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FOIA MARKER

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Folder Title:
HOPE Scholarship and Implementation: Hope Scholarship Regs [Regulations] Issues

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August 18, 1998

MEMORANDUM FOR GENE SPERLING

FROM: **Bob Shireman**

SUBJECT: **Important Repairs on Education/Tax issues**

I want to make you aware of three issues that I consider *very important* to the President's education legacy. None of these are high-profile items, but in order for us to fix them, you will need to push so that the key people on the Hill understand that Treasury and the White House are *absolutely insisting* that these fixes must be included in any tax bill that moves in September. In the case of the Hope Scholarship issue, it also requires some thinking and an internal process to determine what to do (*I need your advice on this*). The three issues are:

- **Exclusion from taxation for amounts forgiven under Income-Contingent Repayment of direct loans.** There has been resistance to this fix on the Hill, mainly because it is a direct loan issue. I am hopeful that if we can extend ICR to the guarantee program in the HEA reauthorization, there will be more openness to addressing this. (Its costs are negligible).

- **Exclusion from taxation for AmeriCorps education awards.** Again, this issue faces the problem of being associated with a program that some Republicans hate with a passion.

- **Simplifying Reporting of Hope Scholarship and Lifetime Learning tax credits**.

The Taxpayer Relief Act of 1997 (TRA) created a number of new education tax incentives that enjoy the strong support of the Administration, schools, and students. Now that the Department of the Treasury and IRS are implementing these tax provisions, however, concerns are being raised about the burden of new information reporting requirements. As with other popular tax breaks, such as the Earned Income Tax Credit, IRS must collect information to reduce the likelihood of fraudulent and erroneous claims of deductions and credits by taxpayers. The challenge is to ensure that the burden imposed on schools and taxpayers does not offset the benefits the education tax incentives were designed to create.

BACKGROUND

The TRA's education tax breaks include (1) two non-refundable tax credits--the HOPE Scholarship Credit and the Lifetime Learning Credit (LLC)--for payments made for qualified tuition and related expenses for post-secondary education, (2) a student-loan interest deduction, and (3) an education IRA. For each qualifying student, taxpayers must choose to claim either the

HOPE, the LLC, or the exclusion for certain distributions from an education IRA for the taxable year. They cannot claim more than one of these benefits for a student for any year.

- **The HOPE Scholarship Credit.** This credit allows taxpayers to claim a credit of up to $1,500 (100 percent of the first $1,000 of tuition and fees and 50 percent of the next $1,000) for the first two years of post-secondary education at an eligible institution for qualified expenses paid on behalf of the taxpayer, the taxpayer's spouse, or a dependent. Qualified expenses include tuition and fees required for enrollment; they do not include books, supplies and equipment, room and board, and other personal and living expenses. To be eligible, the student must be enrolled at least half-time for at least one academic period during the year. The credit is phased out for taxpayers with modified adjusted gross income (AGI) between $40,000 and $50,000 (between $80,000 and $100,000 for joint filers), and it applies to expenses paid after December 31, 1997, for education furnished in academic periods beginning after that date.

- **The Lifetime Learning Credit.** The LLC allows eligible students to claim a credit equaling 20 percent of up to $5,000 of expenses ($10,000 beginning in 2003) incurred during the taxable year for qualified tuition and fees for post-secondary education, including training to acquire or improve job skills. The LLC has the same restrictions on expenses and income phase-outs as the HOPE. The LLC applies to expenses paid after June 30, 1998, for education furnished in academic periods beginning after that date.

- **Deduction for Interest on Education Loans.** The TRA provides an above-the-line maximum deduction of up to $2,500 of interest paid by taxpayers on qualified education loans. The $2,500 limit is phased in over four years ($1,000 in 1998, $1,500 in 1999, $2,000 in 2000, and $2,500 in 2001). Deductions are allowed only for the first 60 months that interest payments are required. The deduction is phased out for taxpayers with modified AGI between $40,000 and $55,000 ($60,000 and $75,000 for joint filers). This deduction is effective for interest due and paid after December 31, 1997.

- **Education Individual Retirement Account (Education IRA).** Taxpayers can use the Education IRA for to pay qualified higher education expenses of a designated beneficiary. Contributions are not tax-deductible, and earnings on the amount held in the IRA will be non-taxable until distributed. Annual contributions are limited to $500 per beneficiary under the age of 18. The contribution limit is phased out as a taxpayer's modified AGI increases from $95,000 to $110,000 ($150,000 to $160,000 for joint returns). Distributions from an education IRA are excludable from income to the extent the amount does not exceed the qualified higher education expenses of the eligible student during the year. This provision became effective in 1998. **[THIS BULLET MAY NOT BE NECESSARY]**

<u>REPORTING REQUIREMENTS</u>

The TRA's education tax incentives will impose significant reporting requirements on schools, students, and parents. To help schools meet their new obligations under these tax provisions, Treasury published guidance and issued new tax forms in late 1997. Consulting with the Secretary of Education (as required by the TRA), Treasury's guidance on the TRA provisions imposed the following requirements:

- **Students.** In Tax Year 1998 (for the 1999 filing season), schools will give students Form W-9S, Request for Student's or Borrower's Social Security Number and Certification. Students will provide their name, address, and Social Security number, and certify that loan proceeds are for qualified higher education expenses.

- **Schools.** For Tax Year 1998, schools must file Form 1098-T, Tuition Payments Statement, with the IRS and provide copies (with school contact information) to each student they report on. The information on the 1098-T includes the:

  - ➪ name, address, taxpayer identification number (TIN) of the school;
  - ➪ name, address, and TIN (Social Security number) of all students who make qualified payments (schools do not have to report on students who are getting a "free ride" on tuition and related expenses), regardless of whether they will be eligible for the tax credits; and
  - ➪ the enrollment status of each student (i.e., half- or full-time and type of degree program.

- **Student Loan Interest Payees.** Anyone who receives student loan interest of $600 or more from any individual in Tax Year 1998 must file a 1098-E, Student Loan Interest Report, which includes the following information:

  - ➪ name, address, and Social Security number of the student from whom interest was received;
  - ➪ name, address, and Social Security number of any parent claiming the student as a dependent; and
  - ➪ the amount of interest received during Tax Year 1998.

Recognizing the transition problems for schools, the guidance indicates that, before Treasury issues regulations (and even once regulations are issued), no penalties will be imposed for failure to collect and file correct Tax Year 1998 information as long as schools make a "good faith effort." To meet this standard, schools must simply attempt to obtain student information.

In subsequent tax years, schools will be required to collect and report additional information on parents (including TINs) that claim students as dependents, as well as tuition and fees paid. These reporting requirements will be spelled out in the IRS regulations to be issued later this year. Under the expanded requirements, penalties will be imposed unless schools can demonstrate "reasonable cause" for not providing complete and accurate information. Reasonable cause, which will be defined in the regulations, will be stricter than the "good faith effort" standard.

PUBLIC CONCERNS

Higher education organizations and schools have been highly critical of the guidance and the new reporting requirements. Specifically, the higher education community has expressed concerns about:

- **Reporting burden.** The new reporting requirements will force schools to make significant investments in information systems. According to the TRA97 Reporting Task Force, which is made up higher education associations, a conservative estimate of the compliance cost of the HOPE and LLC reporting requirements is $119 million for Tax Year 1998 and $137 million for Tax Year 1999 (which would be equivalent to 5 percent of the proposed tax benefits in 1998 and 2 percent in 1999). Schools are also uncomfortable with their newly defined role as proxy for the IRS (i.e., universities will be called on to collect information from students and parents and explain to them the new tax credits.)

- **Tax treatment of grant aid.** Under current law, grant and scholarship aid **[work-study?]** is taxable as income if it is used for living expenses (i.e., anything other than tuition, required fees, books, and equipment **[what about health insurance, athletic fees, other optional fees?]**). IRS does not currently require the reporting of this information to enforce taxpayer compliance (many of the students would pay little or no taxes anyway). The HOPE and LLC, however, are applied to the net of tuition and fees minus grant aid. Therefore, to maximize the tax credit, taxpayers would allocate grant aid to other expenses. To the extent that this aid is used for living expenses (as apposed to books and equipment), it would be taxable. An estimated 535,000 families **[verify]** that receive grant aid and pay taxes (and thus could take advantage of a tax credit) would be affected. The resulting unintended consequences include diminishing the value of the tax credits for these families and encouraging them to pursue burdensome tax avoidance strategies.

- **Taxpayer privacy.** Schools have expressed serious concerns about the privacy of information that they are required to collect from students and report to IRS. The Education Department, however, conducted a legal analysis that determined that schools can report student information without obtaining student consent, which is ordinarily required by the Family Educational Rights and Privacy Act (FERPA), the statute governing disclosure of records about students. ED issued a determination that school compliance with the TRA reporting requirements would not violate FERPA.

RECENT DEVELOPMENTS

In response to pressure from higher education associations, NEC has asked Treasury to recognize the serious implementation problems that schools would face if more servere reporting requirements and penalties are instituted after Tax Year 1998. Treasury agreed to consider extending the Tax Year 1998 reporting requirements and "good faith" standard for an additional year, but no final decision has been made. Nonetheless, groups such as the American Association of State Colleges and Universities maintain that simply extending the Tax Year 1998 requirements would be inadequate, since the Tax Year 1998 guidance is already unreasonable and overly burdensome.

The Internal Revenue Service Restructuring and Reform Act of 1998 would change the reporting of qualified tuition and related expenses by requiring schools to report the aggregate amount of qualified tuition and related expenses, grants that are processed by schools, and the aggregate amount of refunds and reimbursements paid by the institution. **[verify]** This modification would relieve schools of the need to report students' out-of-pocket tuition expenses. **[verify]** Representative Donald Manzullo (R-IL) and Senator Susan Collins (R-ME) have also sponsored legislation (H.R. 3127, the Higher Education Reporting Relief Act; S. 1724) that would repeal the TRA's institutional reporting requirements.

NEXT STEPS

OMB staff have discussed with Treasury and Education the need to allow students to decline to submit information to the school if they do not wish their information to be disclosed to IRS. Neither this issue, nor the general issue of how to minimize burden on schools in the long run, however, has been resolved. OMB will continue to work with Treasury and Education to address these issues when IRS issues regulations.

cc:

	Grants/Scholarships	Work-Study	Loans
Taxable?	No, if used to cover tuition, fees, books & supplies. Yes, if used to cover living expenses.	No, if used to cover tuition, fees, books & supplies. Yes, if used to cover living expenses.	No.
Offsets tax credit eligibility?	Yes, if used to cover tuition and required fees.	No. [?]	No.

