

107TH CONGRESS
2D SESSION

H. R. 5192

To amend the Internal Revenue Code of 1986 to allow a credit for contributions for the benefit of elementary and secondary schools.

IN THE HOUSE OF REPRESENTATIVES

JULY 23, 2002

Mr. SCHAFFER (for himself, Mr. HOEKSTRA, Mr. SHOWS, Mr. LIPINSKI, Mr. CAMP, Mr. LEWIS of Kentucky, Mr. MCINNIS, Mr. KINGSTON, Mr. DEMINT, Mr. SHADEGG, Mr. TANCREDO, Mr. CANTOR, Mr. SMITH of Michigan, Mr. TIBERI, Mr. PITTS, Ms. HART, Mr. GUTKNECHT, Mr. PAUL, Mr. BARR of Georgia, Mr. AKIN, Mr. KERNS, Mr. TERRY, Mr. SENSENBRENNER, Mr. BURTON of Indiana, Mr. SOUDER, and Mr. PICKERING) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to allow a credit for contributions for the benefit of elementary and secondary schools.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Education Freedom
5 Act”.

1 **SEC. 2. CREDIT FOR CONTRIBUTIONS FOR THE BENEFIT OF**
2 **ELEMENTARY AND SECONDARY SCHOOLS.**

3 (a) IN GENERAL.—Subpart B of part IV of sub-
4 chapter A of chapter 1 of the Internal Revenue Code of
5 1986 is amended by adding at the end the following new
6 section:

7 **“SEC. 30B. CREDIT FOR CONTRIBUTIONS FOR THE BENEFIT**
8 **OF ELEMENTARY AND SECONDARY SCHOOLS.**

9 “(a) ALLOWANCE OF CREDIT.—There shall be al-
10 lowed as a credit against the tax imposed by this chapter
11 for the taxable year an amount equal to 50 percent of the
12 qualified charitable contributions of the taxpayer for the
13 taxable year.

14 “(b) LIMITATIONS.—

15 “(1) INDIVIDUALS, ETC.—In the case of a tax-
16 payer other than a corporation, the credit allowed by
17 subsection (a) for any taxable year shall not exceed
18 \$250 (\$500 in the case of a joint return).

19 “(2) CORPORATIONS.—In the case of a corpora-
20 tion, the credit allowed by subsection (a) shall not
21 exceed \$50,000.

22 “(3) LIMITATION IN CASE OF STATE CREDIT.—
23 Subject to subsection (d)(2), in the case of a tax-
24 payer which claims a credit on a State income tax
25 return for any qualified charitable contribution, the

1 amount of credit under this section shall be the less-
2 er of—

3 “(A) the amount which, when added to the
4 amount of the State income tax credit, equals
5 the total amount of the taxpayer’s qualified
6 charitable contributions, or

7 “(B) the limitation amount that applies
8 under paragraph (1) or (2).

9 “(c) QUALIFIED CHARITABLE CONTRIBUTION.—For
10 purposes of this section—

11 “(1) IN GENERAL.—The term ‘qualified chari-
12 table contribution’ means, with respect to any tax-
13 able year, the aggregate amount allowable as a de-
14 duction under section 170 (determined without re-
15 gard to subsection (d)(1)) for cash contributions—

16 “(A) to an education investment organiza-
17 tion, or

18 “(B) to a public, private, or religious
19 school providing education at the elementary or
20 secondary level.

21 “(2) EDUCATION INVESTMENT ORGANIZA-
22 TION.—For purposes of this section—

23 “(A) IN GENERAL.—The term ‘education
24 investment organization’ means any organiza-
25 tion described in section 170(c)(2) if the annual

1 disbursements of the organization in the form
2 of grants for qualified elementary and sec-
3 ondary education expenses are normally not less
4 than 90 percent of the sum of such organiza-
5 tion's annual gross income and contributions
6 and gifts.

