

113TH CONGRESS
1ST SESSION

H. R. 395

To amend the Internal Revenue Code of 1986 to exclude from gross income amounts paid by an employer on an employee's student loans.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 23, 2013

Mr. ISRAEL (for himself, Mr. KING of New York, Ms. NORTON, Mr. HANNA, and Mr. CICILLINE) 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 exclude from gross income amounts paid by an employer on an employee's student loans.

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 “Student Loan Employ-
5 ment Benefits Act of 2013”.

6 **SEC. 2. STUDENT LOAN PAYMENT ASSISTANCE PROGRAMS.**

7 (a) IN GENERAL.—Part III of subchapter B of chap-
8 ter 1 of the Internal Revenue Code of 1986 is amended
9 by inserting after section 127 the following new section:

1 **“SEC. 127A. STUDENT LOAN PAYMENT ASSISTANCE PRO-**
2 **GRAMS.**

3 “(a) IN GENERAL.—Gross income of an employee
4 does not include amounts paid or incurred by the employer
5 for student loan payment assistance provided to such em-
6 ployee if the assistance is furnished pursuant to a program
7 which is described in subsection (c).

8 “(b) LIMITATIONS.—

9 “(1) ASSISTANCE LIMITATION.—The amount
10 taken into account under subsection (a) with respect
11 to an individual for student loan assistance with re-
12 spect to student loan payments during a taxable
13 year shall not exceed \$5,000.

14 “(2) EARNED INCOME LIMITATION.—The
15 amount excluded from the income of an employee
16 under subsection (a) for any taxable year shall not
17 exceed the earned income of such employee for such
18 taxable year.

19 “(c) STUDENT LOAN PAYMENT ASSISTANCE PRO-
20 GRAM.—

21 “(1) IN GENERAL.—For purposes of this sec-
22 tion a student loan payment assistance program is
23 a separate written plan of an employer for the exclu-
24 sive benefit of his employees to provide such employ-
25 ees with student loan payment assistance which
26 meets the requirements of paragraphs (2) through

1 (9) of this subsection. If any plan would qualify as
2 a student loan payment assistance program but for
3 a failure to meet the requirements of this subsection,
4 then, notwithstanding such failure, such plan shall
5 be treated as a student loan payment assistance pro-
6 gram in the case of employees who are not highly
7 compensated employees.

8 “(2) DISCRIMINATION.—The contributions or
9 benefits provided under the plan shall not discrimi-
10 nate in favor of employees who are highly com-
11 pensated employees (within the meaning of section
12 414(q)).

13 “(3) ELIGIBILITY.—The program shall benefit
14 employees who qualify under a classification set up
15 by the employer and found by the Secretary not to
16 be discriminatory in favor of employees described in
17 paragraph (2).

18 “(4) PRINCIPAL SHAREHOLDERS OR OWNERS.—
19 Not more than 25 percent of the amounts paid or
20 incurred by the employer for student loan payment
21 assistance during the year may be provided for the
22 class of individuals who are shareholders or owners
23 (or their spouses or dependents), each of whom (on
24 any day of the year) owns more than 5 percent of

1 the stock or of the capital or profits interest in the
2 employer.

3 “(5) NO FUNDING REQUIRED.—A program re-
4 ferred to in paragraph (1) is not required to be
5 funded.

6 “(6) NOTIFICATION OF ELIGIBLE EMPLOY-
7 EES.—Reasonable notification of the availability and
8 terms of the program shall be provided to eligible
9 employees.

10 “(7) STATEMENT OF EXPENSES.—The plan
11 shall furnish to an employee, on or before January
12 31, a written statement showing the amounts paid
13 or expenses incurred by the employer in providing
14 student loan payment assistance to such employee
15 during the previous calendar year.

16 “(8) BENEFITS.—

17 “(A) IN GENERAL.—A plan meets the re-
18 quirements of this paragraph if the average
19 benefits provided to employees who are not
20 highly compensated employees under all plans
21 of the employer is at least 55 percent of the av-
22 erage benefits provided to highly compensated
23 employees under all plans of the employer.

24 “(B) SALARY REDUCTION AGREEMENTS.—

25 For purposes of subparagraph (A), in the case

1 of any benefits provided through a salary reduc-
2 tion agreement, a plan may disregard any em-
3 ployees whose compensation is less than
4 \$25,000. For purposes of this subparagraph,
5 the term ‘compensation’ has the meaning given
6 such term by section 414(q)(4), except that,
7 under rules prescribed by the Secretary, an em-
8 ployer may elect to determine compensation on
9 any other basis which does not discriminate in
10 favor of highly compensated employees.