Under [statute? reg?], grant and scholarship aid (and work-study?) is ***taxable as income*** if it is used for living expenses, *i.e.* anything other than tuition, [required] fees, books, and equipment [what about health insurance, athletic fees, other optional fees]. There has been no reporting of this information in the past, and therefore the IRS has done little to police or notify taxpayers (many of the students would pay little or no taxes anyway). But to the extent that anyone has paid attention to this issue, *it has generally been in taxpayers' interests to allocate grant aid to tuition,* so that it would not be taxable.

However, the new tax credits are available only to the extent that the taxpayers have paid *net* tuition and fees (subtracting grant aid from total tuition and fees). Therefore, in order to get the maximum tax credit, it will be in taxpayers' interests to allocate grant aid to other expenses. To the extent that it is used for living expenses, *that will make that aid taxable*, potentially reducing or negating the value of the benefit. If it can be justified as funds for books and equipment, then it would not be taxable.

> [Can students being claimed by their parents avoid this problem by declaring the income from the grants as their own, while the parents get the tax credit? Would the student likely owe taxes, or be below the threshold?]

[What are typical cases? What would the incentives be?]

How many people could be in this category, i.e. get grant aid AND pay some taxes (and therefore can take advantage of the tax credits). [This was the data that Frank Baltz at NAICU, 785-8866, was looking into. 535,000 families?]

Prior to the passage of the IRS reform bill, Treasury had informed the groups that its inclination was to have them report only a *net* tuition number. That would be simplest for taxpayers -- only one number to plug into a tax credit worksheet -- and the IRS would *not* have the information that might lead to greater enforcement of the taxation of grant aid. However, the groups were very concerned that they would be put in the position of allocating which aid goes to which expenses. They thought this would lead to complaints from taxpayers about the allocation the college chose, and to requests for a different allocation in order to maximize their benefit. [Was that their main concern?]

The groups lobbied to include a provision in the IRS reform bill that would prevent IRS from going in this direction. Instead, the amendment will require the reporting of two numbers: total [grant?] aid, and total tuition and required fees. It will then be up to taxpayers to either do simple subtraction, or to more creatively allocate the aid in order to maximize their tax benefits.

To the extent grant aid is used for:	Tuition and required fees.	Books and supplies	Living expenses
Income tax consequences:	Not taxable	Not taxable	Taxable
HOPE tax credit eligibility:	Reduces if net below $2000	No reduction.	No reduction.
Lifetime Learning tax credit eligibility:	Reduces if net below $5000 ($10,000 after 2002)	No reduction.	No reduction.
Loophole?			If dependent student, allocate income to him or her.

To maximize, a taxpayer should:

--First apply grant aid to books & supplies (an amount that no one is able to report other than the taxpayer).
--Then, in either order:
    --if the student is listed as a dependent on another tax form, apply the funds to the the student's living expenses, to the extent that it does not create any tax liability for him or her.
    --apply remaining grant aid to tuition to the extent that it will not reduce net tuition below $2000 (for HOPE eligibles) or $5000 (for others).
--If there is grant aid that has not been allocated, apply it to living expenses for the filer in the lowest tax bracket (the student or parent) if HOPE eligible. If eligible for Lifetime Learning, then only apply it to living expenses if in the 15% tax bracket [but what about state taxes?]. If in a bracket above 20%, apply it to tuition and fees.

--Is this really an issue with many taxpayers?
--How will taxpayers deal with these questions next year?

--How will the new information system work when implemented?

1201 New York Avenue, NW Washington, DC 20525
Phone: 202-606-5000 Fax: 202-565-2787

4340

Corporation for National Service

Fax

To:	Bob Shiremon	From:	Gary Kowalczyk
Fax:	456-2223	Pages:	11
Phone:		Date:	
Re:		CC:	

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

• **Comments:**

Per request

CORPORATION FOR NATIONAL SERVICE

Bob,

I've attached:

the original 1994 IRS letter to the Corporation on the subject;

a subsequent April 1997 letter to our General Counsel verifying their original view;

a recent letter from our General Counsel to IRS about the relationships between the Taxpayer Relief Act of 1997 and AmeriCorps education awards (we have not yet received a response); and

three options for bill language to resolve this issue, with the first two options being preferable in light of the manner in which the education award for AmeriCorps is structured.

I hope this helps. Call me (606-5000x340) or Frank Trinity (x256) if you need anything else.

Gary Kowalczyk

1201 New York Avenue, NW
Washington, DC 20525
Telephone 202-606-5000

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF CHIEF COUNSEL

January 21, 1994

Mr. Eli J. Segal
Assistant to the President and Director,
White House Office of National Service
The White House
Washington, DC 20500

Dear Mr. Segal:

The Commissioner has asked me to respond to your memorandum of September 27, 1993, concerning the National Service program. You asked us to review certain federal income tax aspects of the post-service educational awards granted participants.

The information furnished indicates that National Service program participants will receive, in addition to a base wage and certain health and child care benefits, a post-service assistance award or benefit to be used for educational or training expenses. These awards may be used for payment of tuition, payment of other educational and training expenses, and repayment of educational loans. Awards are to be paid after the service program has been completed, and are available for use up to seven years after being earned.

Section 117(a) of the Internal Revenue Code provides, generally, that gross income does not include any amount received as a qualified scholarship or fellowship grant. Section 117(c), however, imposes a limitation on this exclusion, and specifically provides that the exclusion does not apply to any amounts which represent payment for services required as a condition for receiving the qualified scholarship or fellowship. A scholarship or fellowship grant conditioned upon either past, present or future services by the recipient represents payment for services under this section.

Based on the information furnished, the educational awards or benefits provided under the National Service program represent payments for services within the meaning of section 117(c) of the Code and, thus, are not excludable from income as scholarships under section 117(a).

Section 127 of the Code also provides for the possible exclusion of certain educational assistance furnished pursuant to a qualified "educational assistance program" described in section 127(b). Under this provision, up to $5250 of educational assistance may be excluded from the gross income of an employee during a calendar year. However, because the National Service program provides an option for the repayment of previously incurred educational loan expenses, the program as currently structured is not a qualified program described in section 127. Thus, the post-service educational award or benefit is not excludable from gross income under this section. However, if the loan repayment feature were eliminated, the plan might qualify under section 127.

Finally, you asked us to explore whether the post-service award or benefit, if includible in income, might be taxed when actually used by a recipient as opposed to being taxed when earned. You are concerned that participants would have difficulty paying the tax without great personal hardship.

We assume that National Service program participants, as individuals, will be on the cash receipts and disbursements method of accounting. Under this method, an amount is includible in income when actually or constructively received. An amount is generally deemed to be "constructively received" if it is available for the taxpayer to draw upon at any time, without any substantial impediment, restriction or limitation.

Whether or not an amount has been constructively received is an inherently factual question that can be resolved only on a case by case basis. However, based on the information that you furnished, it appears that in the case of a participant in the program with no outstanding educational loans, a post-service benefit would not be includible in income until, at the earliest, the participant has incurred an educational expense and payment of the expense using the post-service benefit has been approved. In the case of a participant who has an outstanding educational loan, taxability of a post-service benefit would be based on the particular facts and circumstances and dependent upon whether there was a substantial impediment, restriction, or limitation on payment of the benefit. Based on the information that you furnished, it would appear that the post-service benefit would not be included in the participant's income any earlier than when repayment of the loan is approved.

I hope that this information is responsive to your inquiry. If I may be of further assistance, please do not hesitate to contact me.

Sincerely,

Stuart L Brown

Stuart L. Brown
Associate Chief Counsel (Domestic)

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

RECEIVED 4-16-97

OFFICE OF
CHIEF COUNSEL

APR - 8 1997

Mr. Frank R. Trinity
Associate General Counsel
Corporation for National Service
1201 New York Avenue, N.W.
Suite 8200
Washington, D.C. 20525

Dear Mr. Trinity:

This is in response to your February 21, 1997, letter concerning proper federal income tax treatment of the post-service education award provided to AmeriCorps participants. You asked whether there had been any changes in law since our previous consideration of the matter that would affect our earlier conclusions.

As you note, in a January 21, 1994, letter (copy enclosed), we determined that the post-service educational benefit provided National Service (including AmeriCorps) program participants was not excludable from a recipient's gross income, for federal income tax purposes, either as a qualified scholarship under section 117 of the Internal Revenue Code, or as qualified educational assistance under section 127. We noted that, because the post-service benefit program provided an option for the repayment of previously incurred educational loan expenses, the program was not a qualified program as described in section 127.

Section 127 was amended by the Small Business Job Protection Act of 1996, Pub. L. 104-188, signed August 20, 1996. Section 127 had expired on December 31, 1994, but was retroactively extended through May 31, 1997. The extension provides that the definition of "educational assistance" does not apply to graduate level courses that begin after June 30, 1996. Further, in the case of any taxable year beginning in 1997, only expenses with respect to courses beginning before July 1, 1997, are to be taken into account in determining the amount excluded under section 127.

Section 127 does not provide an option for the repayment of previously incurred educational loan expenses; this was not changed by the recent amendments. Also, this issue was recently addressed in Vazquez v. Commissioner, T.C. Memo. 1997-78 (copy also enclosed). In that case, the sole issue was whether the petitioner was required to include in gross income an amount paid by his employer in satisfaction of a portion of his existing student loan balance. The Tax Court stated that there were no statutory exclusions that applied to exempt the payment from gross income.

Accordingly, the recent legislative amendments to section 127 do not change the tax treatment of the post-service educational benefit stated in our earlier correspondence, and we are not aware of any other change in law which would result in excludability of this benefit from a recipient's gross income.

I thank you for your interest and concern in this matter, and hope that the information provided is helpful. If this office may be of further assistance, please do not hesitate to contact me.

Sincerely,

Heather Maloy

Heather Maloy
Deputy Associate Chief Counsel
(Domestic-Technical)

Enclosures

CORPORATION FOR NATIONAL SERVICE

July 1, 1998

Judith C. Dunn
Associate Chief Counsel (Domestic)
Office of the Chief Counsel
Internal Revenue Service
Department of the Treasury
1111 Constitution Avenue N.W.
Washington, D.C. 20224

RE: Taxpayer Relief Act of 1997 and AmeriCorps education awards.

Dear Ms. Dunn:

I am writing to seek confirmation that AmeriCorps participants using national service education awards may take advantage of several tax benefits relating to education expenses enacted in the Taxpayer Relief Act of 1997.

