

109TH CONGRESS  
1ST SESSION

# H. R. 3585

To amend the Internal Revenue Code of 1986 to exclude from gross income employer contributions to college tuition plans and education savings accounts.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2005

Mr. PORTER (for himself, Mr. McKEON, Mr. GARRETT of New Jersey, Ms. GINNY BROWN-WAITE of Florida, Mr. RUPPERSBERGER, Mr. HOSTETTLER, Mr. KLINE, Mr. PAUL, Mr. SOUDER, Mr. NEUGEBAUER, Mr. PLATTS, Ms. ROS-LEHTINEN, and Mr. REHBERG) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to exclude from gross income employer contributions to college tuition plans and education savings accounts.

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 Savings Act  
5       of 2005”.

1 **SEC. 2. EXCLUSION FROM GROSS INCOME FOR CONTRIBU-**  
2 **TIONS TO EDUCATION SAVINGS ENTITIES.**

3 (a) IN GENERAL.—Part III of subchapter B of chap-  
4 ter 1 of the Internal Revenue Code of 1986 (relating to  
5 items specifically excluded from gross income) is amended  
6 by inserting after section 127 the following new section:

7 **“SEC. 127A. CONTRIBUTIONS TO EDUCATION SAVINGS EN-**  
8 **TITIES.**

9 “(a) IN GENERAL.—Gross income of an employee  
10 does not include amounts paid by the employer as con-  
11 tributions to an education savings entity held by the em-  
12 ployee or spouse of the employee if the contributions are  
13 made pursuant to a program which is described in sub-  
14 section (b).

15 “(b) EDUCATIONAL ASSISTANCE PROGRAM.—For  
16 purposes of this section, an educational assistance pro-  
17 gram is a separate written plan of an employer for the  
18 benefit of such employer’s employees—

19 “(1) under which the employer makes contribu-  
20 tions to education savings entities of such employees  
21 or spouses of employees, and

22 “(2) which meets requirements similar to the  
23 requirements of paragraphs (2), (3), (4), (5), and  
24 (6) of section 127(b).

25 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-  
26 poses of this section—

1 “(1) EDUCATION SAVINGS ENTITY.—The term  
2 ‘education savings entity’ means—

3 “(A) a qualified tuition program (as de-  
4 fined in section 529(b)), and

5 “(B) a Coverdell education savings account  
6 (as defined in section 530(b)).

7 “(2) EMPLOYEE AND EMPLOYER.—The terms  
8 ‘employee’ and ‘employer’ shall have the meaning  
9 given such terms by paragraphs (2) and (3), respec-  
10 tively, of section 127(c).

11 “(3) APPLICABLE RULES.—Rules similar to the  
12 rules of paragraphs (4), (5), (6), and (7) of section  
13 127(c) shall apply.

14 “(d) CROSS REFERENCE.—For reporting and record-  
15 keeping requirements, see section 6039D.”.

16 (b) EXCLUSION FROM EMPLOYMENT TAXES.—

17 (1) Sections 3121(a)(18), 3306(b)(13), and  
18 3401(a)(18) of such Code are each amended by in-  
19 serting “127A,” after “127,” each place it appears.

20 (2) Section 3231(e)(6) of such Code is amended  
21 by striking “section 127” and inserting “section 127  
22 or 127A”.

23 (c) REPORTING AND RECORDKEEPING REQUIRE-  
24 MENTS.—Section 6039D(d)(1) of such Code is amended  
25 by inserting “127A,” after “127,”.

1 (d) OTHER CONFORMING AMENDMENTS.—

2 (1) Section 51A(b)(5)(B) of such Code is  
3 amended by striking “or” at the end of clause (iii),  
4 by redesignating clause (iv) as clause (v), and by in-  
5 serting after clause (iii) the following new clause:

6 “(iv) section 127A (relating to con-  
7 tributions to education savings entities),  
8 but only to the extent paid or incurred to  
9 a person not related to the employer, or”.

10 (2) Sections 125(f), 414(n)(3)(C), and  
11 414(t)(2) of such Code are each amended by insert-  
12 ing “127A,” after “127,” each place it appears.

13 (3) Section 132(j)(8) of such Code is amended  
14 by striking “section 127” and inserting “section 127  
15 or 127A”.

16 (4) Section 1397(a)(2)(A) of such Code is  
17 amended by inserting at the end the following new  
18 clause:

19 “(iii) Any amount paid or incurred by  
20 an employer which is excludable from the  
21 gross income of an employee under section  
22 127A, but only to the extent paid or in-  
23 curred to a person not related to the em-  
24 ployer.”.

1           (5) Section 209(15) of the Social Security Act  
2           (42 U.S.C. 409(15)) is amended by striking “or  
3           129” and inserting “, 127A, or 129”.

4           (e) CLERICAL AMENDMENT.—The table of sections  
5 for part III of subchapter B of chapter 1 of such Code  
6 is amended by inserting after the item relating to section  
7 127 the following new item:

“Sec. 127A. Contributions to education savings entities.”.

8           (f) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to remuneration paid after Decem-  
10 ber 31, 2005.

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