11 “(9) EXCLUDED EMPLOYEES.—For purposes of
12 paragraphs (3) and (8), there shall be excluded from
13 consideration—

14 “(A) subject to rules similar to the rules of
15 section 410(b)(4), employees who have not at-
16 tained the age of 21 and completed 1 year of
17 service (as defined in section 410(a)(3)), and

18 “(B) employees not included in a student
19 loan payment assistance program who are in-
20 cluded in a unit of employees covered by an
21 agreement which the Secretary finds to be a
22 collective bargaining agreement between em-
23 ployee representatives and 1 or more employees,
24 if there is evidence that student loan payment
25 benefits were the subject of good faith bar-

1 gaining between such employee representatives
2 and such employer or employers.

3 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
4 poses of this section—

5 “(1) STUDENT LOAN PAYMENT ASSISTANCE.—

6 “(A) IN GENERAL.—The term ‘student
7 loan payment assistance’ means the payment of
8 principal or interest on—

9 “(i) any indebtedness incurred by the
10 employee solely to pay qualified higher
11 education expenses (as defined in section
12 221) which—

13 “(I) are paid or incurred within a
14 reasonable period of time before or
15 after the indebtedness was incurred,
16 and

17 “(II) are attributable to edu-
18 cation furnished during a period dur-
19 ing which the employee was an eligible
20 student, or

21 “(ii) any indebtedness used to refi-
22 nance indebtedness described in clause (i).

23 Such term shall not include any payment of
24 principal or interest on indebtedness owed to a
25 person who is related (within the meaning of

1 section 267(b) or 707(b)(1)) to the taxpayer or
2 to any person by reason of a loan under any
3 qualified employer plan (as defined in section
4 72(p)(4)) or under any contract referred to in
5 section 72(p)(5).

6 “(B) ELIGIBLE STUDENT.—The term ‘eli-
7 gible student’ has the meaning given such term
8 by section 25A(b)(3).

9 “(C) DEPENDENT.—The term ‘dependent’
10 has the meaning given such term by section
11 152 (determined without regard to subsections
12 (b)(1), (b)(2), and (d)(1)(B) thereof).

13 “(2) EARNED INCOME.—The term ‘earned in-
14 come’ shall have the meaning given such term in
15 section 32(c)(2), but such term shall not include any
16 amounts paid or incurred by an employer for stu-
17 dent loan payment assistance to an employee.

18 “(3) EMPLOYEE.—The term ‘employee’ in-
19 cludes, for any year, an individual who is an em-
20 ployee within the meaning of section 401(c)(1) (re-
21 lating to self-employed individuals).

22 “(4) EMPLOYER.—An individual who owns the
23 entire interest in an unincorporated trade or busi-
24 ness shall be treated as his own employer. A part-
25 nership shall be treated as the employer of each

1 partner who is an employee within the meaning of
2 paragraph (3).

3 “(5) ATTRIBUTION RULES.—

4 “(A) OWNERSHIP OF STOCK.—Ownership
5 of stock in a corporation shall be determined in
6 accordance with the rules provided under sub-
7 sections (d) and (e) of section 1563 (without re-
8 gard to section 1563(e)(3)(C)).

9 “(B) INTEREST IN UNINCORPORATED
10 TRADE OR BUSINESS.—The interest of an em-
11 ployee in a trade or business which is not incor-
12 porated shall be determined in accordance with
13 regulations prescribed by the Secretary, which
14 shall be based on principles similar to the prin-
15 ciples which apply in the case of subparagraph
16 (A).

17 “(6) UTILIZATION TEST NOT APPLICABLE.—A
18 student loan payment assistance program shall not
19 be held or considered to fail to meet any require-
20 ments of subsection (c) (other than paragraphs (4)
21 and (8) thereof) merely because of utilization rates
22 for the different types of assistance made available
23 under the program.

24 “(7) DISALLOWANCE OF EXCLUDED AMOUNTS
25 AS CREDIT OR DEDUCTION.—No deduction or credit

1 shall be allowed to the employee under any other
2 section of this chapter for any amount excluded from
3 the gross income of the employee by reason of this
4 section.”.

5 (b) CONFORMING AMENDMENTS.—Sections
6 221(d)(2)(A), 414(n)(3)(C) and (t)(2), 3121(a)(18),
7 3306(b)(13), 3401(a)(18), and 6039D(d)(1) of such Code
8 are each amended by inserting “127A,” after “127,”.

9 (c) CLERICAL AMENDMENT.—The table of sections
10 for part III of subchapter B of chapter 1 of such Code
11 is amended by inserting after the item relating to section
12 127 the following new item:

“Sec. 127A. Student loan payment assistance programs.”.

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 the date of the enactment of this Act.

○