Withdrawal/Redaction Sheet
Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. note	Handwritten note (partial, SSN, DOB) (1 page)	00/00/0000	b(6)

COLLECTION:
Clinton Presidential Records
Domestic Policy Council
Diana Fortuna
OA/Box Number: 12026

FOLDER TITLE:
Americorps Taxability

2018-0525-S
ry2257

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).
RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Tax exp. $41 million } Gross
Cost $20 million } measure

For Tax Break
- Breeds resentment among those who serve
- Inequitable
  GI untaxed
  Pell untaxed
  most fellowships untaxed (which are?)
  → w/AmeriCorps loan repayment option for those already completed school
  (why does this make it different)
- Burden on members
  → Member must come up w/personal fund to cover tax

(Question, is this money coming from the gov't? It seems stupid to pay it out & then ask for taxes. If they really want that $ won't it be easier to lower the stipend & cut out tax adminstration efforts?

~ Would be consistent w/ recent pres. announce.)

27 ~ No one gives us any credit for the taxation
cost per AmeriCorps member includes full 4,725 related to edu award.

103-83
96-94
96-466
95-336
95-302

Wed Aug 20
2pm
555 New Jersey Ave NW
Room 400
Washington DC
219-1844

Lynn Ross OMB
Jeff Gold OMB

Not excludable 117 & 127
"edu asst" no apply to Grad school after June 30 1996

(Peace Corps rep?)

117(c) → specifically excludes X from qual scholarship
X → payment for services required as a condition for receiving $

127 (b) → "Edu assistance programs"
If loan repayment feature were eliminated might be okay

(Is Peace Corps repayment or forgiveness)

Paygo ??

---

1 → It's inefficient
2 → If going to treat like summer job shouldn't give $ directly to institution → like double tax
3 → what are GI Bill Provisions
4 → what are Peace Corps Provision (repayment or forgiveness)
5 → which fellowships are taxed
6 → why loan repayment option makes it bad – In 117 exempts for work
7 → Rationale Higher Edu pay off – Want High Skill People in low pay job – need to help pay off loans

Peace Corp → Pn an after

Deferring Loan 15%
{Perkins Loans will be cancelled}

Deferment Principle & Abatement during Peace Corps &
6 month after

You would be responsible for interest
not all loan interest will be deferred

unsubsidized → yes
subsidized → no

Gov't no interest while repayment of interest
is deferred.

→ Why is this a cancellation?? ←
Perkins Loan is gov't loan, Direct loan

DOE → 401-4766
Ask if Direct Loans are gov't or priv
Lender?

All government :)
→ Perkins, Stafford, Ford,

Question → why is Americorps loan repayment
& not cancellation? what is the
difference?

Perkins Grant

VA 273-7132

Pam Van Wie

GI Bill → Have to enroll in GI Bill have certain amount

Exempt from Taxes

pay into

when go to school draw down $ that goes

Senator Montogemery e GI Bill (back in 1944)

DoD Jean Divine 395-3666 {Wed}

Mr. Jeff Goldstein 54571 {Tues}

Education Award Do Not Recieve Directly, Held in trust for them.

Only distributed when get waiver from Fin Aid office / voucher sent to US

Lynn Ross 5-7806

You come in {18yrs have choice}

Get $100 a month 1st yr and pay rest of benefit

Basic {X} $8,000 yr once get out

Kickers {army college fund} can offer up to an additional

Rough Comparison {Both service for education benefit}

Used as recruiting tool

Can get additional Benefit from your Service {Also reserve}

No Previous educational loans

→ only get payed for tuition

GI - VA

Give list of questions ? call DoD for Answers

x5-5722

Tony Houston

Health Professional Scholarship → is taxed {want it tax free}

looking for tax relief

5-7806 Lynn Ross Primer → web page more detailed

http://www.va.gov

Jean Divine Taxability Scholarship $

Treasury {Policy of edu Tax deferrals}

How military service will repay loans?

Montgomery GI Bill {today's ☺}

- for active duty

- for reservists

Diana Talp
Daughter to Dr

1:45 meeting w/ Erskine Bowles

Part of reason don't like retrospective
- Want to make sure it is a grant/fellowship and not compensation for services performed.

1st is not Taxable
2nd is

This is why programs where they pay for your school in return for you working for them later is taxable. It's like a payment for future service

20 §117 C → Qualified scholarships shall not represent payment.

→ Want to make sure used for qualified tuition & related expenses.

Joan Wainright 410-965-1720
3903

606 5000

#8 #2
Gary
KOWALCZYK #
485

8 Tom Flemming 338
15 Karen Howerman 485

VISTA or Peace Corps 70% of Perkins

Service in armed Forces Perkins up to 50% in hostility or imminent danger area

http://www.sfa.ed.gov vocational-ed -guesses

Perkins can be deffered

Ed's http://www.ed.gov/prog_info/SFA/StudentGuide/1997-8/index.html

~~Direct~~	~~Stafford~~	~~Plus~~
NO	NO	

	Direct	FFEL	Perkins
Cancel	NO	NO	Yes
Deferm	NO	NO	Yes

??

ABCDE

ABCDEFG ABCDEFGHIJKLMN

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A

IRS's opinion

§127 → payments to an educational inst. doesn't include

614-1340

401-1012 For Peace Corps for cancelle

→ For certain subsidized loans in IRS code

Rodell

$\boxed{501-3609}$

→ One of Clinton's proposal to extend to unsubsidized loans.

VISTA Tax Free

Cancellation recognized in code } in IRS code
Payment is most

{ for person serving it's the same

Why Congress decide go repayment instead of Cancellation. If didn't have repayment option.

[001]

Ruthy Abnee → 205-6410

Monika E. Harrisson

(b)(6)

For Darryl Dennis

Linda Davis

703-697-6631

Scratch Wilcox

Kimberly M. Ross

(b)(6)

Corporation for National Service
Office of the General Counsel
1201 New York Avenue, N.W.
Suite 8200
Washington, D.C. 20525

CORPORATION FOR NATIONAL SERVICE

Fax Number: (202) 565-2796

Telefax Message: Date: 8/7/97

For: Kristina Scofield

Office:

Telephone: Fax: 456 7431

This transmission consists of this cover sheet and 4 page(s).

From: Frank Trinity

Comments:

If there are any problems with this transmission, please call (202) 606-5000, ext. 256.

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

Getting Things Done.
AmeriCorps, National Service
Learn and Serve America
National Senior Service Corps

Try to write up chart

taxable ?

Retrospective

Pell

GI

PC

Stud loan

Why is retrospective Bad?

what is Avg burden created?

Avg

make chart

- ***Community Service Loan Forgiveness.*** In most circumstances, a loan that is forgiven is considered income and is therefore taxable. To encourage programs that offer loan forgiveness to borrowers who take lower-paying, community-service jobs, the agreement excludes from taxable income both loan amounts forgiven through programs run by nonprofit tax-exempt charitable or educational institutions. Currently, the exclusion generally covers only certain forgiveness arrangements between students and government entities.

Where city organized nonprofit corporation, managed by three trustees, to sell alcohol, and although city could have had trustees distribute profits to city and although assets of corporation were eventually turned over to city, on dissolution of corporation with advent of local prohibition, profits were not in fact credited to city by any bookkeeping operation, there was no "accrual" of income to the city, but, rather, income was taxable to such corporation. City of Bethel v. U.S., C.A.Alaska 1979, 594 F.2d 1301, certiorari denied 100 S.Ct. 482, 444 U.S. 980, 62 L.Ed.2d 407.