7 “(B) QUALIFIED ELEMENTARY AND SEC-
8 ONDARY EDUCATION EXPENSES.—The term
9 ‘qualified elementary and secondary education
10 expenses’ has the meaning given such term by
11 section 530(b)(4), except that ‘child’ shall be
12 substituted for ‘beneficiary’ and ‘a child’ shall
13 be substituted for ‘the designated beneficiary of
14 the trust’ in clauses (i) and (iii) of subpara-
15 graph (A).

16 “(d) SPECIAL RULES.—

17 “(1) DENIAL OF DOUBLE BENEFIT.—No deduc-
18 tion shall be allowed under this chapter for any con-
19 tribution for which credit is allowed under this sec-
20 tion.

21 “(2) APPLICATION WITH OTHER CREDITS.—
22 The credit allowed by subsection (a) for any taxable
23 year shall not exceed the excess of—

1 “(A) the sum of the regular tax liability
2 (as defined in section 26(b)) plus the tax im-
3 posed by section 55, over

4 “(B) the sum of the credits allowable
5 under this part (other than sections 21, 22, 24,
6 25A, 25B, subpart C, and this section) and
7 under section 1397E.

8 “(3) CONTROLLED GROUPS.—All persons who
9 are treated as one employer under subsection (a) or
10 (b) of section 52 shall be treated as 1 taxpayer for
11 purposes of this section.

12 “(e) ELECTION TO HAVE CREDIT NOT APPLY.—A
13 taxpayer may elect to have this section not apply for any
14 taxable year.”.

15 (b) CLERICAL AMENDMENT.—The table of sections
16 for subpart B of part IV of subchapter A of chapter 1
17 of such Code is amended by adding at the end the fol-
18 lowing new item:

“Sec. 30B. Credit for contributions for the benefit of elementary
and secondary schools.”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to taxable years beginning after
21 December 31, 2002.

1 **SEC. 3. EXCLUSION FROM GROSS INCOME OF GRANTS**
2 **FROM EDUCATION INVESTMENT ORGANIZA-**
3 **TIONS.**

4 (a) **IN GENERAL.**—Part III of subchapter B of chap-
5 ter 1 of the Internal Revenue Code of 1986 (relating to
6 items specifically excluded from gross income) is amended
7 by inserting after section 117 the following new section:

8 **“SEC. 117A. GRANTS FROM EDUCATION INVESTMENT ORGA-**
9 **NIZATIONS.**

10 “(a) **GENERAL RULE.**—Gross income does not in-
11 clude any amount received as a grant for qualified elemen-
12 tary and secondary education expenses from an education
13 investment organization.

14 “(b) **DEFINITIONS.**—For purposes of this section, the
15 terms ‘qualified elementary and secondary education ex-
16 penses’ and ‘education investment organization’ have the
17 meanings provided by section 30B.”.

18 (b) **CLERICAL AMENDMENT.**—The table of sections
19 for part III of subchapter B of chapter 1 of such Code
20 is amended by inserting after the item relating to section
21 117 the following:

“Sec. 117A. Grants from education investment organizations.”.

22 (c) **EFFECTIVE DATE.**—The amendments made by
23 this section shall apply to amounts received in taxable
24 years beginning after December 31, 2002.

1 **SEC. 4. REVISION OF DEFINITION OF SCHOOL FOR PUR-**
2 **POSES OF QUALIFIED ELEMENTARY AND**
3 **SECONDARY EDUCATION EXPENSES.**

4 (a) **IN GENERAL.**—Paragraph (4) of section 530(b)
5 of the Internal Revenue Code of 1986 (defining qualified
6 elementary and secondary education expenses) is
7 amended—

8 (1) in clauses (i) and (ii) of subparagraph (A),
9 by striking “public, private, or religious”, and

10 (2) in subparagraph (B), by inserting after
11 “any school” the following: “, including a public,
12 private, religious, or home school,”.

13 (c) **EFFECTIVE DATE.**—The amendments made by
14 this section shall apply to taxable years beginning after
15 December 31, 2002.

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