Pursuant to the National and Community Service Act of 1990, as amended, AmeriCorps participants who successfully complete a term of national service earn an education award. 42 U.S.C. § 12602. A full-time participant earns an award of $4,725. This award may be used to repay qualified student loans or towards the cost of attendance at qualified institutions of higher education. 42 U.S.C. § 12604. In addition, the award may be used to repay interest that has accrued during a participant's term of service. Id. Payments are made directly from the Corporation's National Service Trust to the lender/servicer or educational institution.

By letter of January 21, 1994, a copy of which is enclosed, the Internal Revenue Service determined that the education award was not excludable from a recipient's gross income either as a qualified scholarship under section 117 of the Internal Revenue Code, or as qualified educational assistance under section 127. The IRS concluded that the education award is subject to federal income tax in the year, and to the extent, that it is disbursed by the National Service Trust.

Section 201 of the Taxpayer Relief Act of 1997, Pub. L. 105-34, generally allows as a credit against federal tax a specified amount of qualified tuition and related expenses paid by a taxpayer to an eligible educational institution after December 31, 1997, for education furnished in academic periods beginning after that date. Section 202 generally authorizes a taxpayer to deduct interest up to a specified amount paid on qualified student loans after December 31, 1997.

It appears from the 1997 amendments that AmeriCorps participants may take advantage of both the credit for educational expenses and the deduction for interest. Each AmeriCorps participant would need to demonstrate that he or she (1) meets the individual-specific requirements, such as the statutory definitions of eligible student, qualified tuition and related expenses, eligible educational institutions, qualified education loan, and (2) is not otherwise subject to the other limitations contained in the amendments.

Thank you in advance for your guidance, which will help us to provide accurate information to the AmeriCorps participants serving their communities across the country.

Sincerely,

Kenneth L. Klothen
General Counsel

Enclosure

Option 1: Global exclusion from taxation as part of I.R.C. section 117

Explanation: This would exclude from gross income any part of the education award, regardless of whether it is used to repay a student or pay for current educational expenses. This is really a stand-alone amendment tacked on somewhat uncomfortably to section 117, which excludes from gross income certain scholarships that do not constitute payment for services and that are used to pay for tuition and related expenses (but not repayment of student loans). So there is some tension in putting a blanket exclusion of the education award here.

Bill language:

EXCLUSION OF NATIONAL SERVICE EDUCATIONAL AWARD FROM GROSS INCOME

SEC. 1 (a) IN GENERAL.--Section 117 of the Internal Revenue Code of 1986 (relating to the exclusion from gross income of amounts received as a qualified scholarship) is amended by adding at the end the following:

"(e) National service educational award.--Gross income shall not include any amounts received by an individual from the National Service Trust under section 148 of the National and Community Service Act of 1990 (42 U.S.C. 12604)."

(b) EFFECTIVE DATE.--The amendment made by subsection (a) shall apply to amounts received in taxable years beginning after the date of the enactment of this Act.

Option 2: Global exclusion from taxation, adding new section to I.R.C.

Explanation: This is a stand-alone amendment that would exclude from gross income any part of the education award. regardless of whether it is used to repay a student or pay for current educational expenses. It would do the same thing as option 1. but by creating its own category would avoid the tension in option 1.

Bill language:

EXCLUSION OF NATIONAL SERVICE EDUCATIONAL AWARD FROM GROSS INCOME

SEC. 1 (a) IN GENERAL.--Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 138 as section 139 and by inserting after section 137 the following new section:

"SEC. 138. EXCLUSION OF NATIONAL SERVICE EDUCATIONAL AWARD FROM GROSS INCOME.

"(a) IN GENERAL.--Gross income shall not include any amounts received by an individual from the National Service Trust under section 148 of the National and Community Service Act of 1990 (42 U.S.C. 12604)."

(b) EFFECTIVE DATE.--The amendment made by subsection (a) shall apply to amounts received in taxable years beginning after the date of the enactment of this Act.

Option 3: Partial exclusion from taxation

Explanation: This would only exclude from taxation amounts from the National Service Trust used to pay for current educational expenses, which is consistent with the definition of qualfied scholarships in section 117. Under this proposal, amounts from the Trust used to repay lenders would still be considered taxable. This language makes explicit that the education award is not considered payment for services and therefore is properly considered a qualified scholarship. This limited tax exclusion would be easier to defend as consistent with the current approach in section 117 of excluding qualified scholarships from gross income.

Bill language:

EXCLUSION FROM GROSS INCOME OF NATIONAL SERVICE EDUCATIONAL AWARD USED FOR QUALIFIED TUITION AND RELATED EXPENSES

SEC. 1 (a) IN GENERAL.--Section 117 of the Internal Revenue Code of 1986 (relating to the exclusion from gross income of amounts received as a qualified scholarship) is amended--

(1) in subsection (a)(1), by striking "scholarship or fellowship grant" and inserting "scholarship, fellowship grant, or national service educational award"; and in subsection (c), by striking the period and inserting ", except that the limitation in this subsection shall not apply to the national service educational award disbursed under section 148 of the National and Community Service Act of 1990 (42 U.S.C. 12604)."

(b) EFFECTIVE DATE.--The amendment made by subsection (a) shall apply to amounts received in taxable years beginning after the date of the enactment of this Act.

AMERICORPS ALUMS, INC

Ensuring that AmeriCorps is a year in a lifetime of service.

FACSIMILE TRANSMITTAL SHEET

TO: MELANNE VERVEER	FROM: JENNIFER M. PHELPS
FAX NUMBER: (202) 456-6244	DATE: AUGUST 4, 1998
COMPANY: OFFICE OF THE FIRST LADY	TOTAL NO. OF PAGES INCLUDING COVER: 6
PHONE NUMBER: (202) 456-6266	RE: TAXATION OF AMERICORPS EDUCATION AWARDS

NOTES/COMMENTS:

Dear Ms. Verveer,

Thank you so much for your time and consideration on this matter. Following are the one page fact sheet of AmeriCorps Alums, Inc.'s basic argument for tax exemption, a copy of an article in the *Chronicle for Higher Education* two weeks ago about our efforts, a copy of proposed language for a tax bill, and a synopsis of letters AmeriCorps Alums has received from members on the hardship of the tax.

The situation we are currently facing is that while many Senators, both Republican and Democratic, agree that the situation is inequitable, none are willing to take the lead. AmeriCorps Alums is looking for "methods of inspiring" Senator Moynihan to take the lead on this issue.

In addition, I reviewed the history on what happened during the original authorization process that resulted in the education award being taxed. Please forgive spellings, but basically it was a compromise between the Education & Labor committee and Ways & Means. The original bill was for 100,000 participants in the first year who would each receive a $10,000 education award and contained explicit language for the award to be tax exempt. Dan Rostenowsky (sp?) went to Bill Ford with his concerns about scoring since this amounted to a considerable amount of tax revenue. The compromise was to remove the explicit language and let the matter go through IRS administrative proceedings. Unfortunately, the IRS ruled against AmeriCorps with the reasoning that because the award was contingent upon past services, it cannot be considered scholarship money under §117(c) of the tax code.

I look forward to working with you on this matter. If you need any more information or assistance, please feel free to call me at home at (202) 966-9111 or call Vollie Melson, the executive director of AmeriCorps Alums, Inc., at (202) 729-8180.

Sincerely,

Jennifer

Jennifer

1400 I STREET, NW • SUITE 800 • WASHINGTON, DC 20008
PHONE: (202) 729-8180 • FAX: (202) 729-8102
WWW.AMERICORPALUMS.INC
JPHELPS@JHSPH.EDU

Taxation of AmeriCorps Education Award

Proposal: Provide a tax exemption for the AmeriCorps educational award in the 1998 tax relief bill.

1. Background: In return for 1,700 hours of service in a year, AmeriCorps members receive an education award of $4,725 to repay education loans and attend college. The IRS has ruled that the award is taxable income the year that it is used.

2. Taxation of the AmeriCorps education award is inequitable. The federal government provides incentives to seek higher education through tax breaks for other programs such as the G.I. Bill, education IRAs and by excluding from gross income educational expenses paid by employers.

3. The taxation of the education award is creating hardship. Because the award goes directly from the Treasury to the loan agency or school, corpsmembers cannot retain a portion to cover their tax bill. Corpsmembers using the award are either students or in entry level positions and are often unable to shoulder this added tax burden.

4. Taxation of the AmeriCorps education award is diluting an intended benefit of persons giving a year of service. When faced with this additional tax burden, many former AmeriCorps members, especially those struggling to get off the welfare roles, are reluctant to use their education award. The higher education they worked so hard for remains inaccessible because they do not know how they will meet their tax obligations.

5. The lost tax revenue is negligible. Based on payments in the past fiscal year, the annual cost to the treasury would be less than $12 million.

EXCLUSION OF EDUCATIONAL AWARDS FROM GROSS INCOME

SEC. 1(a) IN GENERAL.—Section 117 of the Internal Revenue Code of 1986 (relating to the exclusion from gross income of amounts received as a qualified scholarship) is amended by adding at the end the following:

"(e) National service education award.—Gross income shall not include any amounts received by an individual from the National Service Trust under section 148 of the National and Community Service Act of 1990 (42 U.S.C. 12604)."

AmeriCorps Alumni Urge Congress to End the Taxation of Their Awards

BY JEFFREY SELINGO

WASHINGTON

AFTER she graduated from college, in 1995, Jennifer Phelps spent a year in the South as a volunteer in the AmeriCorps national-service program. She tutored children, built homes for Habitat for Humanity, and worked to help prevent floods in New Orleans.

A year later, Ms. Phelps used the $4,725 education award she received from AmeriCorps to help pay her law-school tuition at Georgetown University.

But when she figured her 1996 taxes, she discovered that the award—a taxable benefit—had nearly doubled her income, turning what would have been a tiny tax payment into a $900 state and federal tab.

Now Ms. Phelps is leading a group of former AmeriCorps volunteers in an uphill effort to persuade Congress to repeal the tax on the education award.

AmeriCorps, a program President Clinton pushed to create in 1993, helps participants either to pay college tuition or to repay student loans in exchange for their performing community service. Volunteers receive a yearly stipend, which also is taxed, and a $4,725 education award each year for up to two years of service. The education award can be held for seven years and is paid directly to colleges or loan providers.

"We never even see this money so we can't even use it to help pay the tax," Ms. Phelps said.

SKEPTICAL LAWMAKERS

Using the grassroots organizing experience that some of them gained from their AmeriCorps stints, a few former volunteers in the program have spent the summer writing letters to members of the tax committees in Congress, while Ms. Phelps has visited staff members in nearly a half-dozen Congressional offices. Aides to lawmakers on the Senate Finance Committee said they were skeptical that the tax could be repealed this year because Congress is not considering a tax bill on which to add an amendment and a lawmaker has yet to agree to sponsor the legislation.