Under this section excluding from gross income income derived from any public utility or exercise of any essential governmental function and "accruing" to any state or political subdivision, Congress by use of quoted word had in mind the legal definition of word "accrue" which is to come into existence as an enforceable claim; to vest as right; as, a cause of action has accrued when right to sue has become vested. Omaha Public Power Dist. v. O'Malley, C.A.Neb. 1956, 232 F.2d 805, certiorari denied 77 S.Ct. 57, 352 U.S. 837, 1 L.Ed.2d 55.

8. Leases

Lessee's income from sale of oil and gas produced under lease of state school lands was not taxable by federal government, since lease constituted governmental instrumentality of state. Burnet v. Coronado Oil & Gas Co., Dist.Col.1932, 52 S.Ct. 443, 285 U.S. 393, 76 L.Ed. 815.

9. Non-profit corporations

Nonprofit corporation created by state to insure savings banks was not entitled to exemption from federal taxation under doctrine of intergovernmental immunity nor under this section pertaining to income derived from essential governmental function and accruing to state. U.S. v. Maryland Savings-Share Ins. Corp., Md.1970, 91 S.Ct. 16, 400 U.S. 4, 27 L.Ed.2d 4.

Under Iowa laws, city became equitable owner of bridge property by acceptance of gift proposal, and corporation which was organized for sole purpose of carrying out the gift proposal and which was bound to collect income from bridge and to apply it to expenses of operation and to reduction of bonded indebtedness did not receive taxable income within this section or U.S.C.A.

Const. Amend. 16. Keokuk & Hamilton Bridge, Inc. v. C.I.R., C.A.8, 1950, 180 F.2d 58.

[§ 116. Repealed. Pub.L. 99–514, Title VI, § 612(a), Oct. 22, 1986, 100 Stat. 2250]

HISTORICAL AND STATUTORY NOTES

Section, Acts Aug. 16, 1954, c. 736, 68A Stat. 37; June 25, 1959, Pub.L. 86–69, § 3(a)(2), 73 Stat. 139; Sept. 14, 1960, Pub.L. 86–779, § 10(f), 74 Stat. 1009; Feb. 26, 1964, Pub.L. 88–272, Title II, § 201(c), (d)(6)(C), 78 Stat. 32; Nov. 13, 1966, Pub.L. 89–809, Title I, § 103(g), 80 Stat. 1552; Oct. 4, 1976, Pub.L. 94–455, Title X, §§ 1051(h)(2), 1053(d)(1), Title XIX, § 1901(a)(20), 90 Stat. 1647, 1649, 1766; Apr. 2, 1980, Pub.L. 96–223, Title IV, § 404(a), 94 Stat. 305; Aug. 13, 1981, Pub.L. 97–34, Title III, § 302(b)(2), 95 Stat. 272; July 18, 1984, Pub.L. 98–369, Div. A, Title V, § 542(b), 98 Stat. 891, authorized partial exclusion of dividends received by individuals.

Effective Date of Repeal

Repeal of section applicable to taxable years beginning after Dec. 31, 1986, see section 612(c) of Pub.L. 99–514, set out as a note under section 301 of this title.

§ 117. Qualified Scholarships

{Prospective}

(a) General rule.—Gross income does not include any amount received as a qualified scholarship by an individual who is a candidate for a degree at an educational organization described in section 170(b)(1)(A)(ii).

(b) Qualified scholarship.—For purposes of this section—

(1) In general.—The term "qualified scholarship" means any amount received by an individual as a scholarship or fellowship grant to the extent the individual establishes that, in accordance with the conditions of the grant, such amount was used for qualified tuition and related expenses.

(2) Qualified tuition and related expenses.—For purposes of paragraph (1), the term "qualified tuition and related expenses" means—

(A) tuition and fees required for the enrollment or attendance of a student at an educational organization described in section 170(b)(1)(A)(ii), and

(B) fees, books, supplies, and equipment required for courses of instruction at such an educational organization.

(c) Limitation.—Subsections (a) and (d) shall not apply to that portion of any amount received which represents payment for teaching, research, or other services by the student required as a condition for receiving the qualified scholarship or qualified tuition reduction.

(d) Qualified tuition reduction.— Peace Corps

(1) In general.—Gross income shall not include any qualified tuition reduction.

(2) Qualified tuition reduction.—For purposes of this subsection, the term "qualified tuition reduction" means the amount of any reduction in tuition provided to an employee of an organization described in section 170(b)(1)(A)(ii) for the education (below the graduate level) at such organization (or another organization described in section 170(b)(1)(A)(ii)) of—

(A) such employee, or

(B) any person treated as an employee (or whose use is treated as an employee use) under the rules of section 132(f).

(3) Reduction must not discriminate in favor of highly compensated, etc.—Paragraph (1) shall apply with respect to any qualified tuition reduction provided with respect to any highly compensated employee only if such reduction is available on substantially the same terms to each member of a group of employees which is defined under a reasonable classification set up by the employer which does not discriminate in favor of highly compensated employees (within the meaning of section 414(q)). For purposes of this paragraph, the term "highly compensated employee" has the meaning given such term by section 414(q).

(Aug. 16, 1954, c. 736, 68A Stat. 38; Sept. 21, 1961, Pub.L. 87–256, § 110(a), 75 Stat. 535; Oct. 4, 1976, Pub.L. 94–455, Title XIX, § 1901(b)(8)(A), (c)(3), 90 Stat. 1794, 1803; Dec. 17, 1980, Pub.L. 96–541, § 5(a)(1), 94 Stat. 3205; July 18, 1984, Pub.L. 98–369, Div. A, Title V, § 532(a), 98 Stat. 887; Oct. 22, 1986, Pub.L. 99–514, Title I, § 123(a), Title XI, § 1114(b)(2), 100 Stat. 2112, 2450.)

6-5554

8

Tom Kling 338

485

Karen Howlum

Amendment of Subsec. (d)

Pub.L. 99–514, Title XI, § 1151(g)(2), (k), Oct. 22, 1986, 100 Stat. 2506, 2508; provided that, except as otherwise provided, applicable to years beginning after the later of Dec. 31, 1987, or the earlier of date three months after date Secretary of Treasury issues regulations necessary to carry out section 89 of this title, or Dec. 31, 1988, subsec. (d) is amended by adding the following new paragraph:

(4) Exclusion of Certain Employees.—For purposes of this subsection, there may be excluded from consideration employees who may be excluded from consideration under section 89(h).

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1954 Act. House Report No. 1337, Senate Report No. 1622, and Conference Report No. 2543, see 1954 U.S.Code Cong. and Adm.News, pp. 4173, 4823, 5243, respectively.

1961 Act. House Report No. 1094 and Conference Report No. 1197, see 1961 U.S.Code Cong. and Adm.News, p. 2759.

1976 Act. House Report Nos. 94–658, 94–1380, Senate Report No. 94–938, and House Conference Report No. 94–1515, see 1976 U.S.Code Cong. and Adm.News, p. 2897.

1980 Act. Senate Report No. 96–1007, see 1980 U.S.Code Cong. and Adm.News, p. 6736.

1984 Act. House Report No. 98–432, House Conference Report No. 98–861, Statements by Legislative Leaders, and Two Related Reports, see 1984 U.S.Code Cong. and Adm.News, p. 697.

