

109TH CONGRESS  
2D SESSION

# H. R. 4834

To amend the Internal Revenue Code of 1986 to allow a business tax credit for contributions to education scholarship organizations.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 1, 2006

Mr. ENGLISH of Pennsylvania (for himself and Mr. PICKERING) 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 allow a business tax credit for contributions to education scholarship organizations.

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 “Businesses Supporting  
5       Education Act of 2006”.

6       **SEC. 2. TAX CREDIT FOR CONTRIBUTIONS TO EDUCATION**  
7       **SCHOLARSHIP ORGANIZATIONS.**

8       (a) IN GENERAL.—Subpart D of part IV of sub-  
9       chapter A of chapter 1 of the Internal Revenue Code of

1 1986 (relating to business related credits) is amended by  
2 adding at the end the following new section:

3 **“SEC. 45N. CONTRIBUTIONS TO EDUCATION SCHOLARSHIP**  
4 **ORGANIZATIONS.**

5 “(a) GENERAL RULE.—For purposes of section 38,  
6 in the case of a corporation, partnership, or trade or busi-  
7 ness carried on as a sole proprietorship, the education  
8 scholarship credit determined under this section for the  
9 taxable year is the aggregate amount of qualified contribu-  
10 tions for the taxable year.

11 “(b) LIMITATION.—

12 “(1) DOLLAR LIMITATION.—The amount of the  
13 credit determined under this section for any taxable  
14 year shall not exceed \$100,000.

15 “(2) APPLICATION TO PARTNERSHIPS AND S  
16 CORPORATIONS.—In the case of a partnership, the  
17 limitations of paragraph (1) shall apply with respect  
18 to the partnership and with respect to each partner.  
19 A similar rule shall apply in the case of an S cor-  
20 poration and its shareholders.

21 “(c) QUALIFIED CONTRIBUTIONS.—For purposes of  
22 this section—

23 “(1) IN GENERAL.—The term ‘qualified con-  
24 tribution’ means a charitable contribution (as de-

1       fined by section 170(c)) to an education scholarship  
2       organization.

3           “(2) EDUCATION SCHOLARSHIP ORGANIZA-  
4       TION.—The term ‘education scholarship organiza-  
5       tion’ means any organization which is described in  
6       section 170(c)(2) and exempt from tax under section  
7       501(a) and whose exclusive purpose is to provide  
8       scholarships for the qualified elementary and sec-  
9       ondary education expenses of eligible students.

10          “(3) ELIGIBLE STUDENT.—The term ‘eligible  
11       student’ means an individual—

12               “(A) who is enrolled in an elementary or  
13       secondary school (within the meaning of section  
14       530(b)(4)(B)),

15               “(B) who is a member of a household with  
16       a total annual household income which does not  
17       exceed 250 percent of the Federal poverty  
18       guidelines (as determined by the Secretary of  
19       Health and Human Services), and

20               “(C) with respect to whom the taxpayer is  
21       entitled to a deduction for the taxable year  
22       under section 151.

23          “(4) QUALIFIED ELEMENTARY AND SECONDARY  
24       EDUCATION EXPENSES.—The term ‘qualified ele-  
25       mentary and secondary education expenses’ has the

1 meaning given such term by section 530(b)(4), ex-  
 2 cept that ‘child’ shall be substituted for ‘beneficiary’  
 3 and ‘a child’ shall be substituted for ‘the designated  
 4 beneficiary of the trust’ in clauses (i) and (iii) of  
 5 subparagraph (A) thereof.

6 “(5) SCHOLARSHIP.—The term ‘scholarship’  
 7 does not include any payment to fulfill or fund any  
 8 obligation or project of any school or school system  
 9 to provide a free, appropriate public education.

10 “(d) DENIAL OF DOUBLE BENEFIT.—No deduction  
 11 shall be allowed under any provision of this chapter for  
 12 any expense for which a credit is allowed under this sec-  
 13 tion.

14 “(e) ELECTION.—This section shall apply to a tax-  
 15 payer for a taxable year only if such taxpayer elects to  
 16 have this section apply for such taxable year.”.

