

113TH CONGRESS
1ST SESSION

H. R. 1738

To amend the Internal Revenue Code of 1986 to extend and modify the American Opportunity Tax Credit, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 25, 2013

Mr. DOGGETT (for himself, Mr. DANNY K. DAVIS of Illinois, Mr. BECERRA, Mr. BLUMENAUER, Mr. CROWLEY, Mr. KIND, Mr. LARSON of Connecticut, Mr. CARSON of Indiana, Mr. LEWIS, Mr. McDERMOTT, Mr. PASCRELL, Mr. RANGEL, Ms. LINDA T. SÁNCHEZ of California, Ms. SCHWARTZ, Mr. LEVIN, Mr. VAN HOLLEN, Mr. HINOJOSA, Mr. ANDREWS, Mrs. CAPPS, Mr. CÁRDENAS, Ms. CASTOR of Florida, Mrs. CHRISTENSEN, Mr. CICILLINE, Mr. COHEN, Mr. CUELLAR, Mr. CUMMINGS, Ms. FUDGE, Mr. GALLEGU, Mr. GARAMENDI, Mr. AL GREEN of Texas, Mr. GENE GREEN of Texas, Mr. HASTINGS of Florida, Mr. HOLT, Mr. HONDA, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. LEE of California, Mr. LOEBSACK, Ms. MATSUI, Ms. MCCOLLUM, Ms. MOORE, Mr. PASTOR of Arizona, Mr. RYAN of Ohio, Ms. SCHAKOWSKY, Ms. SHEAPORTER, Mr. SHERMAN, Mr. SIRE, Ms. SPEIER, Mr. THOMPSON of Mississippi, Mr. VELA, Mr. WELCH, Mr. YARMUTH, Mr. POCAN, Ms. JACKSON LEE, Mrs. NEGRETE McLEOD, Mr. VARGAS, Mr. TONKO, Mr. DEFazio, Mr. GRIJALVA, Ms. EDWARDS, Ms. WILSON of Florida, Ms. TITUS, Mrs. DAVIS of California, Mr. NADLER, Mr. RUSH, Ms. BASS, Mr. BUTTERFIELD, Mr. CAPUANO, Mr. CLEAVER, Mr. DOYLE, Mr. FATTAH, Mr. DEUTCH, Mr. KILDEE, and Mr. PRICE of North Carolina) 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 extend and modify the American Opportunity Tax Credit, and for other purposes.

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 “American Opportunity
 5 Tax Credit Act of 2013”.

6 **SEC. 2. EXTENSION AND MODIFICATION OF AMERICAN OP-**
 7 **PORTUNITY TAX CREDIT.**

8 (a) IN GENERAL.—Section 25A of the Internal Rev-
 9 enue Code of 1986 is amended to read as follows:

10 **“SEC. 25A. AMERICAN OPPORTUNITY TAX CREDIT.**

11 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
 12 dividual who is an eligible student for any taxable year,
 13 there shall be allowed as a credit against the tax imposed
 14 by this chapter for such taxable year the amount deter-
 15 mined under subsection (b) with respect to such indi-
 16 vidual.

17 “(b) AMOUNT OF CREDIT.—

18 “(1) STUDENT ENROLLED AT LEAST 1/2 TIME.—

19 In the case of an eligible student who is carrying at
 20 least 1/2 the normal full-time workload for the course
 21 of study the student is pursuing, the amount deter-
 22 mined under this subsection with respect to such in-
 23 dividual is the sum of—

24 “(A) 100 percent of so much of the quali-
 25 fied tuition and related expenses paid by the

1 taxpayer during the taxable year (for education
2 furnished to the eligible student during any
3 academic period beginning in such taxable year)
4 as does not exceed \$2,000, plus

5 “(B) 25 percent of such expenses so paid
6 as exceeds \$2,000 but does not exceed \$4,000.

7 “(2) OTHER STUDENTS.—In the case of an eli-
8 gible student not described in paragraph (1), the
9 amount determined under this subsection with re-
10 spect to such individual is 25 percent of so much of
11 the qualified tuition and related expenses paid by
12 the taxpayer during the taxable year (for education
13 furnished to the eligible student during any aca-
14 demic period beginning in such taxable year) as does
15 not exceed \$10,000.

16 “(c) LIMITATION BASED ON MODIFIED ADJUSTED
17 GROSS INCOME.—

18 “(1) IN GENERAL.—The amount which would
19 (but for this paragraph) be taken into account under
20 this section for the taxable year shall be reduced
21 (but not below zero) by the amount determined
22 under paragraph (2).