1986 Act. House Conference Report No. 99–841 and Statement by President, see 1986 U.S.Code Cong. and Adm.News, p. 4075.

Amendments

1986 Amendment. Pub.L. 99–514, § 123(a), substituted "Qualified scholarships" for "Scholarships and fellowship grants" in section catchline.

Subsec. (a). Pub.L. 99–514, § 123(a), substituted "Gross income does not include any amount received as a qualified scholarship by an individual who is a candidate for a degree at an educational organization described in section 170(b)(1)(A)(ii)."

for

"In the case of an individual, gross income does not include—

"(1) any amount received—

"(A) as a scholarship at an educational organization described in section 170(b)(1)(A)(ii), or

"(B) as a fellowship grant, including the value of contributed services and accommodations; and

"(2) any amount received to cover expenses for—

"(A) travel,

"(B) research,

"(C) clerical help, or

"(D) equipment,

which are incident to such a scholarship or to a fellowship grant, but only to the extent that the amount is so expended by the recipient."

Subsec. (b). Pub.L. 99–514, § 123(a), substituted qualified scholarship provision for former limitations provision,

ion not to apply.—
-The taxpayer may elect not to have this n 1255) apply to any excludable portion (or

time for making election.—Any election) shall be made in the manner prescribed by :gulations and shall be made not later than ibed by law (including extensions) for filing ınder this chapter for the taxable year in was received or accrued.

benefits.—No deduction or credit shall be any expenditure which is properly associat- :luded from gross income under subsection

y not increased by reason of excludable ıding any provision of section 1016 to the ıt to basis shall be made with respect to ıproved through the use of any payment, to ıstment would reflect any amount which is :ome under subsection (a).

le V, § 543(a), Nov. 6, 1978, 92 Stat. 2888, and 'itle I, § 105(a)(7)(A), (C), (E), Apr. 1, 1980, 94

:AL AND STATUTORY NOTES

'e Reports
ı. 95–1445,
ınd House
1800, see
ı.News, p.

o. 96–498,
.dm.News,

red to in
), Dec. 19,
ed, which
ıapter 29
servation.
his Act to
e set out
'ables vol-

of 1978,
is Pub.L.
:. 420, as
ricultural
generally
f Title 16,
classifica-

tion of this Act to the Code, see Short Title of 1978 Amendment note set out under § 1921 of Title 7, Agriculture and Tables volume.

The Soil Conservation and Domestic Allotment Act, referred to in subsec. (a)(5) and (7), is Act Apr. 27, 1935, c. 85, 49 Stat. 163, as amended, which is classified generally to chapter 3B (§ 590a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see § 590q of Title 16 and Tables volume.

Section 16 of the Soil Conservation and Domestic Policy Act, referred to in subsec. (a)(6), probably means § 16 of the Soil Conservation and Domestic Allotment Act [see note above], which is classified to § 590p of Title 16.

The Bankhead-Jones Farm Tenant Act, referred to in subsec. (a)(7), is Act July 22, 1937, c. 517, 50 Stat. 522, as amended, which is classified generally to chapter 33 (§ 1000 et seq.) of Title 7, Agriculture. For complete classification of this

Act to the Code, see § 1000 of Title 7 and Tables volume.

Amendments

1980 Amendment. Subsec. (a). Pub. L. 96–222, § 105(a)(7)(C), (E), inserted in par. (9) "or his delegate" following "Secretary of the Treasury" and substituted in par. (10) "Any program of a State, possession of the United States, a political subdivision of any of the foregoing, or the District of Columbia" for "Any State program".

Subsec. (b). Pub.L. 96–222, § 105(a)(7)(A), added provisions relating to payments not chargeable to capital account.

Subsec. (c). Pub.L. 96–222, § 105(a)(7)(A), substituted provisions allowing the taxpayer to elect not to have this section apply to any excludable portion for provisions relating to the application of subsec. (a) of this section with other sections.

Subsecs. (d), (e). Pub.L. 96–222, § 105(a)(7)(A), added subsecs. (d) and (e).

Effective Dates

1980 Act. Amendment by Pub.L. 96–222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub.L. 95–600, to which such amendment relates, see § 201 of Pub.L. 96–222, set out as a note under § 43 of this title.

1978 Act. Section 543(d) of Pub.L. 95–600 provided that: "The amendments made by this section [enacting sections 126 and 1255 of this title] shall apply with respect to grants made under the programs after September 30, 1979."

CROSS REFERENCES

Disposition of property acquired, improved, or modified, by application of payments excluded from gross income under this section, see 26 USCA § 1255.

LIBRARY REFERENCES

American Digest System
Particular acts or transactions resulting in income, see Internal Revenue ⚿3119.

Encyclopedias
Exclusion from gross income of cost-sharing payments under government programs, see C.J.S. Internal Revenue § 83.

WESTLAW ELECTRONIC RESEARCH

See WESTLAW guide following the Explanation pages of this volume.

§ 127. Educational assistance programs

(a) Exclusion from gross income.—

(1) In general.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for educational assistance to the employee if the assistance is furnished pursuant to a program which is described in subsection (b).

✓ **(2) $5,250 maximum exclusion.—**If, but for this paragraph, this section would exclude from gross income more than $5,250 of educational assistance furnished to an individual during a calendar year, this section shall apply only to the first $5,250 of such assistance so furnished.

(b) Educational assistance program.—

(1) In general.—For purposes of this section an educational assistance program is a separate written plan of an employer for the exclusive benefit of his employees to provide such employees with educational assistance. The program must meet the requirements of paragraphs (2) through (6) of this subsection.

(2) Eligibility.—The program shall benefit employees who qualify under a classification set up by the employer and found by the Secretary not to be discriminatory in favor of employees who are highly compensated employees (within the meaning of section 414(q)) or their dependents. For purposes of this paragraph, there shall be excluded from consideration employees not included in the program who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and one or more employers, if there is evidence that educational assistance benefits were the subject of good faith bargaining between such employee representatives and such employer or employers.

N/A **(3) Principal shareholders or owners.**—Not more than 5 percent of the amounts paid or incurred by the employer for educational assistance during the year may be provided for the class of individuals who are shareholders or owners (or their spouses or dependents), each of whom (on any day of the year) owns more than 5 percent of the stock or of the capital or profits interest in the employer.

?? **(4) Other benefits as an alternative.**—A program must not provide eligible employees with a choice between educational assistance and other remuneration includible in gross income. For purposes of this section, the business practices of the employer (as well as the written program) will be taken into account.

(5) No funding required.—A program referred to in paragraph (1) is not required to be funded.

(6) Notification of employees.—Reasonable notification of the availability and terms of the program must be provided to eligible employees.

(c) Definitions; special rules.—For purposes of this section—

(1) Educational assistance.—The term "educational assistance" means—

(A) the payment, by an employer, of expenses incurred by or on behalf of an employee for education of the employee (including, but not limited to, tuition, fees, and similar payments, books, supplies, and equipment), and

(B) the provision, by an e
tion for such employee (i
equipment),

but does not include payment f
supplies which may be retained
tion of a course of instruction, o
tion. The term "educational as
any payment for, or the provisi
to, any course or other educati
hobbies.

(2) Employee.—The term "en
an individual who is an em
section 401(c)(1) (relating to se

(3) Employer.—An individual
an unincorporated trade or bus
employer. A partnership shall
each partner who is an employ
graph (2).

