

111TH CONGRESS
2D SESSION

H. R. 6033

To amend the Internal Revenue Code of 1986 to consolidate education tax benefits into one credit against income tax for higher education expenses.

IN THE HOUSE OF REPRESENTATIVES

JULY 30, 2010

Mr. HALL of New York 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 consolidate education tax benefits into one credit against income tax for higher education expenses.

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 “Higher Education Af-
5 fordability Act of 2010”.

6 **SEC. 2. CONSOLIDATION OF EDUCATION TAX INCENTIVES**
7 **INTO HIGHER EDUCATION TAX CREDIT.**

8 (a) IN GENERAL.—Section 25A of the Internal Rev-
9 enue Code of 1986 (relating to Hope and Lifetime Learn-
10 ing credits) is amended to read as follows:

1 **“SEC. 25A. HIGHER EDUCATION TAX CREDIT.**

2 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
3 dividual, there shall be allowed as a credit against the tax
4 imposed by this chapter for the taxable year an amount
5 equal so much of the higher education expenses paid by
6 the taxpayer during the taxable year (for education fur-
7 nished during any academic period beginning in such tax-
8 able year with respect to each student for whom an elec-
9 tion is in effect under this section for any taxable year)
10 as does not exceed \$3,000.

11 “(b) LIMITATIONS.—

12 “(1) LIFETIME CREDIT LIMITATION.—The
13 amount of the credit allowed under subsection (a)
14 for any taxable year with respect to any student
15 shall not exceed the excess of—

16 “(A) \$15,000, over

17 “(B) the aggregate credit allowed under
18 subsection (a) with respect to such individual
19 for all prior taxable years.

20 “(2) CREDIT LIMITATION BASED ON MODIFIED
21 ADJUSTED GROSS INCOME.—

22 “(A) IN GENERAL.—The amount which
23 would (but for this paragraph) be taken into ac-
24 count under subsection (a) for the taxable year
25 shall be reduced (but not below \$500) by the
26 amount determined under subparagraph (B).

1 “(B) AMOUNT OF REDUCTION.—The
2 amount determined under this subparagraph is
3 the amount which bears the same ratio to the
4 amount which would be so taken into account
5 as—

6 “(i) the excess of—

7 “(I) the taxpayer’s modified ad-
8 justed gross income for such taxable
9 year, over

10 “(II) the applicable amount
11 under subparagraph (D), bears to

12 “(ii) \$24,000 (\$48,000 in the case of
13 a joint return).

14 “(C) MODIFIED ADJUSTED GROSS IN-
15 COME.—The term ‘modified adjusted gross in-
16 come’ means the adjusted gross income of the
17 taxpayer for the taxable year increased by any
18 amount excluded from gross income under sec-
19 tion 911, 931, or 933.

20 “(D) APPLICABLE AMOUNT.—The applica-
21 ble amount under this subparagraph is—

22 “(i) in the case of a joint return, 200
23 percent of the dollar amount in effect
24 under clause (ii) for the taxable year, and

25 “(ii) in any other case, \$80,000.

1 “(3) LIMITATION BASED ON AMOUNT OF
2 TAX.—In the case of a taxable year to which section
3 26(a)(2) does not apply, the credit allowed under
4 subsection (a) for the taxable year shall not exceed
5 the excess of—

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

9 “(B) the sum of the credits allowable
10 under this subpart (other than this section and
11 section 23) and section 27 for the taxable year.

12 “(c) DEFINITIONS.—For purposes of this sub-
13 section—

14 “(1) HIGHER EDUCATION EXPENSE.—The term
15 ‘higher education expense’ means any expense of a
16 type which is taken into account in determining the
17 cost of attendance (as defined in section 472 of the
18 Higher Education Act of 1965, as in effect on the
19 date of the enactment of this section) of a student
20 who is—

21 “(A) the taxpayer,

22 “(B) the taxpayer’s spouse, or

23 “(C) any dependent of the taxpayer with
24 respect to whom the taxpayer is allowed a de-
25 duction under section 151,

1 at an eligible educational institution with respect to
2 the attendance of such student at such institution
3 for the academic period for which the credit under
4 this section is being determined.

5 “(2) ELIGIBLE EDUCATIONAL INSTITUTION.—
6 The term ‘eligible educational institution’ means an
7 institution—

8 “(A) which is described in section 481 of
9 the Higher Education Act of 1965, as in effect
10 on the date of the enactment of the Taxpayer
11 Relief Act of 1997, and

12 “(B) which is eligible to participate in a
13 program under title IV of such Act.

14 “(d) SPECIAL RULES.—

15 “(1) IDENTIFICATION REQUIREMENT.—No
16 credit shall be allowed under subsection (a) to a tax-
17 payer with respect to any individual unless the tax-
18 payer includes the name and taxpayer identification
19 number of such student on the return of tax for the
20 taxable year.

