXTENSION OF EXCLUSION.—

(1) IN GENERAL.—Section 127 (relating to educational assistance programs) is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

House-passed

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 103(a) of the Tax Extension Act of 1991 is hereby repealed.

(b) COORDINATION WITH SECTION 132.—Paragraph (8) of section 132(i) is amended to read as follows:

"(8) APPLICATION OF SECTION TO OTHERWISE TAXABLE EDUCATIONAL OR TRAINING BENEFITS.—Amounts paid or expenses incurred by the employer for education or training provided to the employee which are not excludable from gross income under section 127 shall be excluded from gross income under this section if (and only if) such amounts or expenses are a working condition fringe."

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to taxable years ending after June 30, 1992.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1988.

(d) TRANSITION RULES.—

(1) WAIVER OF INTEREST AND PENALTIES.—No interest, penalty, or addition to tax shall be imposed or required to be paid solely by reason of a failure, before the date of the enactment of this Act,

House
Cmte
report

EXPLANATION OF TITLE XIV—REVENUE PROVISIONS

I. TRAINING AND INVESTMENT PROVISIONS

A. Education and Training Provisions

1. Permanent extension of employer-provided educational assistance (sec. 14101 of the bill and sec. 127 of the Code)

PRESENT LAW

Employer-provided educational assistance

Prior to July 1, 1992, an employee's gross income and wages for income and employment tax purposes did not include amounts paid or incurred by the employer for educational assistance provided to the employee if such amounts were paid or incurred pursuant to an educational assistance program that met certain requirements (sec. 127). This exclusion, which expired with respect to amounts paid after June 30, 1992, was limited to $5,250 of educational assistance with respect to an individual during a calendar year. Education that did not qualify for the exclusion (e.g., because it exceeded the $5,250 limit) was excludable from income if and only if it qualified as a working condition fringe benefit (sec. 132). To be excluded as a working condition fringe, the cost of the education must have been a job-related deductible expense.

In the absence of the exclusion, for purposes of income and employment taxes, an employee generally is required to include in income and wages the value of educational assistance provided by the employer unless the cost of such assistance qualifies as a deductible job-related expense of the employee.

Refunds of overpayments of income and employment taxes

To obtain a refund of an overpayment of income taxes, a taxpayer may file an amended income tax return.

Under Internal Revenue Service (IRS) regulations, an employer and employee can agree that the employer will refund to the employee any excess employment taxes. An employer may obtain a refund of an overpayment of employment taxes if it certifies to the IRS that it has already returned all of the affected employees' excess employment taxes to them. If the employer cannot afford to return the overpayments to the employees unless it receives a refund, the employer may obtain a refund if it certifies to the IRS that the employees have provided it with written statements that they will not seek refunds directly. In the case of former employees who cannot be located, the employer may obtain a refund of an overpayment of employment taxes if it certifies to the IRS that it has tried unsuccessfully to notify them of the overpayment (in which case the employer can be refunded only the employer's share of the overpayment of employment taxes).

If the employer does not make a refund to the employee, then the employee can theoretically get a refund directly from the IRS, although the IRS has no formal procedures established for paying such refunds.

REASONS FOR CHANGE

The exclusion from income for employer-provided educational assistance programs has two intended purposes: (1) to increase the levels of education and training in the workforce and (2) to eliminate the potential complexity of determining whether education and training benefits provided by an employer constitute job-related expenses that are deductible by the employee as a working condition fringe benefit.

The committee believes that some of the benefits attributable to the exclusion for employer-provided educational assistance accrue to society at large by creating a better-educated workforce. Also, the committee believes that some individuals would underinvest in education if the Federal government did not subsidize the cost of their continuing education.

The exclusion for employer-provided educational assistance has expired and been extended several times. This practice creates uncertainty for employers and employees in determining proper withholding and tax liability during any time the availability of the exclusion has lapsed. Such uncertainty was particularly acute with respect to the most recent expiration of the exclusion because the exclusion was not extended before the end of the 1992 taxable year. In the absence of the exclusion, employers and employees should have been treating some educational assistance as taxable income (depending on whether the education was job-related). Some employers and employees did not do so, however, on the assumption that the exclusion would be extended retroactively. The committee does not wish to encourage taxpayers to take positions based upon the assumption that the law in effect at a particular time will change as the taxpayer desires. The expectation of retroactively extending the exclusion is a special circumstance, however, and it was not unreasonable in this case to expect Congress to once again extend the exclusion and to take into account the period of 1992 for which the exclusion was not in effect. Thus, the committee believes it is appropriate to waive penalties with respect to persons who treated educational assistance as nontaxable.