(4) Attribution rules.—

(A) Ownership of stock.
ration shall be determine
provided under subsectio
(without regard to section

(B) Interest in unincor
interest of an employee in
incorporated shall be dete
lations prescribed by the S
principles similar to the p
of subparagraph (A).

(5) Certain tests not applic
program shall not be held o
requirements of subsection (b

(A) of utilization rates
cational assistance made

(B) successful complet
course grade, is required
reimbursement under the

(6) Relationship to curren
construed to affect the dedu
amounts (not within the exc
are paid or incurred, or rec
cational expenses under secti

(7) Disallowance of exclu
tion.—No deduction or credi

ıtance program.—

Ꝑor purposes of this section an educational is a separate written plan of an employer ɔenefit of his employees to provide such ucational assistance. The program must ɜnts of paragraphs (2) through (6) of this

'he program shall benefit employees who sification set up by the employer and found . to be discriminatory in favor of employees pensated employees (within the meaning of ıeir dependents. For purposes of this para- ɔe excluded from consideration employees : program who are included in a unit of by an agreement which the Secretary of ı collective bargaining agreement between ıtives and one or more employers, if there :ational assistance benefits were the subject ıining between such employee representa- oyer or employers.

reholders or owners.—Not more than 5 ınts paid or incurred by the employer for ɔe during the year may be provided for the who are shareholders or owners (or their ts), each of whom (on any day of the year) percent of the stock or of the capital or e employer.

: as an alternative.—A program must not ıloyees with a choice between educational remuneration includible in gross income. is section, the business practices of the ; the written program) will be taken into

:quired.—A program referred to in para- ıired to be funded.

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ıl rules.—For purposes of this section—

ssistance.—The term "educational assist-

nt, by an employer, of expenses incurred f of an employee for education of the ling, but not limited to, tuition, fees, and s, books, supplies, and equipment), and

(B) the provision, by an employer, of courses of instruction for such employee (including books, supplies, and equipment),

but does not include payment for, or the provision of, tools or supplies which may be retained by the employee after completion of a course of instruction, or meals, lodging, or transportation. The term "educational assistance" also does not include any payment for, or the provision of any benefits with respect to, any course or other education involving sports, games, or hobbies.

(2) **Employee.**—The term "employee" includes, for any year, an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

(3) **Employer.**—An individual who owns the entire interest in an unincorporated trade or business shall be treated as his own employer. A partnership shall be treated as the employer of each partner who is an employee within the meaning of paragraph (2).

(4) **Attribution rules.**—

(A) **Ownership of stock.**—Ownership of stock in a corporation shall be determined in accordance with the rules provided under subsections (d) and (e) of section 1563 (without regard to section 1563(e)(3)(C)).

(B) **Interest in unincorporated trade or business.**—The interest of an employee in a trade or business which is not incorporated shall be determined in accordance with regulations prescribed by the Secretary, which shall be based on principles similar to the principles which apply in the case of subparagraph (A).

(5) **Certain tests not applicable.**—An educational assistance program shall not be held or considered to fail to meet any requirements of subsection (b) merely because—

(A) of utilization rates for the different types of educational assistance made available under the program; or

(B) successful completion, or attaining a particular course grade, is required for or considered in determining reimbursement under the program.

(6) **Relationship to current law.**—This section shall not be construed to affect the deduction or inclusion in income of amounts (not within the exclusion under this section) which are paid or incurred, or received as reimbursement, for educational expenses under section 117, 162 or 212.

(7) **Disallowance of excluded amounts as credit or deduction.**—No deduction or credit shall be allowed to the employee

under any other section of this chapter for any amount excluded from income by reason of this section.

(8) Coordination with section 117(d).—In the case of the education of an individual who is a graduate student at an educational organization described in section 170(b)(1)(A)(ii) and who is engaged in teaching or research activities for such organization, section 117(d)(2) shall be applied as if it did not contain the phrase "(below the graduate level)".

(d) Termination.—This section shall not apply to taxable years beginning after December 31, 1987.

(e) Cross Reference.—

For reporting and recordkeeping requirements, see section 6039D.

(Added Pub.L. 95–600, Title I, § 164(a), Nov. 6, 1978, 92 Stat. 2811, and amended Pub.L. 98–611, § 1(a)–(c), (d)(3)(B), (e), Oct. 31, 1984, 98 Stat. 3176–3178; Pub.L. 99–514, Title XI, §§ 1114(b)(4), 1162(a), Oct. 22, 1986, 100 Stat. 2450, 2510.)

Amendment of Subsec. (b)

Pub.L. 99–514, Title XI, § 1151(c)(4), (g)(3), (k), Oct. 22, 1986, 100 Stat. 2503, 2507, 2508, provided that, except as otherwise provided, applicable to years beginning after the later of Dec. 31, 1987, or the earlier of either the date which is three months after date Secretary of Treasury issues regulations necessary to carry out section 89 of this title, or Dec. 31, 1988, subsec. (b) is amended—

(A) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

(1) In general.—For purposes of this section, an educational assistance program is a plan of an employer—

(A) under which the employer provides employees with educational assistance, and

(B) which meets the requirements of paragraphs (2) through (5) and section 89(k), and

(B) By striking out the last sentence of paragraph (2) and inserting in lieu thereof: "For purposes of this paragraph, there may be excluded from consideration employees who may be excluded from consideration under section 89(h)."

(C) by striking out paragraph (6) thereof.

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1978 Act. House Report No. 95–1445, Senate Report No. 95–1263, and House Conference Report No. 95–1800, see 1978 U.S.Code Cong. and Adm.News, p. 6761.

1984 Act. House Report No. 98–1049, see 1984 U.S.Code Cong. and Adm.News, p. 5482.

1986 Act. House Conference Report No. 99–841, see 1986 U.S.Code Cong. and Adm.News, p. 4075.

Amendments

1986 Amendment. Subsec. (a)(2). Pub.L. 99–514, § 1162(a)(2), substituted "$5,250" for "$5,000" in the heading and twice in the text.

Subsec. (b)(2). Pub.L. 99–514, § 1114(b)(4), substituted "highly compensated employees (within the meaning of section 414(q)" for "officers, owners, or highly compensated,".

Subsec. (d). Pub.L. 99–514, § 1162(a)(1), substituted "December 31, 1987" for "December 31, 1985".

1984 Amendment. Subsec. (a). Pub. L. 98–611, § 1(b), substituted "Exclusion from gross income" for "General rule" in heading, designated existing provision as par. "(1) In general" and added par. (2).

Subsec. (c)(7). Pub.L. 98–611, § 1(e), substituted "allowed to the employee" for "allowed".

Subsec. (c)(8). Pub.L. 98–611, § 1(c), added par. (8).

Subsec. (d). Pub.L. 98–611, § 1(a), substituted "December 31, 1985" for "December 31, 1983".

Subsec. (e). Pub.L. 98–611, § 1(d)(3)(B), added subsec. (e).

Effective Dates

1986 Act. Amendment by section 1114(b)(4) of Pub.L. 99–514 applicable to years beginning after Dec. 31, 1987, see section 1114(c)(2) of Pub.L. 99–514, set out as a note under section 414 of this title.

Amendment by section 1162(a) of Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1985, see section 1162(c) of Pub.L. 99–514, set out as a note under section 120 of this title.