23 “(2) AMOUNT OF REDUCTION.—The amount
24 determined under this paragraph is the amount

1 which bears the same ratio to the amount which
2 would be so taken into account as—

3 “(A) the excess of—

4 “(i) the taxpayer’s modified adjusted
5 gross income for such taxable year, over

6 “(ii) \$80,000 (\$160,000 in the case of
7 a joint return), bears to

8 “(B) \$10,000 (\$20,000 in the case of a
9 joint return).

10 “(3) MODIFIED ADJUSTED GROSS INCOME.—

11 For purposes of this paragraph, the term ‘modified
12 adjusted gross income’ means the adjusted gross in-
13 come of the taxpayer for the taxable year increased
14 by any amount excluded from gross income under
15 section 911, 931, or 933.

16 “(d) OTHER LIMITATIONS AND SPECIAL RULES.—

17 For purposes of this section:

18 “(1) LIFETIME DOLLAR LIMITATION.—In the
19 case of qualified tuition and related expenses with
20 respect to any eligible student, the aggregate
21 amount of the credits allowed in the taxable year
22 and any prior taxable year for such eligible student
23 (whether beginning before or after American Oppor-
24 tunity Tax Credit Act of 2013) shall not exceed
25 \$15,000, determined without regard to whether—

1 “(A) such credits are claimed on the re-
2 turn of tax filed by the eligible student or by
3 another taxpayer, or

4 “(B) such expenses are treated as paid by
5 the eligible student or by another taxpayer.

6 If, in any taxable year, the aggregate amount of
7 such credits equals or exceeds \$15,000, the amount
8 allowed as a credit under subsection (a) in any sub-
9 sequent taxable year with respect to such student
10 shall be zero.

11 “(2) IDENTIFICATION REQUIREMENT.—No
12 credit shall be allowed under this section to a tax-
13 payer with respect to the qualified tuition and re-
14 lated expenses of an eligible student unless the tax-
15 payer includes the name and taxpayer identification
16 number of such eligible student on the return of tax
17 for the taxable year.

18 “(3) ADJUSTMENT FOR CERTAIN SCHOLAR-
19 SHIPS, ETC.—

20 “(A) IN GENERAL.—The amount of quali-
21 fied tuition and related expenses otherwise
22 taken into account under this section with re-
23 spect to an individual for an academic period
24 shall be reduced (before the application of sub-
25 sections (b) and (c)) by the sum of any

1 amounts paid for the benefit of such individual
2 which are allocable to such period as—

3 “(i) a qualified scholarship which is
4 excludable from gross income under section
5 117,

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

11 “(iii) a payment (other than a gift,
12 bequest, devise, or inheritance within the
13 meaning of section 102(a)) for such indi-
14 vidual’s educational expenses, or attrib-
15 utable to such individual’s enrollment at an
16 eligible educational institution, which is ex-
17 cludable from gross income under any law
18 of the United States.

19 “(B) COORDINATION WITH PELL GRANTS
20 NOT USED FOR QUALIFIED TUITION AND RE-
21 LATED EXPENSES.—Any amount determined
22 with respect to an individual under subpara-
23 graph (A) which is attributable to a Federal
24 Pell Grant under section 401 of the Higher
25 Education Act of 1965 shall be reduced (but

1 not below zero) by the amount of the expenses
 2 (other than qualified tuition and related ex-
 3 penses) which are taken into account in deter-
 4 mining the cost of attendance (as defined in
 5 section 472 of the Higher Education Act of
 6 1965, as in effect on the date of the enactment
 7 of the American Opportunity Tax Credit Act of
 8 2013) of such individual at an eligible edu-
 9 cational institution for the academic period for
 10 which the credit under this section is being de-
 11 termined.

12 “(4) TREATMENT OF EXPENSES PAID BY DE-
 13 PENDENT.—If a deduction under section 151 with
 14 respect to an individual is allowed to another tax-
 15 payer for a taxable year beginning in the calendar
 16 year in which such individual’s taxable year begins—

17 “(A) no credit shall be allowed under this
 18 section to such individual for such individual’s
 19 taxable year, and

20 “(B) qualified tuition and related expenses
 21 paid by such individual during such individual’s
 22 taxable year shall be treated for purposes of
 23 this section as paid by such other taxpayer.

24 “(5) TREATMENT OF CERTAIN PREPAY-
 25 MENTS.—If qualified tuition and related expenses

1 are paid by the taxpayer during a taxable year for
2 an academic period which begins during the first 3
3 months following such taxable year, such academic
4 period shall be treated for purposes of this section
5 as beginning during such taxable year.

6 “(6) DENIAL OF DOUBLE BENEFIT.—No credit
7 shall be allowed under this section for any expense
8 for which a deduction is allowed under any other
9 provision of this chapter.