Some employers and employees did follow the law in effect at the time and treated educational assistance provided during the last half of 1992 as taxable. In those cases, excess income taxes and employment taxes were paid. The committee does not wish to place taxpayers who complied with the law at a disadvantage, and therefore believes it appropriate to provide a more administrable way of recovering excess taxes than filing claims for refund. Thus, the option to permit an employer to offset a similar amount of wages for 1993 is provided.

Because of the importance of having a well-trained workforce and because of the administrative problems created by allowing the exclusion to expire, the committee believes it is appropriate to provide for a retroactive and permanent extension of the exclusion to ensure the uninterrupted provision of these benefits in the future.

EXPLANATION OF PROVISION

The bill retroactively and permanently extends the exclusion for employer-provided educational assistance.

The bill includes a number of transition rules to deal with cases in which employers provided educational assistance to employees between July 1, 1992, and December 31, 1992.

First, no interest, penalty, or addition to tax is imposed on employers or employees who continued to exclude from income educational assistance payments made after June 30, 1992.

Second, if an employer included educational assistance payments made after June 30, 1992, in its employees' income and wages (for purposes of income or employment taxes) the amount included is deducted from wages paid in 1993 rather than requiring the taxpayers to file a request for refund for 1992. Under this rule, if an employee receives income and wages from the employer between the date of enactment and December 31, 1993, in an amount at least equal to the amount of educational assistance provided to such employee between July 1, 1992, and December 31, 1992, then the employee's income and wages for the purposes of income and employment taxes for 1993 is reduced by such amount of educational assistance. The reduction for income and employment tax purposes is carried out separately with respect to each tax. For purposes of information reports or tax returns, the employer is required to report separately the amount of any such income reduction for an employee as nontaxable income. This special rule does not apply if the employer has actual knowledge that the employee treated the educational assistance as excludable from income. Of course, even if the special rule does apply, if the employee treated educational assistance as nontaxable in 1992 the employee will not be permitted to exclude such amount from income again in 1993.

Amounts reduced from income and wages under this rule do not affect other provisions. For example, the amount that could otherwise be excluded from income as educational assistance in 1993 is not reduced, nor is the amount of compensation used in determining whether retirement plans of the employer satisfy the tax-qualification requirements of the Code.

If an employee does not receive either a refund or an offset of excess employment taxes paid as a result of the retroactive extension of the exclusion, the employee will not suffer a reduction in social security benefits.

If an employer included educational assistance payments made after June 30, 1992, in an employee's income and wages (for purposes of income or employment taxes) and the employee does not receive income and wages from that employer between the date of enactment and December 31, 1993, at least equal to the amount of such educational assistance included in income in 1992, then the employee may seek refund of excess income taxes and employment taxes in accordance with existing rules. In such a case, the employer is required to provide a corrected Form W-2 to the employee.

The bill also clarifies the rule under which educational assistance that does not satisfy section 127 may be excluded from income if and only if it meets the requirements of a working condition fringe benefit.

EFFECTIVE DATE

The extension of the exclusion is effective for taxable years ending after June 30, 1992. The clarification to the working condition fringe benefit rule is effective for taxable years beginning after December 31, 1988.

2. Permanent extension of targeted jobs tax credit and expansion to include approved school-to-work program (sec. 14102 of the bill and sec. 51 of the Code).

PRESENT LAW

Tax credit

The targeted jobs tax credit is available on an elective basis for hiring individuals from several targeted groups. The targeted groups consist of individuals who are either recipients of payments under means-tested transfer programs, economically disadvantaged, or disabled.

The credit generally is equal to 40 percent of up to $6,000 of qualified first-year wages paid to a member of a targeted group. Thus, the maximum credit generally is $2,400 per individual. With respect to economically disadvantaged summer youth employees, however, the credit is equal to 40 percent of up to $3,000 of wages, for a maximum credit of $1,200.