1984 Act. Section 1(g) of Pub.L. 98–611 provided that:

"**(1) In general.**—Except as otherwise provided in this subsection, the amendments made by this section [enacting section 6039D and amending sections 125, 127, and 6652 of this title] shall

CROSS REFER

Election by employer to treat as a statutor
§ 89.

GI Bill
- -GI's must Enroll in the program.
- -GI's put money into the trust and the DoD matches funds.
- -The GI's can use this money for education tuition.
- -This money is not taxable
- *This is not used to back pay educational loans.
- *Health Professional Scholarship is, but it is taxed...DoD looking for tax relief.
- *Used as recruiting tool.

Pell Grant
- -Earmarked for poorest set of people going to college
- -This money is not taxable

Fellowships
- -??

PeaceCorps
- -Cancels 15% of your Perkins Loans for each year (up to 3) succesfully completed
- -Can get a deferrment while in the Peace Corps.
- -Subsidized loans don't pay interst, unsibsidized you do

AmeriCorps
- -$4,725 education grant after completion of program
- -Held in a corporate trust, not accessible by volunteer.
- -Financial Aid institution must submit a voucher in order for the money to be released.C
- *-ie. student never sees the money*
- -money only used for tuition and books

Tax code 117 (Fellowships and Grants)
- -generally, gross income does not include any amount received as a qualified scholarship of fellowship grant.
- -Excludes payment for services required as a condition for reciving money.
- -Meant to exclude people working in a business who get part of education payed for while still working in that business.

Tax code 127 (Education)
- -Up to $5250 of educational assistance may be excluded from the gross income of an employee during a calendar year.
- -(See section 127 (b) for a description of qualified programs)
- -Because there is a loan repayment option...that's why IRS says no....**why does it matter if pay past edu or future?**

Seems inefficient

This is a little weird...so the government is giving out these scholarships, then want people to give back part of that money...essentially...if they really want those dollars wouldn't it be easier to lower the award and make it tax free?

Burden on Memebers

Isn't like they have this money and then can keep some of it to give for taxes...they have to work to pay off the taxes..again seems highly inefficient.

??????"No one gives us any credit ofr the taxation. The cost per Americorp member includes the full 4,725 related to the education award."?????? What does this mean?

1) Why don't they do it as a cancellation instead of a repayment, aren't they a government agency?

2)

Office of Management and Budget
Veterans Affairs and Personnel Division

Tom Sky
- will bring Papers but
not send in advance

Facsimile Transmittal

Confirmation Number	Fax Number
(202) 395-4500	(202) 395-6835

to: Christina Schofield X67431

from: Lynn Ross

subject: Information Requested

comments:
Hope this helps! I have more detailed information when/if you need it.

total number of page (including the cover sheet): 4

Pension in Nursing Home or Domiciliary

When a veteran without a spouse or a child is being furnished nursing-home or domiciliary care by VA, the pension is reduced to an amount not to exceed $90 a month after three full-calendar months of care. The reduction may be delayed if nursing-home care is being continued for the primary purpose of providing the veteran with rehabilitation services.

Protected Pension Programs

Pensioners entitled to benefits as of Dec. 31, 1978, who do not elect to receive a pension under the Improved Pension program, will continue to receive pension benefits at the rate they were entitled to receive on Dec. 31, 1978, as long as they remain permanently and totally disabled, do not lose a dependent, and their incomes do not exceed the adjusted income limitation. The income limitation is increased annually based on the Consumer Price Index.

Aid and Attendance or Housebound

A veteran who is a patient in a nursing home, who is otherwise determined by VA to be in need of the regular aid and attendance of another person or who is permanently housebound, may be entitled to higher income limitations or additional benefits, depending upon the type of pension received.

Education and Training

Montgomery GI Bill (Active Duty)

Eligibility

The Montgomery GI Bill (Active Duty) provides a program of education benefits to individuals who enter active duty for the first time after June 30, 1985, and receive an honorable discharge. Active duty includes full-time National Guard duty performed after Nov. 29, 1989. Members of the Army and Air Force National Guard who enlisted between June 30, 1985, and November 29, 1989, may elect to participate in the Montgomery GI Bill (Active Duty). To receive the maximum benefit, the participant must serve for three years.

An individual also may qualify for the full benefit by initially serving two continuous years on active duty, followed by four years of Selected Reserve service, beginning within one year of release from active duty.

The participant generally must have a high school diploma or an equivalency certificate before the first period of active duty ends. Completing 12 credit hours toward a college degree also meets this requirement. Individuals who initially serve a continuous period of at least three years of active duty, even though they were initially obligated to serve less, will be paid the maximum benefit.

Benefits under this program generally end 10 years from the date of the veteran's last discharge or release from active duty, but some extenuating circumstances qualify for extensions.

Participation Requirements

To participate in the Montgomery GI Bill, servicemembers have their military pay reduced by $100 a month for the first 12 months of active duty. This money is not refundable.

Vietnam Era GI Bill and VEAP Conversions

Also eligible for Montgomery GI Bill benefits are those individuals who had remaining entitlement under the Vietnam Era GI Bill on Dec. 31, 1989, and served on active duty between Oct. 19, 1984, and July 1, 1985, and continued to serve on active duty to July 1, 1988, or to July 1, 1987, followed by four years in the Selected Reserve. An individual who converts from the Vietnam Era GI Bill must have a high school diploma or an equivalency certificate before Dec. 31, 1989. Completion of 12 credit hours toward a college degree meets this requirement. Individuals who were eligible for the post-Vietnam Era Veterans' Educational Assistance Program (VEAP) may be eligible to receive benefits under the Montgomery Bill and apply for a refund of the contributions to VEAP.

Discharges and Separations

For the Montgomery GI Bill program, the discharge must be honorable. Discharges designated "under honorable conditions" and "general" do not establish eligibility. A discharge for one of the following reasons may result in a reduction of the required length of active duty: (1) convenience of the government; (2) disability; (3) hardship; (4) a medical condition existing before service; (5) force reductions; (6) physical or mental conditions which prevent satisfactory performance of duty.

Education and Training Available

The following are available under the Montgomery GI Bill:

1. Courses at colleges and universities leading to associate,

bachelor or graduate degrees, and accredited independent study.

2. Courses leading to a certificate or diploma from business, technical or vocational schools.

3. Apprenticeship or on-job training programs for individuals not on active duty.

4. Correspondence courses, under certain conditions.

5. Flight training. Before beginning training, the veteran must have a private pilot license and meet the physical requirements for a commercial license. Benefits may be received for flying hours up to the minimum required by the FAA for the rating or certification being pursued.

6. Tutorial assistance benefits if individual is enrolled in school half-time or more. Refresher, deficiency and other training also may be available.

7. State-approved alternative teacher certification programs.

Payments

Veterans who served on active duty for three years or more, or two years' active duty plus four years in the Selected Reserve or National Guard, will receive $427.87 a month in basic benefits for 36 months. Those who enlist and serve for less than three years will receive $347.65 a month. VA pays an additional amount, commonly called a "kicker," if directed by the Defense Department.

Work-Study

Participants must train at the three-quarter or full-time rate. They will be paid in advance 40 percent of the amount specified in the work-study agreement or an amount equal to 50 times the applicable minimum wage, whichever is less. Participants under the supervision of a VA employee may provide outreach services, prepare and process VA paperwork, and work at a VA medical facility or perform other approved activities.

