

113TH CONGRESS  
1ST SESSION

# S. 835

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

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## IN THE SENATE OF THE UNITED STATES

APRIL 25, 2013

Mr. SCHUMER (for himself, Mr. MENENDEZ, Ms. STABENOW, Mr. ROCKEFELLER, Mr. BROWN, Mr. CARDIN, Mr. WHITEHOUSE, and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on Finance

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## 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 Permanence and Consolidation 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:

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

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

8       “(b) AMOUNT OF CREDIT.—

9               “(1) STUDENT ENROLLED AT LEAST  $\frac{1}{2}$  TIME.—  
10       In the case of an eligible student who is carrying at  
11       least  $\frac{1}{2}$  the normal full-time workload for the course  
12       of study the student is pursuing, the amount deter-  
13       mined under this subsection with respect to such in-  
14       dividual is the sum of—

15                       “(A) 100 percent of so much of the quali-  
16                       fied tuition and related expenses paid by the  
17                       taxpayer during the taxable year (for education  
18                       furnished to the eligible student during any  
19                       academic period beginning in such taxable year)  
20                       as does not exceed \$2,000, plus

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

23               “(2) OTHER STUDENTS.—In the case of an eli-  
24       gible student not described in paragraph (1), the  
25       amount determined under this subsection with re-  
26       spect to such individual is 30 percent of so much of

1 the qualified tuition and related expenses paid by  
2 the taxpayer during the taxable year (for education  
3 furnished to the eligible student during any aca-  
4 demic period beginning in such taxable year) as does  
5 not exceed \$10,000.

6 “(c) LIMITATION BASED ON MODIFIED ADJUSTED  
7 GROSS INCOME.—

8 “(1) IN GENERAL.—The amount which would  
9 (but for this paragraph) be taken into account under  
10 this section for the taxable year shall be reduced  
11 (but not below zero) by the amount determined  
12 under paragraph (2).

13 “(2) AMOUNT OF REDUCTION.—The amount  
14 determined under this paragraph is the amount  
15 which bears the same ratio to the amount which  
16 would be so taken into account as—

17 “(A) the excess of—

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

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

22 “(B) \$20,000 (\$40,000 in the case of a  
23 joint return).

24 “(3) MODIFIED ADJUSTED GROSS INCOME.—

25 For purposes of this paragraph, the term ‘modified

1 adjusted gross income' means the adjusted gross in-  
2 come of the taxpayer for the taxable year increased  
3 by any amount excluded from gross income under  
4 section 911, 931, or 933.

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

6 For purposes of this section:

7 “(1) LIFETIME DOLLAR LIMITATION.—In the  
8 case of qualified tuition and related expenses with  
9 respect to any individual, the aggregate amount of  
10 the credits claimed under this section for all taxable  
11 years shall not exceed \$15,000, determined without  
12 regard to whether—

13 “(A) such credits are claimed on the re-  
14 turn of tax filed by the individual or by another  
15 taxpayer, or

16 “(B) such expenses are treated as paid by  
17 the individual or by another taxpayer.

18 “(2) REPORTING.—No credit shall be allowed  
19 under this section to a taxpayer with respect to the  
20 qualified tuition and related expenses of an eligible  
21 student unless the taxpayer includes the name and  
22 taxpayer identification number of such eligible stu-  
23 dent on the return of tax for the taxable year.

24 “(3) ADJUSTMENT FOR CERTAIN SCHOLAR-  
25 SHIPS, ETC.—

1           “(A) IN GENERAL.—The amount of quali-  
2           fied tuition and related expenses otherwise  
3           taken into account under this section with re-  
4           spect to an individual for an academic period  
5           shall be reduced (before the application of sub-  
6           sections (b) and (c)) by the sum of any  
7           amounts paid for the benefit of such individual  
8           which are allocable to such period as—

9                   “(i) a qualified scholarship which is  
10                   excludable from gross income under section  
11                   117,

12                   “(ii) an educational assistance allow-  
13                   ance under chapter 30, 31, 32, 34, or 35  
14                   of title 38, United States Code, or under  
15                   chapter 1606 of title 10, United States  
16                   Code, and

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

1           “(B) COORDINATION WITH PELL GRANTS  
2           NOT USED FOR QUALIFIED TUITION AND RE-  
3           LATED EXPENSES.—Any amount determined  
4           with respect to an individual under subpara-  
5           graph (A) which is attributable to a Federal  
6           Pell Grant under section 401 of the Higher  
7           Education Act of 1965 shall be reduced (but  
8           not below zero) by the amount of the expenses  
9           (other than qualified tuition and related ex-  
10          penses) which are taken into account in deter-  
11          mining the cost of attendance (as defined in  
12          section 472 of the Higher Education Act of  
13          1965, as in effect on the date of the enactment  
14          of the American Opportunity Tax Credit Per-  
15          manence and Consolidation Act of 2013) of  
16          such individual at an eligible educational insti-  
17          tution for the academic period for which the  
18          credit under this section is being determined.

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

1           “(A) no credit shall be allowed under this  
2           section to such individual for such individual’s  
3           taxable year, and

4           “(B) qualified tuition and related expenses  
5           paid by such individual during such individual’s  
6           taxable year shall be treated for purposes of  
7           this section as paid by such other taxpayer.