"The best way for them to avoid paying taxes is to kill the program," said Jon P. Brandt, a spokesman for Rep. Peter Hoekstra, a Michigan Republican who voted to create AmeriCorps in 1993 but since then has become a harsh critic of the program's management. "Not only are they getting paid to volunteer, but now they want to get a tax break."

Former AmeriCorps members acknowledge that they face a tough battle persuading Congress to approve a tax break for a program that some lawmakers try to kill every year. Last month, a House of Representatives panel voted to eliminate AmeriCorps. But in what has become an annual rite, AmeriCorps is expected to be saved in a compromise with the Senate, where the program has had more support.

Political realities led the Corporation for National Service, which oversees AmeriCorps, to dodge the tax issue this year when it submitted a proposal to reauthorize the legislation that created AmeriCorps.

Harris Wofford, chief executive officer of the corporation, said that if a tax proposal were included in the reauthorization plan, the Senate Finance Committee and the House Ways and Means Committee would also have to consider the legislation, rather than just the one committee in each chamber that oversees AmeriCorps.

"A taxability issue should be in a tax bill," Mr. Wofford said. He added that he supported the efforts of the former AmeriCorps members, but he would not discuss the agency's own proposals for trying to end the tax on the education award. "I have my own plans and time for that," he said.

"I've been saying all over the country that it is inequitable since most fellowships are not taxed."

The Internal Revenue Service determined in a 1994 ruling that an AmeriCorps education award represents "payments for services" because it is paid after the program is completed. The award does not meet exemptions under educational-assistance programs, the I.R.S. ruled, because it can be used to pay off loans for previous educational expenses.

Stephanie Beck Borden, a two-year AmeriCorps volunteer, said the $250 federal tax she paid on her first-year award had led her to avoid using all of her second-year award at one time to pay off her undergraduate student loans. Because most AmeriCorps volunteers are young and don't have significant savings from which to draw for tax payments, Ms. Borden said many were forced to borrow money or to pay the tax and interest in installments.

"This forces us to strategically plan how to use our educational awards," Ms. Borden said, adding that AmeriCorps members would earn more working at McDonald's. The yearly stipend is taxed, she said, and "we're happy to accept that. But the educational award is a scholarship, not pay." ■

WASHINGTON UPDATE

Education Award Taxation Hardship Stories

Korinna Shaw from Pennsylvania served in West Virginia educating low-income residents in financial matters. Loving the community she worked with, she continued to work their after her term of service in the non-profit realm. The **extra $700 in federal taxes** she owed this year in addition to the $500 withheld from her paychecks was beyond her means. She is now making $100 installment payments each month and has to pay **10% interest and penalty fees.** In her words, "it is absolutely miserable all the way around."

Christy Hicks-Bowman of Pontiac, Michigan received a federal refund of $1,290 in March. Concerned that maybe the $3,725 she used of her education award late in December should have been included in her gross income calculations, she called the Corporation for National Service and refiled her taxes. The result: she had to repay the government $1200! As Christy explains, "…**on an ed award of $3725, I paid more than $1,000 in taxes**…. This is difficult to deal with when you consider that I had been living in the self-imposed poverty status of an AmeriCorps VISTA for a year, plus two years in a different AmeriCorps program prior to that."

Joaquin Lara who served in Atlanta is "**very reluctant to use my ed award** anytime soon because I am scared to death of the taxes I might pay."

Chris Danowski of Woodsville, New Hampshire joined VISTA with the "notion that I was doing something good to help communities get on their feet and flourish." He also appreciated the education award as it would help with his "enormous student loans." However, when **taxed over $800 on his education award when serving a second year with a monthly stipend of only about $600**, he finds himself losing faith in our government.

Stephanie Beck of Virginia served in both Indiana and Maryland where she and 33 other volunteers recruited 4,088 volunteers who provided 51,727 hours of direct service to clients and communities and leveraged $1.17 million dollars in in-kind services throughout Maryland. On using her education award, Stephanie said, "I knew I would be taxed on it and hoped that using it in a year when I had an even lower income than my year with VISTA would mitigate the tax implications. Upon filing my taxes, I realized that the **educational award actually doubled my "income" for the year**, making it just over $10,000 for the year. At the end of the form, I was **horrified to see that, not only did I owe the federal government some money, I owed hundreds of dollars.** And I owed the state of Maryland and my county quite a chunk of money. By this time I was serving a year with Volunteer!Maryland, an AmeriCorps program, **still living on a very tight budget.**

Rachel Sandhorst of Lincoln, Nebraska and now a student in Boulder, Colorado describes how the taxation of the education award makes financial survival as a student difficult: "In 1996, I finished my service in AmeriCorps … I **had to work 3 jobs** in order to scrape together enough money for rent. In that year, my total income was $7470. That same year, I used my award to pay my student loan. Since I was taxed on that income, my total tax for 1996 was $829. After the withholdings from my jobs, I still **owed $450 out-of-pocket.** I was astounded, not to mention nearly broke. I was in tears the night I did my taxes - I remember that evening well. After living on the small AmeriCorps stipend and having made a huge move to Boulder, **I did not have the savings I needed to pay that kind of tax.**"

Jennifer Holk of California explains her frustrations: "National Service promised one thing and the IRS took it away. Not only did I have to pay taxes, but **I was bumped out of "Earned Income Credit"** range, so I now **owe more than $956** -- $800 more than I was expecting to pay! As I was serving a second term at **minimum wage**, $800 was hard to come up with. The IRS was helpful, only in that they arranged (for a $43 "set up" fee) for more to make **monthly payments – with interest attached.**"

Chris Parent of Cleveland, Ohio who has served with both the Nature Conservancy in Arizona and with Habitat for Humanity in Georgia says that being taxed **$700 per year, per education award** has "minimized [his] concern for the welfare of the federal government, eradicated [his] compassion for the laws of the IRS. Like Korinna, he has arranged a payment plan with the IRS.

Kara Roche of Lenox, Massachusetts who is serving in Helena, Montana explains her financial straits: "Currently I am a VISTA Leader living on $800 per month. I pay $320 in rent, $150 car payments, $120 car insurance, leaving $210 for the phone, car repair, vet bills, food, and anything else I need. Having used my first education award last summer, **I was taxed between state and federal $1,500.** I have no idea how I will pay these taxes. The IRS has set up a payment plan, but it will be very difficult to meet these payments, as my second year of service is ending in July and I will be job hunting...Basically, the education award has caused me nothing but irritation and financial hardship. Hardly and incentive to serve for one year at poverty level in the United States."

Tanya Beat writes: "I was an AmeriCorps Member and AmeriCorps Leader before I took my current staff position with an AmeriCorps program in Bridgeport, CT. I just received my official bill from the IRS last Friday, and overall, **I owe them over $1,400 in taxes because of my ed award.** I arranged to make payments in installments but I'm now paying about **$80 worth in interest** over that time period due to the fact I can't pay that total amount at once. It doesn't make sense to me that I have sacrificed two years of my life to help the community, survive on a meager stipend, and relocate to a new state (all based on the principle of what the weight of education carries in the U.S.) only to have to pay almost $1400 of it back!

Monte Snellenberger, having served in both Arizona and Maine, found himself in the following situation while serving in his second year: "In October of '97, I used nearly $4,000 of my Educational Award to pay-off two student loans. In mid-January, I learned that because of the educational award, my taxes for 1997 would be over $700. My living stipend during my second year of service allots me roughly $830 per month in living assistance. Rent for my apartment alone is **$425.** I am **eligible for food stamps** due to the meager amount of money on which I live. I chose to participate in National Service and enjoy the projects with which I serve. However, **a key factor in my decision to participate is the possibility of assistance with college debt.** Coming to the realization that I had only increased my debt—and to the IRS, no less—by utilizing the educational award was painful and frightening. **I do not have $700 dollars.** I do not know what will happen to me at the mercy of the IRS."

Bob
IN GENE'S ABSENCE, COULD YOU TAKE A LOOK AT THIS?
JOHN

KATY BUTTON

Melissa -
Melanne had talked to Gene about some of these issues, which he said he would look into.

Thanks -
Katy

CORPORATION
FOR NATIONAL
SERVICE

Office of
CONGRESSIONAL AND INTERGOVERNMENTAL RELATIONS
FACSIMILE TRANSMITTAL SHEET

DATE: 8/4/98

TO: Melanne

LOCATION:

FAX #: 456-6244 PHONE #:

FROM: Gene Sofer

FAX #: (202) 565-2784 TELEPHONE #: (202) 606-5000, Ext. 246

COMMENTS: Thought this might be helpful.
Gene

NUMBER OF PAGES (INCLUDING COVER SHEET) 3

IF THERE IS ANY PROBLEM WITH THIS TRANSMISSION, PLEASE CALL (202) 606-5000, Ext. 235

June 6, 1997

NOTE TO: JOHN GOMPERTS

FROM: GARY KOWALCZYK 606-5000 #340

SUBJECT: TAXABILITY OF EDUCATION AWARDS UNDER AMERICORPS

You asked about the costs of making education awards nontaxable and the key arguments for doing so.

Based on our assumptions, the tax expenditure on an annual basis will be about $14 million. As the AmeriCorps program expands due to our "challenge scholarships" and America Reads plans, the annual cost will approach $20 million. We have not discussed these estimates with OMB or Treasury; they may need to be refined.

The arguments for making these awards nontaxable are clear and compelling:

1. It is the single most demonstrable step the President could take to benefit AmeriCorps Members. It is the largest issue within our field and breeds resentment among those who serve.

2. Taxing these awards is inequitable. GI Bill benefits are not taxed. Neither are Pell Grants. Nor are most fellowships. What makes the AmeriCorps education award taxable is the provision allowing for payment of education loans for those who have already completed school. That provision, of course, is central to the design of AmeriCorps and our interest in attracting both college graduates and those who plan to attend. If this loan repayment option did not exist, we believe the IRS would rule that the benefit would be nontaxable.

3. The tax is a huge burden on Members. We pay the school or the loan holder the amount of the award, and the Member must then come up with personal funds to cover the tax to pay IRS. This burden is particularly great on young people who do not have much income.

4. As you pointed out, taking this step is consistent with the President's recent announcements concerning service and the tax code. We believe both the award, and the interest paid that accrued on loans during the period of service, should be nontaxable. Today, even the interest for AmeriCorps Members is taxed.

5. No one gives us any credit for the taxation. The cost per AmeriCorps Member, whether calculated by us, the Congress, or GAO, has traditionally included the full $4,725 related to the education award.

taxpayers and organizations, includ-

When the I.R.S. seeks to revoke the tax-

tiating advantage and has used its leverage to settle cases on its terms.''