Counseling

Counseling may be available for individuals who are eligible for VA educational assistance; who are on active duty and within 180 days of discharge; or who have been discharged one year or less. VA will help individuals understand their educational and vocational needs, and plan an educational or vocational goal. VA may also help individuals plan an effective job search.

Montgomery GI Bill (Selected Reserve)

Eligibility

The Montgomery GI Bill (Selected Reserve) is a program of education benefits for members of the reserve elements of the Army, Navy, Air Force, Marine Corps and Coast Guard, and for the Army National Guard and the Air National Guard. To be eligible for the program, a reservist must: (1) have a six-year obligation to serve in the Selected Reserve signed after June 30, 1985, or, if an officer, agree to serve six years in addition to the original obligation; (2) complete Initial Active Duty for Training (IADT); (3) have a high school diploma or equivalency certificate before completing IADT; and (4) remain in good standing in a Selected Reserve unit.

Education and Training Available

Reservists may seek an undergraduate degree or graduate training or take technical courses at colleges and universities. Those who have a six-year commitment beginning after Sept. 30, 1990, may take courses for a certificate or diploma from business, technical, or vocational schools; cooperative training; apprenticeship or on-job training; correspondence courses; independent study programs; flight training; tutorial assistance; remedial, refresher and other training; and state-approved alternative teacher certification programs.

Payments

The full-time rate is $203.24 a month for 36 months.

Work-Study

Participants must train at the three-quarter or full-time rate. They will be paid in advance 40 percent of the amount specified in the work-study agreement or an amount equal to 50 times the applicable minimum wage, whichever is less. Participants under the supervision of a VA employee may provide outreach services, prepare and process VA paperwork, and work at a VA medical facility or perform other approved activities.

Period of Eligibility

If a reservist stays in the Selected Reserve, benefits end 10 years from the date the reservist became eligible for the program. VA may extend the 10-year period if the individual could not train due to a disability caused by Selected Reserve service. If a reservist leaves the Selected Reserve because of a disability, the individual may use the full 10 years. VA may also extend the 10-year period if the reservist was ordered to active duty during the Persian Gulf War. In other cases, benefits end on the day the reservist leaves the Selected Reserve, except that certain individuals separated from the Selected Reserve due to downsizing of the military between Oct. 1, 1991, and Sept. 30, 1999, will have the full 10 years to use their benefits. If the 10-year period ends, however, while the participant is attending school, VA will pay benefits until the end of the term. If the training is not on a term basis, payments may continue for 12 weeks.

Counseling

Counseling may be available for individuals who are eligible for VA educational assistance; who are on active duty and within 180 days of discharge; or who have been discharged one year or less under conditions other than dishonorable. VA will help these individuals understand their educational and vocational strengths and weaknesses and plan an educational or vocational goal. VA also may help individuals plan a job search.

Veterans' Educational Assistance Program → before MGIB

Eligibility

Under VEAP, active duty personnel voluntarily participated in a plan for education or training in which their savings were administered and added to by the federal government. Servicepersons were eligible to enroll in VEAP if they entered active duty for the first time after Dec. 31, 1976, and before July 1, 1985. Some contribution to VEAP must have been made prior to April 1, 1987. The maximum participant contribution is $2,700. While on active duty, participants may make a lump-sum contribution to the training fund.

A serviceperson who participated in VEAP is eligible to receive benefits while on active duty if: (1) at least three months of contributions are available, except for high school or elementary school in which case only one month of contributions is needed; and (2) the first active-duty commitment is completed.

If the individual's first term is for more than six years, benefits may be available after six years. To attend an elementary or high school program, the individual must be in the last six months of the first enlistment.

A veteran who participated in VEAP is eligible to receive benefits if the discharge was under conditions other than dishonorable and: (1) the first enlistment was prior to Sept. 8, 1980; or the participant entered active duty as an officer on or before Oct. 16, 1981, and

served for a continuous period of 181 days or more, or was discharged for a service-connected disability; or (2) the participant enlisted for the first time on or after Sept. 8, 1980; or entered active duty as an officer on or after Oct. 17, 1981, and completed 24 continuous months of active duty.

Education eligibility may be established even though the required active duty is not completed if the veteran: (1) receives VA disability compensation or military disability retirement; (2) served a previous period of at least 24 continuous months of active duty before Oct. 17, 1981; or (3) was discharged or released for early out, hardship or service-connected disability.

An individual who contributed or who could have contributed to VEAP before being involuntarily separated from active duty with an honorable discharge may elect before separation to receive Montgomery GI Bill (Active Duty) benefits. VEAP participants who voluntarily separate from active duty after Dec. 4, 1991, under the Special Separation Benefit or the Voluntary Separation Incentive Program also may elect to participate in the Montgomery GI Bill (Active Duty). VEAP participants on active duty may make an irrevocable election to transfer to the Montgomery GI Bill (Active Duty) program.

Education and Training Available

VEAP participants may pursue associate, bachelor or graduate degrees at colleges or universities. Courses leading to a certificate or diploma from business, technical or vocational schools may also be taken. Other opportunities include apprenticeship or on-job training programs; cooperative courses; correspondence-school courses; tutorial assistance; refresher, deficiency and other training; and state-approved alternative teacher certification programs.

Flight training also may be pursued, including solo flying hours up to the minimum required by the FAA for the rating or certification being pursued. Before beginning training, the veteran must have a private pilot license and meet the physical requirements for a commercial license.

A participant may study abroad in programs leading to a college degree and in programs which offer, as part of the curriculum, nontraditional training away from school. A participant with a deficiency in a subject may receive tutorial assistance benefits if enrolled half-time or more.

Pamela B. VanWie
06/24/97 04:51:07 PM

Record Type: Record

To: Diana Fortuna/OPD/EOP

cc:
Subject: Re: Reauthorization

It will take a couple of weeks to send the proposed bill through the clearance process and negotiate the minor changes.

I guess it depends on the type of Presidential event you are envisioning. If you are planning to do a formal roll-out and transmittal of the bill to the Hill as the Presidential event then we need to make sure that the entire package is completed and all the kinks are worked out. If you are planning a Presidential event that will get the Hill together with the President in an effort to urge the Hill to act on the reauthorization (and we don't transmit anything) then we might not need to work out every last detail.

As we talked yesterday, one of the big issues is going to be making the education award nontaxable. They have estimated a paygo effect of $14-$20 million. We will need to find an offset for that and a little more for the other paygo provision, including 200 people under workers' comp and tort liability protection.

Connie Bowers in Legislative Reference said that you should receive a copy of the package first thing in the morning.

I will be here until 6 p.m. today. However, I won't be in tomorrow. Give me a call at home at 301-593-8755 if you want to talk or we can talk on Thursday.

Thanks.

Is it fair?

Other Similar Grants

JGompert @ cns.gov
05/30/97 02:30:00 PM

Record Type: Record

To: Diana Fortuna

cc:

Subject: Taxability of Education Awards . . .

OK, here's the downside of being good and helpful . . . people come back with more questions. So here's the next question.

We are going to send our completed draft of our reauthorization proposal to OMB early next week. Our goal is to get through the OMB process so that we might be able to have the bill introduced before the end of the next Congressional work period, in other words before June 26th. That's ambitious, but we want to be bold.