21 “(2) ADJUSTMENT FOR CERTAIN SCHOLAR-
22 SHIPS.—The amount of higher education expenses
23 otherwise taken into account under subsection (a)
24 with respect to an individual for an academic period
25 shall be reduced (before the application of sub-

1 sections (a) and (b)) by the sum of any amounts
2 paid for the benefit of such individual which are allo-
3 cable to such period as—

4 “(A) a qualified scholarship which is ex-
5 cludable from gross income under section 117,

6 “(B) an educational assistance allowance
7 under chapter 30, 31, 32, 34, or 35 of title 38,
8 United States Code, or under chapter 1606 of
9 title 10, United States Code, and

10 “(C) a payment (other than a gift, be-
11 quest, devise, or inheritance within the meaning
12 of section 102(a)) for such student’s edu-
13 cational expenses, or attributable to such indi-
14 vidual’s enrollment at an eligible educational in-
15 stitution, which is excludable from gross income
16 under any law of the United States.

17 “(3) TREATMENT OF EXPENSES PAID BY DE-
18 PENDENT.—If a deduction under section 151 with
19 respect to an individual is allowed to another tax-
20 payer for a taxable year beginning in the calendar
21 year in which such individual’s taxable year begins—

22 “(A) no credit shall be allowed under sub-
23 section (a) to such individual for such individ-
24 ual’s taxable year, and

1 “(B) higher education expenses paid by
2 such individual during such individual’s taxable
3 year shall be treated for purposes of this section
4 as paid by such other taxpayer.

5 “(4) TREATMENT OF CERTAIN PREPAY-
6 MENTS.—If higher education expense is paid by the
7 taxpayer during a taxable year for an academic pe-
8 riod which begins during the first 3 months fol-
9 lowing such taxable year, such academic period shall
10 be treated for purposes of this section as beginning
11 during such taxable year.

12 “(5) DENIAL OF DOUBLE BENEFIT.—No credit
13 shall be allowed under this section for any expense
14 for which deduction is allowed under any other pro-
15 vision of this chapter.

16 “(6) NO CREDIT FOR MARRIED INDIVIDUALS
17 FILING SEPARATE RETURNS.—If the taxpayer is a
18 married individual (within the meaning of section
19 7703), this section shall apply only if the taxpayer
20 and the taxpayer’s spouse file a joint return for the
21 taxable year.

22 “(7) NONRESIDENT ALIENS.—If the taxpayer is
23 a nonresident alien individual for any portion of the
24 taxable year, this section shall apply only if such in-
25 dividual is treated as a resident alien of the United

1 States for purposes of this chapter by reason of an
 2 election under subsection (g) or (h) of section 6013.

3 “(e) PORTION OF CREDIT REFUNDABLE.—The ag-
 4 gregate credits allowed to a taxpayer under subpart C
 5 shall be increased by 20 percent of the portion of the
 6 amount of the credit which would have been allowed to
 7 the taxpayer under this section without regard to this sub-
 8 section and the limitation under section 26(a)(2) or sub-
 9 section (b)(4), as the case may be. The amount of the
 10 credit allowed under this subsection shall not be treated
 11 as a credit allowed under this subpart and shall reduce
 12 the amount of credit otherwise allowable under subsection
 13 (a) without regard to section 26(a)(2) or subsection
 14 (b)(3), as the case may be.

15 “(f) ELECTION NOT TO HAVE SECTION APPLY.—A
 16 taxpayer may elect not to have this section apply with re-
 17 spect to the higher education expenses of an individual for
 18 any taxable year.

19 “(g) INFLATION ADJUSTMENT.—

20 “(1) IN GENERAL.—In the case of a taxable
 21 year beginning after 2011, the \$3,000 and \$15,000
 22 amount in subsections (a) and (b)(1), respectively,
 23 shall each be increased by an amount equal to—

24 “(A) such dollar amount, multiplied by

1 “(B) the cost-of-living adjustment deter-
2 mined under section 1(f)(3) for the calendar
3 year in which the taxable year begins, deter-
4 mined by substituting ‘calendar year 2010’ for
5 ‘calendar year 1992’ in subparagraph (B)
6 thereof.

7 “(2) ROUNDING.—If any amount as adjusted
8 under subparagraph (A) is not a multiple of \$1,000,
9 such amount shall be rounded to the next lowest
10 multiple of \$1,000.

11 “(h) REGULATIONS.—The Secretary may prescribe
12 such regulations as may be necessary or appropriate to
13 carry out this section, including regulations providing for
14 a recapture of the credit allowed under this section in
15 cases where there is a refund in a subsequent taxable year
16 of any expense which was taken into account in deter-
17 mining the amount of such credit.”.