Colleges Say Lack of Data May Hinder Study of Tax Breaks

BY MARY OWEN

WASHINGTON

When Congress considered enacting two tax credits last year to help students pay for college, many higher-education officials feared that the tax breaks would primarily help wealthier families, and fought to alter the legislation.

The officials succeeded only partially in tweaking the credits to make them more available to low-income students. But college leaders eventually rallied behind the $40-billion bonanza anyway. If the tax credits didn't fully benefit the right students, college officials figured, they could always change them later.

Now, however, college lobbyists worry that they may never know whether the tax breaks will help the right students. For privacy and other reasons, it appears that the Internal Revenue Service will not release the information about potential recipients of the breaks that is needed to study such questions.

'IT'S LIKE FLYING BLIND'

"We need to design some system for tracking the effectiveness of the credit and determining who is receiving what benefits," says Barmak Nassirian, a policy analyst for the American Association of State Colleges and Universities. "It's like flying blind. We believe education is a good investment, but we need to know how effective the policies are."

The two tax breaks, the $1,500 Hope Scholarship and the $1,000 Lifelong Learning credit, allow families to get tax refunds for tuition and other costs related to higher education. But families that don't pay enough in federal income tax are ineligible for the credits.

To help assess whether the credits are hitting their mark, the Washington higher-education associations favor a system in which the Education Department would provide student Social Security numbers to the I.R.S. The revenue service would, in turn, match that information with the taxpayers who claim the tuition credits, along with information about their income.

Ideally, says Lawrence Gladieux, executive director of policy analysis for the College Board, the data from the I.R.S. would be linked to the National Postsecondary Student Aid Study, which identifies the major sources of financial aid for 600,000 students.

Getting information from the I.R.S. is not as simple as asking. To maintain confidentiality, the service is barred from disclosing income data about a person without his or her consent. Congress has amended the Internal Revenue Code to allow a few exceptions, including the release of addresses of people who default on student loans.

Congress could amend the law to give the Education Department access to the necessary information. But Michael Sincavage, who heads the I.R.S. office that oversees the disclosure of information among federal agencies, says that Congress is "very prudent" about granting exemptions to the law.

RELYING ON VOLUNTARY REPORTS

Mr. Sincavage says that if Congress does not allow for an exemption, then the information can be obtained by getting permission from each person. He says a program would have to be developed to monitor who had agreed to release their tax forms.

Marty Orland, who heads the Education Department office that collects student-aid data, says that such a program could be established, but that it would be more cost-effective to alter the law. He says there would be no guarantee, for example, that the people who agreed to release information about their incomes were representative of everyone who used the credits. "We could work with this if we had to, but it's not the preferable solution," he says.

Aides to the House of Representatives Ways and Means Committee and the Senate Finance Committee, which consider tax-related legislation, say there has not yet been discussion about finding ways to track who receives the tax credits. But staff members say they expect some talk about the issue next year, when Congress evaluates the effects of the tax credits. ■

... must report to the Treasury Department about students who are potential recipients of the Hope Scholarship and Lifelong Learning tax credits, which were established last summer. Among other things, colleges will soon have to report, for all of their students, the Social Security number of the parent or other person who would claim a student's tax credit if the student did not claim it.

DEFINING 'TUITION'

Lawmakers, however, were scared off by the reported price of easing those requirements: Congress's Joint Tax Committee has estimated that eliminating the reporting requirements would increase fraud and errors in the claiming of the tax credits. As a result, the committee estimated that the government's costs would rise by $9-billion, a figure college lobbyists say is greatly inflated.

The measure President Clinton signed eases the requirements on colleges in only one minor way. It redefines "tuition," relieving colleges from having to report how much each student pays them out of pocket. Many institutions complained that they did not keep track of private scholarships and other non-institutional grant money that lowers students' out-of-pocket costs.

More significant, college lobbyists say, is language in the legislative report accompanying the bill that says it is designed to "minimize the reporting burdens imposed on educational institutions while preserving the ability of the I.R.S. to monitor" whether the credits are going only to those who qualify for them. Although the Treasury Department is not bound by the report, department officials helped lawmakers and college lobbyists negotiate its language.

It encourages Treasury officials to consider exempting colleges from reporting information about some groups of students, such as non-degree students in non-credit classes, and urges the department to give colleges more time ...

7/1/98

Mary Guthrie [NASFAA], Sarah Flanagan, Ann Gross (NACUBO)
Rick Grafmeyer, OMB - Alex Hunt, Treasury [illegible]

Sarah: supported, wanted to ignore the 6; burdens - require info, not too much info..

Q's "42"

Rick: bells & whistles - [illegible] ag. grants, 127, etc.
Thought [illegible] was worked out w/ [illegible] req'ts, but [illegible]
Treas goal: [illegible] number
But decision not to have all people report info,
e.g. sec. 127 - not reported (bec. employees never report tax-free benefits)

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Hope Regs

Info: - student name & SS #
if dependent, "taxpayer who claims"
- "parent" name & SS #

— No one else asked to provide info
waives FERPA; 'reasonable effort'

- 2nd year [not in law as req'd]

- net tuition = tuition & fees - non-taxable grant aid
→ "aggregate pmts of qualified tuition & fees"
└ implied that net of non-taxable grant aid...

1st yr rptg. r

- Name, address, etc. (see

- No amounts, no pmts.

- All enrolled students, and de o

- Many schools will provide separate add'l info

Definition of "qualified tuition & fees"

- Comm opn

☐ * Needs to be determined soon

- 42K pause — must be completed for [illegible]. — drawdowns

Uh.S [illegible]

- agg. qualified — [illegible]

- Master Calendar [illegible].

Fear was: Guidance as late as Dec/Jan — 'there's other [illegible] needed beyond 97-73'

= Schools don't want to set security in place that will Δ.

"Non-taxable grant aid"

* 2: Grants (whether taxable or not)

Net current: Treas. now says never expected grants more than what [illegible] processed.

"who makes the decision of how to apply the aid"

- [illegible] & [illegible]...

- Grants for books, eqt & supplies are not [illegible] taxable

Treas ad [illegible] say - [illegible] cancelled check'

- Taxpayer will have to substract, apply to run ed
  - books, etc.

- 1098:

= If impose an allocation system
  - Accurate info →
  - Compliance → reduces value of the credit...

☐ How many receive grants ??

other?

Incremental cost: $115 million 1st year...

CCs in CA: $22 million

- www. NACUBO. org. – TRA

- 26-40 million forms

Mr. degree, non credit students = Many cust'ns do not keep central records

10 million students - NCES survey Vick

adults in lifelong learning

→ Comm Mfgs. allows Treas. to do a de minimus rule

more impt to elim non-credit...

- employer pd. paid for it...

FERPA: some states, Don't want to rpt more than absolutely req'd to rpt - as a violation

- Ltr from ED - if req'd ... then info could go to parents.

SS#s - dr. Tax & Treas. feel strongly

- Very hard to get from students;

- dependency states changes often

(it may be diff. from

$8 billion errors / mis-reporting ??

why a problem?

- Demo of match... ?

- nd send to both student & taxpayer.

7. what % accurately rpt grant aid for ... ??

* - AMT - Hope will [illegible] a [illegible] in...

but also a broader problem -

[illegible] [illegible] are covered...

- [illegible] of [illegible] - [illegible]-95 k [illegible]

EDUCATION REPORTING CONFERENCE REPORT LEGISLATIVE LANGUAGE

SEC. 3712. REPORTING REQUIREMENTS IN CONNECTION WITH EDUCATION TAX CREDIT.

(a) AMOUNTS TO BE REPORTED. -- Subparagraph (C) of section 6050S(b)(2) is amended --

(1) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and by inserting after clause (i) the following new clause:

"(ii) the amount of any grant received by such individual for payment of costs of attendance and processed by the person making such return during such calendar year,",

(2) in clause (iii) (as so redesignated), by inserting "by the person making such return" after "year", and(3) in clause (iv) (as so redesignated), by inserting "and" at the end.

(b) CONFORMING AMENDMENTS. --

(1) Paragraph (2) of section 6050S(d) is amended by striking "aggregate".

(2) Subsection (e) of section 6050S is amended by inserting "(without regard to subsection (g)(2) thereof)" after "section 25A".

(c) EFFECTIVE DATE. -- The amendments made by this section shall apply to returns required to be filed with respect to taxable years beginning after December 31, 1998

CURRENT LAW

IRC, 98-CODE-VOL, SEC. 6050S. RETURNS RELATING TO HIGHER EDUCATION TUITION AND RELATED EXPENSES. Subsec. (a) IN GENERAL.--

SEC. 6050S. RETURNS RELATING TO HIGHER EDUCATION TUITION AND RELATED EXPENSES. Subsec. (a) IN GENERAL.--

Any person--

6050S(a)(1) which is an eligible educational institution which receives payments for qualified tuition and related expenses with respect to any individual for any calendar year, or

6050S(a)(2) which is engaged in a trade or business and which, in the course of such trade or business--

6050S(a)(2)(A) makes payments during any calendar year to any individual which constitutes reimbursements or refunds (or similar amounts) of qualified tuition and related expenses of such individual, or

6050S(a)(2)(B) except as provided in regulations, receives from any individual interest aggregating $600 or more for any calendar year on 1 or more qualified education loans,

shall make the return described in subsection (b) with respect to the individual at such time as the Secretary may by regulations prescribe.

IRC, 98-CODE-VOL, SEC. 6050S. RETURNS RELATING TO HIGHER EDUCATION TUITION AND RELATED EXPENSES. Subsec. (b) FORM AND MANNER OF RETURNS.--

SEC. 6050S. RETURNS RELATING TO HIGHER EDUCATION TUITION AND RELATED EXPENSES. Subsec. (b) FORM AND MANNER OF RETURNS.--

A return is described in this subsection if such return--

6050S(b)(1) is in such form as the Secretary may prescribe,

6050S(b)(2) contains--

6050S(b)(2)(A) the name, address, and TIN of the individual with respect to whom payments or interest described in subsection (a) were received from (or were paid to),

6050S(b)(2)(B) the name, address, and TIN of any individual certified by the individual described in subparagraph (A) as the taxpayer who will claim the individual as a dependent for purposes of the deduction allowable under section 151 for any taxable year ending with or within the calendar year, and

6050S(b)(2)(C) the--

6050S(b)(2)(C)(i) aggregate amount of payments for qualified tuition and related expenses received with respect to the individual described in subparagraph (A) during the calendar year,

6050S(b)(2)(C)(ii) aggregate amount of reimbursements or refunds (or similar amounts) paid to such individual during the calendar year, and

6050S(b)(2)(C)(iii) aggregate amount of interest received for the calendar year from such individual,

6050S(b)(2)(D) such other information as the Secretary may prescribe.