The credit expired for individuals who began work for an employer after June 30, 1992.

Certification of members of targeted groups

Generally, an individual is not treated as a member of a targeted group unless certain certification conditions are satisfied. On or before the day on which the individual begins work for the employer, the employer has to have received or have requested in writing from the designated local agency certification that the individual is a member of a targeted group. In the case of a certification of an economically disadvantaged youth participating in a cooperative education program, this requirement is satisfied if necessary certification is requested or received from the participating school on or before the day on which the individual begins work for the employer.

The deadline for requesting certification of targeted group membership is extended until five days after the day the individual begins work for the employer, provided that, on or before the day the individual begins work, the individual has received a written preliminary determination of targeted group eligibility (a "voucher") from the designated local agency (or other agency or organization designated pursuant to a written agreement with the designated

local agency). The "designated local agency" is the State employment security agency.

Authorization of appropriations

Present law authorized appropriations for administrative and publicity expenses relating to the credit through June 30, 1992. These monies were to be used by the Internal Revenue Service and the Department of Labor to inform employers of the credit program.

REASONS FOR CHANGE

The committee believes that the targeted jobs tax credit provides a useful incentive for hiring disadvantaged individuals. Further, the committee believes that a permanent extension of the targeted jobs tax credit will provide greater certainty to employers as to the availability of the credit. In addition, the committee believes that the creation of a school-to-work program will help participants of the program acquire the skills necessary to compete in the changing workforce of America.

EXPLANATION OF PROVISION

The bill permanently and retroactively extends the targeted jobs tax credit for individuals who begin work for the employer after June 30, 1992.[1] In addition, the targeted jobs tax credit is expanded to include qualified participants in an approved school-to-work program beginning participation after December 31, 1993.

A qualified participant in an approved school-to-work program is any individual age 16 through 20 who is enrolled in an approved school-to-work program and certified to be making satisfactory progress toward completing the program. A program is considered to be an approved school-to-work program only if it is a planned program of structured job training designed to integrate academic instruction and work-based learning and is approved by the Secretaries of Labor and Education.

The total number of qualified participants in an approved school-to-work program is capped in each calendar year. The cap is as follows: 125,000 in 1994, 140,000 in 1995, 150,000 in 1996, 180,000 in 1997 and 200,000 in 1998 and each year thereafter. These amounts are to be allocated among the States in proportion to the number of eligible participants that are estimated to be served in approved school-to-work programs for that year. Such estimates will be published by the Secretaries of Labor and Education before the beginning of the year to which the allocation applies. Each State's allocation, in turn, will be allocated among its approved school-to-work programs in such manner as the Secretaries of Labor and Education prescribe. Because the approved school-to-work program is a work-study program, the credit would equal 40 percent of up to $3,000 of first-year wages, for a maximum credit of $1,200.

[1] See also description of targeted jobs tax credit for Empowerment Zones in Part III of the report on Title XIV.

to treat educational assistance in a manner consistent with the provisions of section 103(a) of the Tax Extension Act of 1991 (as in effect before the amendments made by subsection (a)).

(2) SPECIAL RULES FOR 1992.—

(A) EMPLOYMENT TAXES.—If—

(i) an employer provided an employee with educational assistance during the period beginning on July 1, 1992, and ending on December 31, 1992,

(ii) consistent with the provisions of section 103(a) of the Tax Extension Act of 1991 (as so in effect), such employer treated such assistance as taxable for purposes of any employment tax and as a result of such treatment there was an increase in taxable wages for purposes of such tax,

(iii) on or after the date of the enactment of this Act and before January 1, 1994, such employer pays such employee amounts which are taxable wages for purposes of such tax and which equal or exceed the increase referred to in clause (ii), and

(iv) such employee did not treat such assistance for purposes of such employment tax (or for purposes of chapter 1 of the Internal Revenue Code of 1986 in the case of employment tax imposed by chapter 24 of such Code) in a manner inconsistent with the employer's treatment of such assistance,

the amendments made by subsection (a) shall not apply to such educational assistance for purposes of such employment tax, but, for purposes of applying such employment tax (and for purposes of the reporting requirements imposed by chapter 61 of such Code), the taxable wages of the employee referred to in clause (iii) shall be reduced by the amount of the increase referred to in clause (ii). For purposes of clause (iv), an employer may assume that the employee treated the assistance in a manner consistent with the employer's treatment unless such employer has actual knowledge to the contrary.