18 (b) ELIMINATION OF 529 PLAN REDUCTION FOR
19 EDUCATION CREDIT.—Clause (v) of section 529(c)(3)(B)
20 of such Code is amended by striking “shall be reduced”
21 and all that follows through the period at the end and
22 inserting the following “shall be reduced as provided in
23 section 25A(g)(2).”.

24 (c) CONFORMING AMENDMENTS.—

1 (1) Subparagraph (B) of section 24(b)(3) of
2 such Code is amended by striking “25A(i)” and in-
3 serting “25A”.

4 (2) Clause (ii) of section 25(e)(1)(C) of such
5 Code is amended by striking “2A(i)” inserting
6 “25A”.

7 (3) Paragraph (2) of section 25B(g) of such
8 Code is amended by striking “25A(i)” and inserting
9 “25A”.

10 (4) Paragraph (2) of section 1400C(d) of such
11 Code is amended by striking “25A(i)” and inserting
12 “25A”.

13 (5) Section 62(a) of such Code is amended by
14 striking paragraph (18).

15 (6) Subparagraph (A) of section 86(b)(2) of
16 such Code is amended by striking “, 222”.

17 (7) Subparagraph (B) of section 72(t)(7) of
18 such Code is amended by striking “section
19 25A(g)(2)” and inserting “section 25A(d)(2)”.

20 (8) Subparagraph (A) of section 135(c)(4) of
21 such Code is amended by striking “, 222”.

22 (9) Subparagraph (A) of section 137(b)(3) of
23 such Code is amended by striking “, 222”.

24 (10) Subparagraph (A) of section 199(d)(2) of
25 such Code is amended by striking “, 222”.

1 (11) Clause (ii) of section 219(g)(3)(A) of such
2 Code is amended by striking “, 222”.

3 (12) Clause (i) of section 221(b)(2)(C) of such
4 Code is amended by striking “, 222”.

5 (13) Clause (iii) of section 469(i)(3)(F) of such
6 Code is amended by striking “221, and 222” and in-
7 serting “and 221”.

8 (14) Subsection (d) of section 221 of such Code
9 is amended—

10 (A) by striking “section 25A(g)(2)” in
11 paragraph (2)(B) and inserting “section
12 25A(d)(2)”, and

13 (B) by striking “section 25A(f)(2)” in the
14 second sentence of paragraph (2) and inserting
15 “section 25A(e)(2)”.

16 (15) Paragraph (3) of section 221(d) of such
17 Code is amended to read as follows:

18 “(3) ELIGIBLE STUDENT.—The term ‘eligible
19 student’ means, with respect to any academic period,
20 a student who—

21 “(A) meets the requirements of section
22 484(a)(1) of the Higher Education Act of 1965
23 (20 U.S.C. 1091(a)(1)), as in effect on the date
24 of the enactment of the Taxpayer Relief Act of
25 1997, and

1 “(B) is carrying at least 1/2 the normal
2 full-time workload for the course of study the
3 student is pursuing.”.

4 (16) Subclause (I) of section 529(c)(3)(B)(v) of
5 such Code, as amended by this Act, is amended by
6 striking “section 25A(g)(2)” and inserting
7 “25A(d)(2)”.

8 (17) Clause (i) of section 529(e)(3)(B) of such
9 Code is amended by striking “section 25A(b)(3)”
10 and inserting “section 221(d)(3)”.

11 (18) Subclause (I) of section 530(d)(2)(C)(i) of
12 such Code is amended by striking “section
13 25A(g)(2)” and inserting “section 25A(d)(2)”.

14 (19) Clause (iii) of section 530(d)(4)(B) of such
15 Code is amended by striking “section 25A(g)(2)”
16 and inserting “25A(d)(2)”.

17 (20) Section 1400O of such Code is amended
18 by adding at the end the following flush sentence:

19 “For purposes of this section, any reference to sec-
20 tion 25A shall be treated as a reference to such section
21 as in effect on the day before the date of the enactment
22 of this sentence.”.

23 (21) Subsection (e) of section 6050S of such
24 Code is amended by striking “subsection (g)(2)” and
25 inserting “subsection (d)(2)”.

1 (22) Subparagraph (J) of section 6213(g)(2) of
2 such Code is amended by striking “section
3 25A(g)(1) (relating to higher education tuition and
4 related expenses)” and inserting “section 25A(d)(1)
5 (relating to higher education tax credit)”.

6 (23) Paragraph (2) of section 1324(b) of title
7 31, United States Code, is amended by inserting “,
8 25A,” after “section 35”.

9 (d) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to expenses paid after December
11 31, 2010, for education furnished in academic periods be-
12 ginning after such date.

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