OK, here's the rub. As we said in our meeting last week, the single most important issue to AmeriCorps participants is the taxability of the education award. We'd love to propose it, and we'd love for the President to support it. This proposal -- think of it as a tax cut for young people -- would generate some real enthusiasm for the bill. But . . . this will be very hard to clear with OMB, and could potentially slow down the approval process. It isn't hard to imagine the IRS taking forever to review the proposal, and then issuing a negative result.

My question is this. Perhaps OMB and the IRS would look more quickly and more favorably upon the proposal if it was something that the President was enthusiastic about. Alternatively, if the President supported this proposal vigorously, it could conceivably be done administratively at the IRS. The IRS shot the idea down before, but nothing was ever raised to a senior level at CNS, IRS or the White House.

What is your counsel given our potentially conflicting goals of moving relatively quickly through the OMB process but also getting the taxability of education awards dealt with. We all wonder what you and Bruce (and others) think about all this.

Thanks for your help. Talk to you soon. JG

From: Diana_Fortuna[SMTP:Diana_Fortuna@oa.eop.gov]
Sent: Monday, April 21, 1997 1:49 PM
To: JGompert
Subject: Re: FYI

Message Creation Date was at 21-APR-1997 13:49:00

Am Reads rollout probably at radio address. Only other presummit event is
FL/RIF, but we are not doing any announcements there.

Pamela B. VanWie
07/24/97 07:24:51 PM

Record Type: Record

To: Diana Fortuna/OPD/EOP
cc:
bcc:
Subject: Re: taxability

Yes, Treasury is off-base in comparing the stipend to a summer job and the AmeriCorps stipend is taxable. I don't know if it is appropriate to also add that an AmeriCorps stipend is probably lower (less than the $5.15 minimum wage) than what someone might be earning working at a summer job. This is a choice an AmeriCorps member makes to work in a community service job making less but realizing that she will also receive help for college.

I am not really comfortable with the Treasury proposal to align it with the proposal to universities' loan forgiveness tax -free. I would like to find some way to make all AmeriCorps educational awards tax free no matter if you use them to pay student loans after you have been to college or to pay for college in the future. One thing I also learned the other day is that many of the young people receiving the awards have used them for both. For example, a person may have taken out loans for the first two years of school and then decides to join up with AmeriCorps for a year or two. When this person finishes his service he could pay off his loan and then use the rest to fund college for the next two years. If we align these with different proposals it could be confusing and we could wind up taking care of some AmeriCorps members and not others.

Depending on what we want to do with this (make it a Presidential priority, an Administration iniatitive, etc.), we may need to convene some experts from ED, IRS, Treasury etc, and say we want to do this in one package. Now how can we make it work. Just a thought ---

Diana Fortuna

Diana Fortuna
07/23/97 07:29:09 PM

Record Type: Record

To: Pamela B. VanWie/OMB/EOP
cc:
Subject: taxability

Aren't Treasury's arguments pretty off-base when they compare AmeriCorps scholarships to college summer jobs? These are scholarships, not jobs. I assume the AmeriCorps stipend is taxable.

On Treasury's notion of aligning this with our proposal to make universities' loan forgiveness for service tax-free, and the fact that the House and Senate have picked this up: how would we accomplish this? I assume we would have to propose a change to our legislative proposal, and do so immediately -- unless Treasury meant we could piggy-back onto this at a later date.

Diana –

Sorry this took a couple of days, but here is the material on the taxability of education awards. My understanding is that the bill is going to OMB today, with the non-taxability provision in the bill. If we want to move fast, then either we need your big-time support for that provision, or we probably should pull it out. That's what we need your guidance on.

Thanks. JG

6/5/97

asked for est of cost

CORPORATION
FOR NATIONAL
SERVICE

June 6, 1997

NOTE TO: JOHN GOMPERTS

FROM: GARY KOWALCZYK

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.

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

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.

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

OFFICE OF
CHIEF COUNSEL

RECEIVED 4-15-97

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

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)

Pamela B. VanWie
08/07/97 05:53:04 PM

Record Type: Record

To: Diana Fortuna/OPD/EOP

cc: Larry R. Matlack/OMB/EOP
Subject: Heads up on conversation with Kathy Livingston

I just had a very helpful conversation with Kathy Livingston about the CNCS Education award taxability issue. She is going to call you directly. Here's a heads up about some of the issues she will raise.

Section 127 that CNCS referenced in their legislation is really not a fit for what they are trying to do. Kathy had some ideas about what could be done but wanted to talk with you and raise some political questions. One of things she wants to talk about is if the Administration wants to tackle amending the tax code and putting this bill in the jurisdiction of the tax commitees. (Very similar to what you said Gomperts was concerned about.)

Kathy indicated that there may be some other ways to work through this issue although they would not be as clean and direct as putting it in the tax code.

Her comments that I quoted in the materials I sent to you were written before the tax bill passed. The tax bill did indeed include Section 108(f) but she is not sure now that this would be a good route to follow.

She was also going to talk with other folks in the office of tax policy and do some thinking about what can be done to make these awards tax free.

Comparison between Americorps Taxability and other agency programs

Program	Retrospec	retro-tax	prospect	pro-tax	separate programs?
Ameri-corps	yes	yes	yes	yes	no
Peace-Corps	yes	no	yes	no	yes
GI Bill	no	N/A	yes	no	(yes)
Health Prof. Scholar-ship	yes	yes	no	N/A	(yes)
Byrd Scholar	no	N/A	yes	no	N/A
Hope Scholar	no	N/A	yes	no	N/A
Pell Grant	no	N/A	yes	no	N/A
Student Loan (repay)	yes	?????	N/A	N/A	N/A
Student Loan (cancel)	yes	?????	N/A	N/A	N/A

Things like the Byrd Scholarship, the Hope Scholarship, and the Pell Grant, are tax exempt under § 117. This section excludes from the definition of "qualified scholarship" any educational award that is given in exchange for service. Since AmeriCorps grants are contingent on Service they are not included under this title. (Neither is the GI BIll)

Under §127, up to $5250 can be excluded from gross income for educational assistance furnished to an individual during a calander year. In the letter that the IRS sent to CNS, the IRS said that Americorps could not be exempted under §127 because of the retrospective aspect of the program. Since retrospective payment of loans is not specifically exempted then the §127 provision is read to only apply to prospective grants. (GI Bill is exempt under this Title I think)

Niether PeaceCorps nor VISTA cancellation are taxable -- there is some special tax code pertaining to them, but I don't know what it is. It sounds like it's something that allows cancellation of

Perkins Loans to be non-taxable, although it may exempt Peace Corps and Vista specifically.
I don't know anything about student loan repayments, and cancellations, and under what circumstances they are non-taxable etc.

In order to make Americorps tax exempt, they either have to get rid of the retrospective option so that they can fall under §127, or they have to get legislation that exempts them -- like Peace Corps and Vista.

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).

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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.

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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 4-15-97

APR - 8 1997

OFFICE OF
CHIEF COUNSEL

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

DRAFT
CNCS REAUTHORIZATION TO MAKE EDUCATION AWARD TAX FREE

Background

The draft reauthorization proposal submitted by the CNCS to OMB includes a proposal to make the education award for AmeriCorps members exempt from Federal income tax. An education award is provided to AmeriCorps members that successfully complete a term of service. If AmeriCorps members serve full time the education award is $4,725 and if they serve part-time it is a pro-rated according to their service. (CNCS also pays the interest that accrues on a loan during a term of service. Currently the interest is taxable, but CNCS wants to exempt the interest from taxes, too.)