17 (b) EXCISE TAX ON FAILURE OF EDUCATION  
 18 SCHOLARSHIP ORGANIZATIONS TO MAKE DISTRIBUTIONS.—  
 19 TIONS.—

20 (1) IN GENERAL.—Chapter 42 of such Code  
 21 (relating to private foundations and certain other  
 22 tax-exempt organizations) is amended by adding at  
 23 the end the following new subchapter:

1       **“Subchapter F—Education Scholarship**  
2                               **Organizations**

“Sec. 4966. Tax on failure to distribute receipts.

3       **“SEC. 4966. TAX ON FAILURE TO DISTRIBUTE RECEIPTS.**

4           “(a) TAX IMPOSED.—There is hereby imposed a tax  
5 on the failure of an education scholarship organization to  
6 make required distributions before the distribution dead-  
7 line.

8           “(b) AMOUNT OF TAX.—The tax imposed by sub-  
9 section (a) shall be equal to 15 percent of the excess (if  
10 any) of—

11                   “(1) the required distribution amount with re-  
12 spect to a taxable year, over

13                   “(2) the amount of receipts of the education  
14 scholarship organization for such taxable year which  
15 are distributed before the distribution deadline with  
16 respect to such receipts.

17           “(c) DEFINITIONS.—For purposes of this section—

18                   “(1) REQUIRED DISTRIBUTION AMOUNT.—The  
19 required distribution amount with respect to a tax-  
20 able year is the amount equal to 90 percent of the  
21 total receipts of the education scholarship organiza-  
22 tion for such taxable year.

1           “(2) DISTRIBUTIONS.—Distributions include  
2           amounts which are formally committed but not dis-  
3           tributed.

4           “(3) DISTRIBUTION DEADLINE.—The distribu-  
5           tion deadline with respect to receipts for a taxable  
6           year is the first day of the second taxable year fol-  
7           lowing the taxable year in which such receipts are  
8           received by the education scholarship organization.

9           “(d) REASONABLE CAUSE EXCEPTION.—The tax im-  
10          posed by subsection (a) shall not apply with respect to any  
11          failure to make required distributions before the distribu-  
12          tion deadline which is not willful and is due to reasonable  
13          cause.”.

14           (2) ABATEMENT OF TAX.—

15           (A) GENERAL RULE.—Subsection (b) of  
16           section 4962 of such Code (defining qualified  
17           first tier tax) is amended by striking “or D”  
18           and inserting “D, or F”.

19           (B) FIRST TIER TAX.—Subsection (a) of  
20           section 4963 of such Code (defining first tier  
21           tax) is amended by inserting “4966,” after  
22           “4958,”.

23           (C) TAXABLE EVENT.—Subsection (c) of  
24           section 4963 of such Code (defining taxable

1 event) is amended by inserting “4966,” after  
 2 “4958,”.

3 (3) CORRECTION PERIOD.—Subparagraph (A)  
 4 of section 4963(e)(2) of such Code (relating to spe-  
 5 cial rules for when taxable event occurs) is amended  
 6 by inserting “or 4966” after “4942”.

7 (4) CONFORMING AMENDMENT.—The table of  
 8 subchapters for chapter 42 of such Code is amended  
 9 by adding at the end the following new item:

“SUBCHAPTER F. EDUCATION SCHOLARSHIP ORGANIZATIONS”.

10 (c) CREDIT TO BE PART OF GENERAL BUSINESS  
 11 CREDIT.—Subsection (b) of section 38 of such Code (re-  
 12 lating to general business credit) is amended by striking  
 13 “plus” at the end of paragraph (29), by striking the period  
 14 at the end of paragraph (30) and inserting “, plus” , and  
 15 by adding at the end the following new paragraph:

16 “(31) the education scholarship credit section  
 17 45N(a).”.

18 (d) CLERICAL AMENDMENT.—The table of sections  
 19 for subpart D of part IV of subchapter A of chapter 1  
 20 of such Code is amended by inserting after the item relat-  
 21 ing to section 45M the following new item:

“Sec. 45M. Contributions to education scholarship organizations.”.

1       (e) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2005.

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