(B) REPORTING REQUIREMENT.—An employer shall separately report the amounts of any reduction under subparagraph (A) as nontaxable income on any returns or receipts required under chapter 61 of such Code for calendar year 1993.

(C) DEFINITIONS.—For purposes of this paragraph—

(i) EMPLOYMENT TAX.—The term "employment tax" means any tax imposed by subtitle C of such Code.

(ii) TAXABLE WAGES.—The term "taxable wages" means—

(I) wages (as defined in section 3121(a) of such Code) in the case of the taxes imposed by chapter 21 of such Code,

(II) compensation (as defined in section 3231(e) of such Code) in the case of the taxes imposed by chapter 22 of such Code,

(III) wages (as defined in section 3306(b) of such Code) in the case of the taxes imposed by chapter 23 of such Code, and

(IV) wages (as defined in section 3401(a) of such Code) in the case of

the taxes imposed by chapter 24 of such Code.

(3) INCOME TAX TREATMENT.—If—

(A) subparagraph (A) of paragraph (2) applies to any educational assistance referred to in such paragraph provided to any employee, and

(B) such employee included such assistance in his taxable income for purposes of the tax imposed by chapter 1 of such Code,

the amendments made by subsection (a) shall not apply to such assistance for purposes of such chapter 1, but the amount included in the gross income of such employee by reason of wages received from the employer referred to in subparagraph (A) of paragraph (2) during 1993 shall be reduced in the manner provided in such subparagraph (A).

SEC. 14102. TARGETED JOBS CREDIT.

(a) PERMANENT EXTENSION OF CREDIT.—

(1) IN GENERAL.—Subsection (c) of section 51 (relating to amount of targeted jobs credit) is amended by striking paragraph (4).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to individuals who begin work for the employer after June 30, 1992.

Senate-passed

Subtitle A—Training and Investment Incentives

PART I—PROVISIONS RELATING TO EDUCATION AND TRAINING

SEC. 8101. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) EXTENSION OF EXCLUSION.—

(1) IN GENERAL.—Subsection (d) of section 127 (relating to educational assistance programs) is amended to read as follows:

"(d) TERMINATION.—

"(1) IN GENERAL.—This section shall not apply to taxable years beginning after June 30, 1994.

"(2) SPECIAL RULE.—In the case of any taxable year beginning in 1994, only amounts paid before July 1, 1994, by the employer for educational assistance for any employee shall be taken into account for purposes of this section."

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 103(a) of the Tax Extension Act of 1991 is hereby repealed.

(b) COORDINATION WITH SECTION 132.—Paragraph (8) of section 132(i) is amended to read as follows:

"(8) APPLICATION OF SECTION TO OTHERWISE TAXABLE EDUCATIONAL OR TRAINING BENEFITS.—Amounts paid or expenses incurred by the employer for education or training provided to the employee which are not excludable from gross income under section 127 shall be excluded from gross income under this section if (and only if) such amounts or expenses are a working condition fringe."

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to taxable years ending after June 30, 1992.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1988.

SEC. 8102. TARGETED JOBS CREDIT.

(a) EXTENSION OF CREDIT.—Paragraph (4) of section 51(c) (relating to amount of targeted jobs credit) is amended by striking "1992" and inserting "1994".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after June 30, 1992.

PART II—INVESTMENT INCENTIVES

Subpart A—Research Credit

SEC. 8111. EXTENSION OF RESEARCH CREDIT.

(a) IN GENERAL.—Subsection (h) of section 41 (relating to credit for research activities) is amended to read as follows:

"(h) NONAPPLICABILITY.—

"(1) IN GENERAL.—This section shall not apply to amounts paid or incurred during any suspension period.

"(2) BASE AMOUNT.—In the case of any taxable year which includes a portion of any suspension period, the base amount with respect to such taxable year shall be the amount which bears the same ratio to the base amount for such year (determined without regard to this paragraph) as the number of days in such taxable year which are not in any suspension period bears to the total number of days in such taxable year.

"(3) FIXED-BASE PERCENTAGE.—The fixed-base percentage under subsection (c)(3)(B)(ii) shall be