National Service has estimated that the tax impact on an annual basis will be about $14 million. If AmeriCorps expands due to America Reads funding and the President's Summit commitment to challenge scholarships, the annual cost could approach $20 million. The Administration would need to find offsets for this amount.

(CNCS has just learned that the Minnesota legislature recently passed a law exempting AmeriCorps education awards from State income tax and Minnesota estimated the state tax impact as negligible. In addition, Senator Dodd has just introduced a bill that would allow non-federal loans to be forgiven for performing community service. He stated on the Senate floor that Treasury estimated the tax impact of this as $0. CNCS is checking to see how Treasury calculated the impact to be $0and may be able to lower its initial tax impact estimate based on these recent estimates.)

CNCS reasons for making the awards nontaxable

CNCS makes four arguments for making the awards nontaxable.

1) Making the awards nontaxable is the single most demonstrable step the President could take to benefit AmeriCorps Members.

2) Taxing the awards is inequitable since GI Bill benefits are not taxed.

3)The tax is a burden on AmeriCorps Members. The CNCS pays the school or loan holder the amount of the award, and the AmeriCorps member must them come up with personal funds to cover the income tax. This burden is particularly great on young student types that do not have a steady income.

4) Taking this step is consistent with the President's recent announcements concerning service and the tax code.

Comparison with current tax status of Federal student aid

The OMB Education branch researched the current tax status of Federal grants, student loans and work-study. This is what they found.

Federal grants of all kinds. No tax is paid on the grant if the grant is used to pay for tuition, fees, books, etc. However, if the grant is used to pay for living expenses then the recipient must pay taxes.

Student loans. If a student loan is paid back, no tax is assessed. However, if the individual receives forgiveness or cancellation of a loan then the individual must pay the taxes on the amount of the loan.

Work-study. Work study students do not pay employment taxes, however they do pay SSI, etc.

AmeriCorps Members use the education award to pay for tuition, fees and books at a institution offering post-secondary education and training. It cannot be used to pay for living expenses. Members also use the education award to repay (not forgive) a student loan. Both of these uses of the education award would not be taxable if the education award was a federal grant or a student loan.

Treasury Comments regarding the CNCS proposal

The Department of Treasury submitted these comments in response to the CNCS's reauthorizaiton proposal to eliminate the income tax on the education award given to AmeriCorps members.

Treasury stated, the IRS code referenced "ordinarily applies to employees who receive education assistance from their employers to pay for tuition fees and related expenses while they continue to work for their employers." Treasury also points out that AmeriCorps participants receive the award after they have finished "working for the employer". According to Treasury the section of the IRS code referenced also has additional requirements that CNCS may not want to meet. For example, there must be a written plan for the educational assistance program. Treasury does not support extending the IRS section to cover educational awards.

In fact, Treasury states that they are opposed to providing favorable tax treatment when an education award is used to pay tuition and associated fees for new education starting after the participant has finished serving in AmeriCorps. They say, " it will create an inequity to say that someone who works for AmeriCorps and gets $4,725 in return can pay no tax and use the whole amount for school while someone who works part-time for the summer -- at a camp for kids with cancer, or constructing low-income housing -- and makes $4,725 must pay tax on it before using it to pay for school. Similarly a student who receives a stipend from his/her college or university in return for on-going campus work must pay taxes on the amount received. We cannot argue that favorable tax treatment is needed to encourage students without debt burdens to participate in AmeriCorps. If they have not yet gone to school and accumulated debt, or if they've already gone to school and have no debt burden toward which they can apply the educational ward, then they do not face an economic obstacle to participation in AmeriCorps. They will need to cover their living expenses like all AmeriCorp participants, but they will not have an additional debt burden that they are legally obligated to meet yet cannot meet with the very small AmeriCorps stipend."

However, Treasury offered a possible fix for part of the education award problem. They said, " it may be possible to align this proposal with the Administration's existing proposal to expand tax-free student loan forgiveness under section 108(f) of the Code. That proposal has been incorporated into both the House and Senate tax legislation. It says that if a private educational or charitable institution extends a loan to a student to help pay their costs of attendance for higher education and the lender subsequently forgives part or all of the loan in return for the student's working in areas of occupations with "unmet needs" for a certain period of time, the student will not be treated as having any income from the loan forgiveness. This treatment already exists under current law where the lender is the federal state or local government. The amounts provided by AmeriCorps that are used to repay student loans could be treated the same way as amounts the charitable educational institutions forgive from outstanding student loan balances. The rationale for the proposal is that students are foregoing opportunities to earn higher wages in return for using their training for the benefit of others in need. For students from the most expensive educational institutions, either the burden of repaying the debt of the tax burden associated with the loan forgiveness may make it impossible to perform low-paying community service jobs."

Treasury's opposition to providing favorable tax treatment when an education award is used to pay tuition and associated fees for new education starting after the participant has finished serving in AmeriCorps is missing the broad vision of why the CNCS was established -- to make it possible for all Americans to engage in substantial service and earn an education award to use for post-secondary education and training. The original drafters wanted to recruit national service participants from a broad spectrum of society not only those with student loans to pay back.

<u>Possible Options</u>

1) The President decides that he wants to do more for national service and decides that educational awards will be exempt from taxes and the IRS code is amended to say so.

2) For the purposes of the IRS code, consider the education award to be a federal education grant or perhaps even like the GI Bill. (We are talking with the drafters about this option and see if we could reference another section of the IRS code, education law or GI Bill law.)

3) Reject the idea of exempting the education awards from federal income taxes. AmeriCorps Members like all good citizens of the U.S. should be required to pay taxes.

Pamela B. VanWie
07/21/97 05:56:36 PM

Record Type: Record

To: Diana Fortuna/OPD/EOP

cc:
Subject: CNCS reauthorization -- Taxability Issue

We need to talk soon about the section of the CNCS reauthorization that would make the AmeriCorps members educational awards educational assistance under section 127 of the IRS code and therefore may the award not taxable.

We need to determine:

1) if the Administration wants to support this provision in spite of Treasury's objections; and

2) if we want to support this can we find an offset for the paygo costs.

Please let me know what we should do to get a policy call on this issue.

Thanks. (Hope you had a nice week off.)

Pamela B. VanWie
06/24/97 04:51:07 PM

Record Type: Record

To: Diana Fortuna/OPD/EOP

cc:
Subject: Re: Reauthorization

It will take a couple of weeks to send the proposed bill through the clearance process and negotiate the minor changes.

I guess it depends on the type of Presidential event you are envisioning. If you are planning to do a formal roll-out and transmittal of the bill to the Hill as the Presidential event then we need to make sure that the entire package is completed and all the kinks are worked out. If you are planning a Presidential event that will get the Hill together with the President in an effort to urge the Hill to act on the reauthorization (and we don't transmit anything) then we might not need to work out every last detail.

As we talked yesterday, one of the big issues is going to be making the education award nontaxable. They have estimated a paygo effect of $14-$20 million. We will need to find an offset for that and a little more for the other paygo provision, including 200 people under workers' comp and tort liability protection.

Connie Bowers in Legislative Reference said that you should receive a copy of the package first thing in the morning.

I will be here until 6 p.m. today. However, I won't be in tomorrow. Give me a call at home at 301-593-8755 if you want to talk or we can talk on Thursday.

Thanks.