IRC, 98-CODE-VOL, SEC. 6050S. RETURNS RELATING TO HIGHER EDUCATION TUITION AND RELATED EXPENSES. Subsec. (e) DEFINITIONS.--

SEC. 6050S. RETURNS RELATING TO HIGHER EDUCATION TUITION AND RELATED EXPENSES. Subsec. (e) DEFINITIONS.--

For purposes of this section, the terms "eligible educational institution" and "qualified tuition and related expenses" have the meanings given such terms by section 25A, and except as provided in regulations, the term "qualified education loan" has the meaning given such term by section 221(e)(1).

IRC Section 6050S Institutional Reporting Requirements as Amended by the IRS Restructuring Bill--HR 2676 (6/25/98)

SEC. 6050S. RETURNS RELATING TO HIGHER EDUCATION TUITION AND RELATED EXPENSES.

(a) IN GENERAL- Any person--

(1) which is an eligible educational institution which receives payments for qualified tuition and related expenses with respect to any individual for any calendar year, or

(2) which is engaged in a trade or business and which, in the course of such trade or business, makes payments during any calendar year to any individual which constitute reimbursements or refunds (or similar amounts) of qualified tuition and related expenses of such individual, shall make the return described in subsection (b) with respect to the individual at such time as the Secretary may by regulations prescribe.

(b) FORM AND MANNER OF RETURNS- A return is described in this subsection if such return--

(1) is in such form as the Secretary may prescribe,

(2) contains--

(A) the name, address, and TIN of the individual with respect to whom payments described in subsection (a) were received from (or were paid to),

(B) the name, address, and TIN of any individual certified by the individual described in subparagraph (A) as the taxpayer who will claim the individual as a dependent for purposes of the deduction allowable under section 151 for any taxable year ending with or within the calendar year, and

(C) the--

(i) aggregate amount of payments for qualified tuition and related expenses received with respect to the individual described in subparagraph (A) during the calendar year,

<u>(ii) the amount of any grant received by such individual for payment of costs of attendance and processed by the person making such return during such calendar year,</u>

<u>(iii)</u>~~(ii)~~ aggregate amount of reimbursements or refunds (or similar amounts) paid to such individual during the calendar year <u>by the person making such return</u>,

<u>(iv)</u>~~(iii)~~ aggregate amount of interest received for the calendar year from such individual, <u>and</u>

(D) such other information as the Secretary may prescribe.

(c) APPLICATION TO GOVERNMENTAL UNITS- For purposes of this section--

(1) a governmental unit or any agency or instrumentality thereof shall be treated as a person, and

(2) any return required under subsection (a) by such governmental entity shall be made by the officer or employee appropriately designated for the purpose of making such return.

(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED- Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return under subparagraph (A) or (B) of subsection (b)(2) a written statement showing--

(1) the name, address, and phone number of the information contact of the person required to make such return, and

(2) the ~~aggregate~~ amounts described in subparagraph (C) of subsection (b)(2).

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

(e) DEFINITIONS- For purposes of this section, the terms `eligible educational institution' and `qualified tuition and related expenses' have the meanings given such terms by section 25A <u>(without regard to subsection (g)(2) thereof)</u>, and except as provided in regulations, the term "qualified education loan" has the meaning given such term, by section 221(e)(1).

(f) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS- Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).

(g) REGULATIONS- The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section. No penalties shall be imposed under part II of subchapter B of chapter 68 with respect to any return or statement required under this section until such time as such regulations are issued.'.

Excerpted from Conference Report on HR 2676, Internal Revenue Service Restructuring and Reform Act of 1998

16. Reporting requirements relating to education tax credits (sec. 3716 of the Senate amendment)

Present Law

[Not reprinted here.]

House Bill

No provisions.

Senate Amendment

The Senate amendment modifies the information reporting requirements under section 6050S. In addition to reporting the aggregate amount of payments for qualified tuition and related expenses received by the educational institution with respect to a student, the institution must report any grant amount received by the student and processed through the institution during the applicable calendar year. The institution is not required to report on grant aid that is paid directly to the student and is not processed through the institution. In addition, an educational institution is required to report only the aggregate amount of reimbursements or refunds paid to a student by the institution (and not by any other party).

Effective date—The provision applies to returns required to be filed with respect to taxable years beginning after December 31, 1998.

Conference Agreement

The conference agreement follows the Senate amendment, but includes certain additional clarifications intended to minimize the reporting burdens imposed on educational institutions while preserving the ability of the IRS to monitor compliance with respect to the HOPE Scholarship and Lifetime Learning credits. In particular, the conference agreement clarifies that the definition of term "qualified tuition and related expenses" shall be as set forth in section 25A, determined without regard to section 25A(g)(2) (which requires adjustments for certain scholarships). Eligible educational institutions that receive payments of qualified tuition and related expenses (or reimburse or refund such payments) are required separately to report the following items with respect to each student under section 6050S(b)(2)(C): (1) the aggregate amount of qualified tuition and related expenses (not including certain expenses relating to sports, games, or hobbies, or nonacademic fees); (2) any grant amount (whether or not excludable from income) received by such individual for payment of costs of attendance and processed through the institution during the applicable calendar year; and (3) the aggregate amount of reimbursements or refunds (or similar amounts) paid to such individual during the calendar year by the institution.

The conferees understand that the Department of Treasury is in the process of issuing regulatory guidance with respect to the education credit reporting requirements. In developing such guidance, the conferees urge Treasury to minimize the reporting burdens imposed on educational institutions in connection with the HOPE Scholarship and Lifetime Learning credits. For example, section 472(1) of the Higher Education Act contains a definition of tuition and fees that is used in calculating a student's total "cost of attendance." The conferees urge Treasury to conform the definition of "qualified tuition and related expenses" for purposes of the HOPE Scholarship and Lifetime Learning credits to the definition set forth in section 472(1) to the extent possible, so as to minimize the additional reporting burden on educational institutions.

In general, the conferees expect that the regulatory guidance regarding the education credit reporting requirements will have an effective date that will provide educational institutions with sufficient time, after any notice and comment period, to implement additional required reporting. In addition, although the provision generally applies to taxable years beginning after December 31, 1998, the conferees intend that no reporting beyond the reporting currently required in Notice 97-73 would be required of educational institutions until such final regulatory guidance is available.

In furtherance of the objective of minimizing the reporting burden on educational institutions, the conferees note that, pursuant to the regulatory authority granted in section 25A(i), Treasury may exempt educational institutions from the reporting requirements with respect to certain categories of students, such as non-degree students enrolled in a course for which academic credit is not granted by the institution, provided that such exceptions do not undermine the overall compliance objectives of the provision. The conferees further expect that Treasury will provide clarification regarding the reasonable cause exception contained in section 6724(a) as it may apply to the education information reporting requirements. Finally, the conferees urge that any update and modernization of IRS computer systems incorporate the capacity to match a dependent's TIN with the return filed by the person claiming the individual as a dependent.

16. Reporting requirements relating to education tax credits (sec. 3716 of the Senate amendment)

Present Law

Individual taxpayers are allowed to claim a nonrefundable HOPE credit against Federal income taxes up to $1,500 per student per year for qualified tuition and related expenses paid for the first two years of the student's post-secondary education in a degree program. A Lifetime Learning credit against Federal income taxes equal to 20 percent of qualified expenses (up to a maximum credit of $1,000 per taxpayer return for 1998 through 2002 and $2,000 per taxpayer return after 2002) is also available. Qualified tuition and related expenses do not include expenses covered by educational assistance that is not required to be included in the gross income of either the student or the taxpayer claiming the credit (e.g., scholarship or fellowship grants).

Code section 6050S requires information reporting by eligible educational institutions which receive payments for qualified tuition and related expenses, and certain other persons who make reimbursement or refunds of qualified tuition and related expenses, in order to assist students, their parents, and the IRS in calculating the amount of the HOPE and Lifetime Learning credits potentially available. Section 6050S(b) provides that the annual information report to the Secretary must be in the form prescribed by the Secretary and must contain the following: (1) the name, address, and taxpayer identification number (TIN) of the individual which respect to whom the qualified tuition and related expenses were received or the reimbursement or refund was paid; (2) the name, address, and TIN of any individual certified by the student as the taxpayer who will claim that student as a dependent for purposes of the deduction under section 151 for any taxable years ending with or within the year for which the information return is filed; (3) the aggregate amount of payments of qualified tuition and related expenses received by the eligible educational institution and the aggregate amount of reimbursements or refunds (or similar amounts) paid during the calendar year with respect to the student; and (4) such other information as the Secretary may prescribe. Under section 6050S(d), an educational institution also must provide to each person identified on the information return submitted to the Secretary (e.g., the student and his or her parent(s)) a written statement showing the name, address, and phone number of the reporting person's information contact, and the amounts set forth in (3) above.

On December 22, 1997, the Department of Treasury issued Notice 97-73 setting forth the information reporting requirements under section 6050S for 1998. Notice 97-73 describes who must report information and the nature of the information that must be reported for 1998. In general, the required reporting under Notice 97-73 is more limited than that which will ultimately be required under section 6050S upon the issuance of final regulations. Accordingly, for 1998, educational institutions must report the following information: (1) the name, address, and TIN of the educational institution; (2) the name, address, and TIN of the student with respect to whom payments of qualified tuition and related expenses were received during 1998; (3) an indication as to whether the student was enrolled for at least half the full-time academic workload during any academic period commencing in 1998; and (4) an indication as to whether the student was enrolled exclusively in a program or programs leading to a graduate-level degree, graduate-level certificate, or other recognized graduate-level educational credential. Educational institutions must provide to students the information listed above, as well as the phone number of the information contact at the school. Information returns must be provided to students by February 1, 1999 and filed with the IRS by March 1, 1999. Notice 97-73 states that until final regulations are adopted, no penalties will be imposed under sections 6721 and 6722 for failure to file correct information returns or to furnish correct statements to the individuals with respect to whom

1st year

information reporting is required under section 6050S. In addition, Notice 97-73 states that, even after final regulations are adopted, no penalties will be imposed under sections 6721 and 6722 for 1998 if the institution made a good faith effort to file information returns and furnish statements in accordance with Notice 97-73.

House Bill

No provision.

Senate Amendment

The Senate amendment modifies the information reporting requirements under section 6050S. In addition to reporting the aggregate amount of payments for qualified tuition and related expenses received by the educational institution with respect to a student, the institution must report any grant amount received by the student and processed through the institution during the applicable calendar year. The institution is not required to report on grant aid that is paid directly to the student and is not processed through the institution. In addition, an educational institution is required to report only the aggregate amount of reimbursements or refunds paid to a student by the institution (and not by any other party).