8           “(5) TREATMENT OF CERTAIN PREPAY-  
9           MENTS.—If qualified tuition and related expenses  
10          are paid by the taxpayer during a taxable year for  
11          an academic period which begins during the first 3  
12          months following such taxable year, such academic  
13          period shall be treated for purposes of this section  
14          as beginning during such taxable year.

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

19          “(7) NO CREDIT FOR MARRIED INDIVIDUALS  
20          FILING SEPARATE RETURNS.—If the taxpayer is a  
21          married individual (within the meaning of section  
22          7703), this section shall apply only if the taxpayer  
23          and the taxpayer’s spouse file a joint return for the  
24          taxable year.

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

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

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

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

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

18                   “(B) meets the requirements of section  
19 484(a)(1) of the Higher Education Act of 1965,  
20 as in effect on the date of the enactment of the  
21 American Opportunity Tax Credit Permanence  
22 and Consolidation Act of 2013.

23           “(2) QUALIFIED TUITION AND RELATED EX-  
24 PENSES.—

1           “(A) IN GENERAL.—The term ‘qualified  
2 tuition and related expenses’ means tuition,  
3 fees, and course materials required for the en-  
4 rollment or attendance of—

5                   “(i) the taxpayer,

6                   “(ii) the taxpayer’s spouse, or

7                   “(iii) any dependent of the taxpayer  
8 with respect to whom the taxpayer is al-  
9 lowed a deduction under section 151,

10 at an eligible educational institution for courses  
11 of instruction of such individual at such institu-  
12 tion.

13           “(B) EXCEPTION FOR EDUCATION INVOLV-  
14 ING SPORTS, ETC.—Such term does not include  
15 expenses with respect to any course or other  
16 education involving sports, games, or hobbies,  
17 unless such course or other education is part of  
18 the individual’s degree program.

19           “(C) EXCEPTION FOR NONACADEMIC  
20 FEES.—Such term does not include student ac-  
21 tivity fees, athletic fees, insurance expenses, or  
22 other expenses unrelated to an individual’s aca-  
23 demic course of instruction.

24           “(D) COMPUTER TECHNOLOGY AND  
25 EQUIPMENT.—Such term includes expenses for

1 the purchase of computer technology or equip-  
2 ment (as defined in section 170(e)(6)(F)(i)), or  
3 Internet access and related services, only to the  
4 extent the purchase of such technology, equip-  
5 ment, or services is specifically required by the  
6 individual's academic course of instruction or  
7 degree program.

8 “(3) ELIGIBLE EDUCATIONAL INSTITUTION.—  
9 The term ‘eligible educational institution’ means an  
10 institution—

11 “(A) which is described in section 481 of  
12 the Higher Education Act of 1965, as in effect  
13 on the date of the enactment of the American  
14 Opportunity Tax Credit Permanence and Con-  
15 solidation Act of 2013, and

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

18 “(g) PORTION OF CREDIT REFUNDABLE.—Forty  
19 percent of the credit allowed under this section (deter-  
20 mined after application of subsections (c)(1) and (d) and  
21 without regard to this subsection and section 26(a)(2) or  
22 subsection (c)(2), as the case may be) shall be treated as  
23 a credit allowable under subpart C (and not allowed under  
24 this section). The preceding sentence shall not apply to  
25 any taxpayer for any taxable year if such taxpayer is a

1 child to whom subsection (g) of section 1 applies for such  
2 taxable year.

3 “(h) REGULATIONS.—The Secretary may prescribe  
4 such regulations as may be necessary or appropriate to  
5 carry out this section, including regulations providing for  
6 a recapture of the credit allowed under this section in  
7 cases where there is a refund in a subsequent taxable year  
8 of any amount which was taken into account in deter-  
9 mining the amount of such credit.”.

10 (b) CLERICAL AMENDMENT.—The item relating to  
11 section 25A in the table of sections for subpart A of part  
12 IV of subchapter A of chapter 1 of the Internal Revenue  
13 Code of 1986 is amended to read as follows:

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

14 (c) CONFORMING AMENDMENTS.—

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

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

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

22 (B) by striking “25A(f)(2)” and inserting  
23 “25A(f)(3)”.

24 (3) Paragraph (3) of section 221(d) of such  
25 Code is amended by striking “25A(b)(3)” and in-

1       serting “25A(f)(1) (but only with respect to a stu-  
2       dent who is carrying at least  $\frac{1}{2}$  the normal full-time  
3       workload for the course of study the student is pur-  
4       suing)”.

5           (4) Paragraph (1) of section 222(d) of such  
6       Code is amended—

7           (A) by striking “25A(f)” and inserting  
8       “25A(f)(2)”, and

9           (B) by striking “25A(g)(2)” and inserting  
10       “25A(d)(3)”.

11          (5) Clause (v) of section 529(c)(3)(B) of such  
12       Code is amended—

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

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

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

24           (7) Subparagraph (C) of section 530(d)(2) of  
25       such Code is amended—

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

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

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

9 (9) Section 14000 of such Code is amended—

10 (A) by striking “25A(f)(2)” and inserting  
11 “25A(f)(3)”,

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

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

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

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