10 “(7) NO CREDIT FOR MARRIED INDIVIDUALS
11 FILING SEPARATE RETURNS.—If the taxpayer is a
12 married individual (within the meaning of section
13 7703), this section shall apply only if the taxpayer
14 and the taxpayer’s spouse file a joint return for the
15 taxable year.

16 “(8) NONRESIDENT ALIENS.—If the taxpayer is
17 a nonresident alien individual for any portion of the
18 taxable year, this section shall apply only if such in-
19 dividual is treated as a resident alien of the United
20 States for purposes of this chapter by reason of an
21 election under subsection (g) or (h) of section 6013.

22 “(e) ELECTION NOT TO HAVE SECTION APPLY.—A
23 taxpayer may elect not to have this section apply with re-
24 spect to the qualified tuition and related expenses of an
25 individual for any taxable year.

1 “(f) DEFINITIONS.—For purposes of this section:

2 “(1) ELIGIBLE STUDENT.—The term ‘eligible
3 student’ means, with respect to any taxable year, an
4 individual who—

5 “(A) is enrolled for at least one academic
6 period which begins during such taxable year at
7 an eligible educational institution, and

8 “(B) meets the requirements of section
9 484(a)(1) of the Higher Education Act of 1965,
10 as in effect on the date of the enactment of the
11 American Opportunity Tax Credit Act of 2013.

12 “(2) QUALIFIED TUITION AND RELATED EX-
13 PENSES.—

14 “(A) IN GENERAL.—The term ‘qualified
15 tuition and related expenses’ means tuition,
16 fees, and course materials required for the en-
17 rollment or attendance of—

18 “(i) the taxpayer,

19 “(ii) the taxpayer’s spouse, or

20 “(iii) any dependent of the taxpayer
21 with respect to whom the taxpayer is al-
22 lowed a deduction under section 151,
23 at an eligible educational institution for courses
24 of instruction of such individual at such institu-
25 tion.

1 “(B) EXCEPTION FOR EDUCATION INVOLV-
2 ING SPORTS, ETC.—Such term does not include
3 expenses with respect to any course or other
4 education involving sports, games, or hobbies,
5 unless such course or other education is part of
6 the individual’s degree program.

7 “(C) EXCEPTION FOR NONACADEMIC
8 FEES.—Such term does not include student ac-
9 tivity fees, athletic fees, insurance expenses, or
10 other expenses unrelated to an individual’s aca-
11 demic course of instruction.

12 “(3) ELIGIBLE EDUCATIONAL INSTITUTION.—
13 The term ‘eligible educational institution’ means an
14 institution—

15 “(A) which is described in section 481 of
16 the Higher Education Act of 1965, as in effect
17 on the date of the enactment of the American
18 Opportunity Tax Credit Act of 2013, and

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

21 “(g) PORTION OF CREDIT REFUNDABLE.—Forty
22 percent of the credit allowed under this section for a tax-
23 able year (determined after application of subsections
24 (c)(1) and (d) and without regard to this subsection and
25 section 26(a)(2), as the case may be) shall be treated as

1 a credit allowable under subpart C (and not allowed under
2 this section). The preceding sentence shall not apply to
3 any taxpayer for any taxable year if such taxpayer is a
4 child to whom subsection (g) of section 1 applies for such
5 taxable year.

6 “(h) INFLATION ADJUSTMENT.—In the case of any
7 taxable year beginning in a calendar year after 2014, each
8 dollar amount in subsections (b) and (c)(2), and (d)(1)
9 shall be increased by an amount equal to—

10 “(1) such dollar amount, multiplied by

11 “(2) the cost-of-living adjustment determined
12 under section 1(f)(3) for the calendar year in which
13 the taxable year begins, determined by substituting
14 ‘calendar year 2013’ for ‘calendar year 1992’ in sub-
15 paragraph (B) thereof.

16 In the case of subsections (b) and (d)(1), any increase de-
17 termined under the preceding sentence shall be rounded
18 to the nearest multiple of \$50. In the case of subsection
19 (c)(2), any increase determined under the preceding sen-
20 tence shall be rounded to the nearest multiple of \$500.

21 “(i) REGULATIONS.—The Secretary may prescribe
22 such regulations as may be necessary or appropriate to
23 carry out this section, including regulations providing for
24 a recapture of the credit allowed under this section in
25 cases where there is a refund in a subsequent taxable year

1 of any amount which was taken into account in deter-
 2 mining the amount of such credit.”.

3 (b) RETENTION OF LIMITATION.—

4 (1) IN GENERAL.—Subparagraph (D) of section
 5 25A(b)(2) of the Internal Revenue Code of 1986, as
 6 in effect before the enactment of the American Op-
 7 portunity Tax Credit Act of 2013 hereby transferred
 8 to section 25A of such Code, as amended by sub-
 9 section (a), and is inserted as a new subsection
 10 (d)(9) of section 25A, as so amended.