Effective date.--The provision applies to returns required to be filed with respect to taxable years beginning after December 31, 1998.

Conference Agreement

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S. A. Noe

07/01/98 11:16:01 AM

Record Type: Record

To: Robert M. Shireman/OPD/EOP

cc:
Subject: Re:

Alex Hunt
He deals with Treasury/IRS regulations/notices, etc.

I also invited Danny Werfel at OIRA, but he could not make it this morning. But Danny should get involved in the reporting issues.

Thanks.

THE WHITE HOUSE

WASHINGTON

- How many [illegible] get a VAC VOL [illegible]

Cathy Livingston!

- NACUBO - Las Vegas

"Open [illegible]"

- tuition, fees, books, eqpt...

- FULL AMT. RPTD... now...

* Hoffs students...

* No netting

- Chris Lager...

- Year 2000

- tuition - freq

- OL svcy. ctr...

- 97-93 [illegible] - [illegible]...

- 6050F [illegible]

- won't qualified tuition & related [illegible]

St. Louis & Lockerman & Mixed-use: Two Cls
- St. Louis saly...
- 5 yrs → [illegible] - rpid...

- CMS calling: not # using cap
reasonable defined ... e.g. of
scholarship

⇒ drew TUITION FIRST as a mode
of analysis...
+ Greater burden: If offset fully (not
tuition $), then we're not going to
require rptg.; → report
on everyone...

→ capacity for more scholarships...

- the was calling for a benchmark rule, e.g. $250...
but didn't pay for it...

Barmak

Year 1 – pandemonium...

Zeros on forms that go out. Schools will

be oblivious...

Cd. be a ~~[illegible]~~ disaster...

① Millions of angry taxpayers. –

② Task Force on the wrong track.. –

- NAFUBO, AACRO, etc.

THE WHITE HOUSE

WASHINGTON

866-2510

Ann Cross → MACUBE

– Bl. ofea.

THE WHITE HOUSE
WASHINGTON

[illegible]

- The only way to do it is info reporting:

(1) Compliance

(2) Complex otherwise

- In IRS reporting GAO:

- all they are report -
record of net tuition
they get sticker price
- bundled grant aid
(and its allocations)

~~[illegible]~~

Room & bd $4000
Grant aid:
- the amt that is allocable
to tuition

DEPARTMENT OF THE TREASURY

OFFICE OF TAX POLICY
1500 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20220

DATE: 6/18/98

Number of Pages: (including cover)

TO: Bob Shireman

Addressee's FAX Number: 456-2223

Addressee's Confirmation Number:

FROM: Cathy Livingston **Tel. No:** (202 622- 1343

Sender's FAX Number: (202) 622-9260

Location: Room 1322 M.T.

Sender's Confirmation Number: (202) 622-

Comments/Special Instructions: Explains Hope Credit reporting issue. memo sent to Hill staff.

UNCLASSIFIED

For purposes of this section, the terms "eligible educational institution" and "qualified tuition and related expenses" have the meanings given such terms by section 25A, except that in applying the rule of section 25A(g)(2), only those qualified scholarships and educational assistance allowances that are processed as financial aid by the person making the return shall be taken into account. Also for purposes of this section, except as provided in regulations, the term "qualified education loan" has the meaning given such term by section 221(e)(1).

Nick and Maury:

It is now being represented that rather than the amendment accomplishing what we were told was its intent when it was offered on the Senate floor, the amendment was intended to relieve the reporting institutions of reponsibility for doing any netting, i.e. subtracting the scholarships and other tax-free aid that is processed through the institution from the total amount of tuition and related expenses paid on the student's behalf. If that were the purpose of the amendment, there would be several adverse consequences:

1) Taxpayers would not be able to determine what their credit should be. Section 25A clearly permits a credit against qualified tuition and related expenses, which is defined to exclude tuition covered by tax-free scholarships and other tax-free assistance. Most such assistance is processed by institutions. If taxpayers are given gross tuition charged and gross student aid provided, they will have a miserable time determining how to allocate the aid to tuition. Taxpayers will not know what type of aid they received and whether it was subject to special rules that would determine the allocation. Furthermore, the perils of compliance will be extremely clear because they will be told that every dollar of aid they ~~do not allocate~~ to tuition and required expenses is very likely taxable, unless it was used to pay for books and equipment.

2) Revenue cost should not be negligible. This change will cause the amount reported to the taxpayer to deviate significantly from the amount that can be used in calculating the credit. Therefore, the added burden and complexity for taxpayers alone should cause a noticeable number of them to claim too large a credit, simply because they cannot or will not do a proper allocation of their grant aid.

If the amendment had meant what is now asserted, it would have read nothing like it actually did. Instead, it would have revised section section 6050S(e) to say the following:

For purposes of this section, the terms "eligible educational institution" and "qualified tuition and related expenses" have the meanings given such terms by section 25A, except that the rule of section 25A(g)(2) shall not apply. Also for purposes of this section, except as provided in regulations, the term "qualified education loan" has the meaning given such term by section 221(e)(1).

6050S(b)(2)(C)(i) to say that institutions must report

Treasury and the IRS are fully aware that determining how to do the netting is not intuitively obvious. We are trying to address some of the netting issues, e.g. how to allocate grant aid that covers both tuition and other expenses like room and board, in the proposed regulations we are currently drafting. Rather than engaging us in a dialogue about how that should be done, it appears the institutions are trying to legislate away the need to do any netting and leave the burden of doing complicated allocations to the taxpayer.

PHOTOCOPY
PRESERVATION

JANE BRYANT QUINN

Choosing Between Education IRAs, Tax Credits

So far, the new education IRA has been pretty much a bust. Middle-income parents may skip them in favor of the new education tax credits. Higher-income parents may consider this IRA too small to bother with.

The Strong Funds in Milwaukee, however, say that interest is picking up.

With education IRAs, you can invest up to $500 a year for every child under 18. There's no immediate tax deduction. But the earnings on your money are tax-free if spent on higher education.

The Senate voted recently to raise the annual contribution to $2,000. Last year, the House proposed a limit of $2,500. But these two bills also extend the education IRA to parents who will send children to private or parochial elementary and secondary schools.

This embroils the IRA in the fight over whether to use the tax code to help children leave the public school system. President Clinton says he will veto the proposal.

So you're probably still looking at a $500 education IRA. Should you use it?

I'd say definitely yes, if you're in the right financial situation. Even small tax breaks are better than a kick in the shin.

Education IRAs are available only for children under 18. You can put in $500 a year on top of the $2,000 you might invest in either a traditional or a Roth IRA.

Grandparents, other relatives, godparents or friends also could establish the IRA. But no more than $500 total can be invested for each child, each year. If grandma puts in $300, dad can add only $200. There's a 6 percent penalty on excess contributions.

Typical annual fee: $10 or $15, although the Strong Funds and some others charge nothing.

To make a full education IRA contribution, your adjusted gross income has to be less than $95,000 on a single return or $150,000 on a joint return. Above these limits, the contribution phases out.

If you put in the maximum from the time the child is born, and your money earns 10 percent a year, you will have around $22,500 in 18 years.

In 2016, that might cover two-thirds of a year at a public college in your state, which isn't too bad. Subtracting your contributions, you'd have accumulated $13,500 tax-free.

If your child is 8 when you start to save, however, you would accumulate only around $3,800 tax-free, not counting contributions. At this point, middle-income people should consider other options.

Two new education tax credits are available. But you cannot claim them in any year that you withdraw funds from an education IRA to help pay for school. You have to choose between the IRA and the credits. Which one is better?

The credits are worth up to $1,500 a year for the child's first two years of school. For each year thereafter, you can claim up to $1,000 ($2,000 starting in 2003).

That comes to a total of $5,000 (or $7,000), for four years of school.

The IRA probably will be worth more than that amount if you start it when the child is born. If you start when your child is 8, however, the tax credits probably will be worth more.

The future is guesswork, but you get the idea: education IRAs for early, disciplined planners or higher-income people; tax credits for middle-income people who didn't save early.

You're fully eligible for the new tax credits if your adjusted gross income is less than $40,000 on a single return or $80,000 on a joint return. Above those limits, the credits phase out. Starting in 2003, these amounts will rise with inflation.

Back to education IRAs. Here are some other possible glitches:

- You can't fund an IRA in a year you contribute to a state prepaid tuition plan, and some states are offering plans that look pretty attractive.
- The more the child has in savings, the less financial aid he or she will qualify for. (But this is no reason not to save. Non-savers get stuck with more student loans.)
- If the child doesn't go past high school, the IRA can be transferred tax-free to another child. But any money not used by age 30 must be withdrawn and taxed to the child, with a 10 percent penalty.

Education IRAs aren't publicized much because financial institutions make so little money on them. But you can find them at banks, brokerage firms and mutual fund groups.

BASIS POINTS

It was a wild week in both the bond and stock markets, marked by a sudden fear that the Federal Reserve was about to raise

for three-month bills, which were down. Meanwhile, tax cash was flooding the Treasury, raising speculation that officials would announce changes this week in

TREASURY	FRIDAY	WEEK AGO	YEAR AGO
Three-month bill	5.00%	5.06%	5.21%
Six-month bill	5.25%	5.25%	5.52%
One-year bill	5.40%	5.39%	5.86%
	[illegible]	5.58%	6.25%

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treasurer
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AMERICAN COUNCIL ON EDUCATION

Division of Government and Public Affairs

Memorandum

To: Mark Prater, Chief Tax Counsel, Senate Finance Committee
Bill Swetnam, Tax Counsel, Senate Finance Committee
Nicholas Giordano, Minority Chief Tax Counsel, Senate Finance Committee

From: Terry W. Hartle, Senior Vice President
American Council on Education

Matt Hamill, Vice President of Administration
National Association of Independent Colleges and Universities

Marty Guthrie, Director for Government Affairs
National Association of Student Financial Aid Administrators

Chris Larger, Director of Public Policy
National Association of College and University Business Officers

Date: March 5, 1998

Re: Taxpayer Relief Act of 1997 - Reporting Requirements

The creation last year of the Hope Scholarship and Lifetime Learning tax credits through the Taxpayer Relief Act is but one example of the extraordinary commitment of the 105th Congress to higher education. These education tax incentives clearly will benefit students and their families, but also will impose extensive regulatory and record keeping requirements on colleges and universities. We write today to discuss these requirements and to propose actions for Congress to consider to minimize the administrative burden and increased costs for institutions created under the current law.

The diversity of American higher education is undoubtedly one of its greatest strengths. Over 3,700 non-profit colleges and universities, including public and private, two-year and four-year institutions, serve approximately 15 million full-time and part-time students. An additional 15 - 25 million individuals are involved in continuing education programs at colleges and universities. Institutions vary by mission, selectivity, geographic location, size, and sector. They also vary in their capacities to collect and report data on their students.

Colleges and universities are taking the steps necessary to comply with the modified reporting requirements for FY 1998. These requirements were issued by the Internal Revenue Service (IRS) after numerous discussions and public forums between representatives of the Treasury Department and institutions of higher education. We anticipate that institutions will be able to comply with these first-year reporting requirements, in part due to the extensive consultation that took place during the past six months.

One important exception to broad compliance will center on providing data on students enrolled in continuing education courses, who may be eligible to claim the Lifetime Learning tax credit. Currently, many campuses that offer non-degree, continuing education courses do not maintain student records in their institutional data systems. Without these student records, the data required under section 6050S cannot be collected without great expense.

As a result, we urge you to modify the requirement that institutions report information on all students enrolled in continuing education courses, by providing a *de minimus* exception for students who take low-cost noncredit courses. We recommend that requirements similar to those of the Charitable Substantiation Rules be adopted. Students who paid less than $250 in tuition and related expenses for a non-credit course would be able to claim the Lifetime Learning credit without having a Form 1098-T and could rely on their canceled check as verification of their enrollment.

We also recommend that an exception be provided so that institutions are not required to report on nonresident alien students. The vast majority of those individuals will be ineligible for the tax credits. In addition, reporting on nonresident alien students would be particularly problematic because most do not have (and are ineligible for) Social Security numbers. It would be a poor use of individual, institutional, and governmental resources to require nonresident alien students to apply for ITINs so that institutions could satisfy these reporting requirements.

For future years, the statutory requirements stipulate that institutions must provide the Taxpayer Identification Number (TIN) of an individual certified by the student as the taxpayer who will claim the student as a dependent. Institutions also will be required to report the aggregate amount of payments of qualified tuition and related expenses received by an institution for each student. We are concerned that these statutory requirements will be very difficult for institutions to meet. Information, particularly TINs, on parents of students or others who claim students as dependents is not collected by colleges and universities. Students are likely to be unreliable sources of this data. A more reliable source is the data already collected by the IRS on every 1040 that is submitted. All that is required for the IRS to verify the accuracy of the claim for a Hope Scholarship or Lifetime Learning tax credit is to key into their computer the TINs of each dependent as they process the tax return. This also will have other benefits for the effective administration of tax laws.

We urge you to delete the requirement that institutions report the TIN of an individual certified by the student as the taxpayer who will claim the student as a dependent. Surely it would be more cost effective for the IRS to change its data handling procedures than for more than 7,000 institutions of postsecondary education (including proprietary schools) to develop systems to collect and report information that is not readily available to them.

Section 6050S requires institutions to report aggregate payments for qualified tuition and related expenses, as defined by the Taxpayer Relief Act. This information currently is not captured in such a format by institutions, nor can it be collected without significant cost, because institutional accounting systems do not classify or match payments received from various sources (such as student payments, scholarships, and loans) with specific charges to the student's account (such as tuition, room and board, and other fees). In addition, even if Treasury is able to write sufficient regulations for this requirement, and colleges report this number to taxpayers and the IRS, taxpayers will have to do additional calculations to determine their eligibility for either of the two education tax credits.

As an alternative to requiring institutions to provide this information to the IRS, we urge you to make the following two changes:

1. Allow institutions to report two numbers: gross tuition and related expenses (as defined by the Department of Education), and total grant aid received that is processed through the institution, including federal, state, and institutional grants. bill. The student or taxpayer should be able to determine which resources are applied to which costs of attendance. This process would be consistent with how taxpayers must reconcile outside sources of support for their education, such as employer reimbursements or other scholarships that are not processed through a college financial aid office.

2. Redefine "qualified tuition and related expenses" to conform with the definition of "cost of attendance" found in Section 472(1) of the Higher Education Act which is widely recognized and applied at colleges and universities. Section 472(1) defines "cost of attendance" as "tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study." This redefinition will relieve institutions of the burden of examining all fees charged to determine which meet the statutory definition, and explaining decisions to students and parents. Conforming the definition also will obviate the need for extensive regulations explaining what types of charges are "qualified."

We appreciate your willingness to consider these modifications to the reporting requirements accompanying the new education tax incentives, as well as your interest in reducing the administrative burden and high costs institutions will have to face under current law. While the recent report of the National Commission on the Cost of Higher Education challenges campuses to take bold steps to reduce costs, it also challenges government to minimize regulatory burdens on higher education institutions. We believe our modest proposal would lessen the regulatory costs for higher education institutions while at the same time provide sufficient information to prevent fraudulent abuses.

We look forward to working closely with you regarding this matter.

COPY

AMERICAN COUNCIL ON EDUCATION

Division of Government and Public Affairs

April 22, 1998

The Honorable Susan M. Collins
United States Senate
Washington, DC 20510

Dear Senator Collins:

Thank you for your leadership in addressing the reporting requirements imposed on colleges and universities by the education tax provisions established by the Taxpayer Relief Act of 1997.

The benefits of the Hope and Lifetime Learning tax credits to individual taxpayers and to the nation's human capital will be enormous. However, the costs imposed on colleges and universities to collect and report data to the federal government on the estimated 25 million individuals who are eligible for the credits will be exorbitant.

As you may recall, the higher education community formed a task force comprised of campus officials and staff from nine associations to analyze and document the full extent of the burden these regulations pose. Chaired by James E. Morley Jr., president of the National Association of College and University Business Officers (NACUBO), this task force asked institutions to prepare cost estimates for compliance with the reporting requirements based on a standard template prepared by NACUBO.

Our initial estimates indicate that the aggregate costs to colleges and universities of complying with the Taxpayer Relief Act reporting requirements will be approximately $115 million for tax year 1998 and $136 million for tax year 1999. The average cost of compliance increases in tax year 1999 because of an increase in the number of students benefiting from the tax credits.

When broken down on a per student basis, these costs translate into $3.41 per student record for 1998, and $2.90 per student record for 1999. These costs account for resources required to obtain student data, file information returns, integrate student data, respond to questions, and for 1999, to obtain, process, and maintain information on individuals certified by students as taxpayers who will claim a tax credit.

The per student average camouflages the tremendous variation in compliance costs among the nation's 6,000 institutions of higher education. The per student cost is estimated to be as low as $1.40 at one research university and as high as $21.00 at another institution. These variations are attributable to the number of students enrolled and the sophistication of campus information systems. The California Community College system, for example, which is comprised of 107 colleges and serves over 2.4 million students, estimates it will cost $20 million just to develop a system to comply with the reporting requirements. Ongoing costs of complying with the requirements are estimated to be $12.6 million per year.

We will continue to gather information to refine these estimates in the weeks ahead. Nonetheless, the preliminary figures highlight the challenges colleges and universities are confronting as they develop systems to comply with reporting requirements introduced by the Taxpayer Relief Act of 1997.

Thank you again for your leadership and commitment to reducing this burden. We look forward to continuing to work closely with you to address this issue.

Sincerely,

Terry W. Hartle
Senior Vice President

DESCRIPTION OF COLLINS/DEWINE EDUCATION TAX CREDIT AMENDMENT

The amendment will modify the reporting requirements contained in IRC section 6050S which were enacted as part of the Taxpayer Relief Act of 1997. The proposal would do the following:

- *Repeal IRC section 6050S(b)(2)(B) regarding the reporting of taxpayers who will claim the student as a dependent.* This repealed section would have required institutions to inquire of students who will claim them as a dependent. This information will be unreliable and can more easily be obtained from current IRS data on the face of returns which require the TINs of taxpayers and their dependents. Because the information required of institutions will be unreliable and it is questionable to what extent such information will ever be used by the IRS, the repeal of this section should have little revenue impact.
- *Repeal IRC section 6050S (b)(2)(C)(ii) but modify (i) of the same subsection to require institutions to deduct from gross tuition the total grant aid received that is processed through the institution (federal, state and institutional grants).* The repeal subsection would have required institutions to link payments received with particular expenses. Thus every check that comes in would have to be examined as to whether it is a gift, loan, grant or some other payment. Institutions can not account for all payments in this level and detail. It is interesting to note that employers who provide educational assistance under IRC section 127 are not being required to make similar reports even though these expenses are directly prohibited from qualifying for tax credits to the same extent other scholarships or grants which this section would require institutions to report. Requiring institutions to reports grants which they process will still be a burden on institutions but is a reasonable compromise and will probably account for a vast majority of the offsets to gross tuition costs. **From a reporting standpoint, institutions will, under the proposal, be required to report net payments made by students to the institution.**
- *Modify IRC section 6050S(b)(2)(C)(i) to include a de minimis exception for non-degree students who paid less than $250 for noncredit courses.* Institutions would not have to make information reports for such individuals. Institutions do not track non-degree students because they have no need to since the coursework is not for credit toward a degree. If this subsection is not changed, institutions will have a nearly impossible task of generating information on such students. The tax benefit to such students is small (20% of $250 or a maximum of $50) thus the risk of noncompliance is minimal. The cost of additional recordkeeping is not justified by the minimal tax benefits at issue.

- "tax reform"?

Chronology

- Rick Grassley, Ernst & Young
- $3.7 tr. tax - repeal
  - no Treas. estimate

- Collins - Tax Adv.
  1. SS # - persons - can't do unexpected matching:
     - can't match to data element of dependents
     - ~~tax~~
     - no return to the return
     - needs to include the client
     - needs to
  - very costly -> compliance

($8 billion - IRS rollover)
  2. Reimbursements & refunds - req.
     - allows for abuse
     - not clear, but what if in separate year?
     - Gag'

PR not who we

Clear

(3) ck Mn. C ~~$280~~ annual -
crRenne Leum

- non-credit/ non - $80

- Hasn't

- This way back at info - you've claved ...
info return can't be matched ...

- Computer ex open around do it.

Perry

- Treasury

Collins & Marzullo - streamline Hope Schol.

- Ed. tax / finance: (brp):

Dept - parent SS #

- de minimis reqt. of $280/student for non credit courses

(similar to clearance) - tax says de minimis likely to be enormous

- on IRS restructuring bill.

- eliminate ~~a~~ n req't on tax..

- $8 billion score

$9 total

- Early Livingston

* Collins x Senate Finance

- Next couple days

- Sen Collins ...

~~Mark-up next ckd~~

– Witnesses: ured [illegible] w/ [illegible] . .