11 (2) CONFORMING AMENDMENT.—Paragraph (9)
 12 of section 25A(d) of such Code, as transferred and
 13 inserted by paragraph (1), is amended by striking
 14 “The Hope Scholarship Credit under subsection
 15 (a)(1)” and inserting “The credit under subsection
 16 (a)”.

17 (c) CLERICAL AMENDMENT.—The item relating to
 18 section 25A in the table of sections for subpart A of part
 19 IV of subchapter A of chapter 1 of the Internal Revenue
 20 Code of 1986 is amended to read as follows:

“Sec. 25A. American Opportunity Tax Credit.”.

21 (d) CONFORMING AMENDMENTS.—

22 (1) Subparagraph (B) of section 72(t)(7) of
 23 such Code is amended by striking “25A(g)(2)” and
 24 inserting “25A(d)(3)”.

1 (2) Paragraph (2) of section 221(d) of such
2 Code is amended—

3 (A) by striking “25A(g)(2)” in subpara-
4 graph (B) and inserting “25A(d)(3)”, and

5 (B) by striking “25A(f)(2)” and inserting
6 “25A(f)(3)”.

7 (3) Paragraph (3) of section 221(d) of such
8 Code is amended by striking “25A(b)(3)” and in-
9 serting “25A(f)(1) (but only with respect to a stu-
10 dent who is carrying at least $\frac{1}{2}$ the normal full-time
11 workload for the course of study the student is pur-
12 suing)”.

13 (4) Clause (v) of section 529(c)(3)(B) of such
14 Code is amended—

15 (A) by striking “25A(g)(2)” in subclause
16 (I) and inserting “25A(d)(3)”, and

17 (B) by striking “HOPE AND LIFETIME
18 LEARNING CREDITS” in the heading and insert-
19 ing “AMERICAN OPPORTUNITY CREDIT”.

20 (5) Clause (i) of section 529(e)(3)(B) of such
21 Code is amended by striking “25A(b)(3)” and in-
22 serting “25A(f)(1) (but only with respect to a stu-
23 dent who is carrying at least $\frac{1}{2}$ the normal full-time
24 workload for the course of study the student is pur-
25 suing)”.

1 (6) Subparagraph (C) of section 530(d)(2) of
2 such Code is amended—

3 (A) by striking “25A(g)(2)” in clause (i)(I)
4 and inserting “25A(d)(3)”, and

5 (B) by striking “HOPE AND LIFETIME
6 LEARNING CREDITS” in the heading and insert-
7 ing “AMERICAN OPPORTUNITY CREDIT”.

8 (7) Clause (iii) of section 530(d)(4)(B) of such
9 Code is amended by striking “25A(g)(2)” and in-
10 serting “25A(d)(3)”.

11 (8) Section 1400O of such Code is amended—

12 (A) by striking “25A(f)(2)” and inserting
13 “25A(f)(3)”,

14 (B) by inserting “(as in effect on the date
15 of the enactment of this section)” after
16 “25A(b)(1)” in paragraph (2), and

17 (C) by inserting “(as in effect on the date
18 of the enactment of this section)” after
19 “25A(c)(1)” in paragraph (3).

20 (9) Subsection (e) of section 6050S of such
21 Code is amended by striking “subsection (g)(2)” and
22 inserting “subsection (d)(3)”.

23 (10) Subparagraph (A) of section 6211(b)(4) of
24 such Code is amended by striking “subsection
25 (i)(6)” and inserting “subsection (g)”.

1 (11) Subparagraph (J) of section 6213(g)(2) of
 2 such Code is amended by striking “25A(g)(1)” and
 3 inserting “25A(d)(2)”.

4 (e) EFFECTIVE DATE.—The amendments made by
 5 this section shall apply to taxable years beginning after
 6 December 31, 2013.

7 **SEC. 3. EXPANSION OF PELL GRANT EXCLUSION FROM**
 8 **GROSS INCOME.**

9 (a) IN GENERAL.—Paragraph (1) of section 117(b)
 10 of the Internal Revenue Code of 1986 is amended by strik-
 11 ing “received by an individual” and all that follows and
 12 inserting “received by an individual—

13 “(1) as a scholarship or fellowship grant to the
 14 extent the individual establishes that, in accordance
 15 with the conditions of the grant, such amount was
 16 used for qualified tuition and related expenses, or

17 “(2) as a Federal Pell Grant under section 401
 18 of the Higher Education Act of 1965 (as in effect
 19 on the date of the enactment of the American Op-
 20 portunity Tax Credit Act of 2013).”.

21 (b) EFFECTIVE DATE.—The amendment made by
 22 this section shall apply to taxable years beginning after
 23 December 31, 2013.

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