

115TH CONGRESS
1ST SESSION

H. R. 895

To amend the Internal Revenue Code of 1986 to allow a credit against tax for qualified elementary and secondary education tuition.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 6, 2017

Mr. ROKITA (for himself, Mr. MESSER, and Mr. FRANKS of Arizona) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to allow a credit against tax for qualified elementary and secondary education tuition.

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 “Educational Opportu-
5 nities Act”.

6 **SEC. 2. TAX CREDIT FOR CONTRIBUTIONS TO SCHOLAR-** 7 **SHIP GRANTING ORGANIZATIONS.**

8 (a) CREDIT FOR INDIVIDUALS.—

1 (1) IN GENERAL.—Subpart A of part IV of sub-
 2 chapter A of chapter 1 of the Internal Revenue Code
 3 of 1986 is amended by inserting after section 25D
 4 the following new section:

5 **“SEC. 25E. QUALIFIED ELEMENTARY AND SECONDARY EDU-**
 6 **CATION TUITION.**

7 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
 8 dividual, there shall be allowed as a credit against the tax
 9 imposed by this chapter for the taxable year an amount
 10 equal to the amount of qualified contributions made by
 11 the taxpayer during the taxable year.

12 “(b) DOLLAR LIMITATION.—The amount allowed as
 13 a credit under subsection (a) with respect to any taxpayer
 14 shall not exceed—

15 “(1) \$2,250, in the case of a married individual
 16 filing a separate return, and

17 “(2) \$4,500, in any other case.

18 “(c) QUALIFIED CONTRIBUTIONS; OTHER DEFINI-
 19 TIONS.—For purposes of this section—

20 “(1) QUALIFIED CONTRIBUTION.—The term
 21 ‘qualified contribution’ means a charitable contribu-
 22 tion (as defined by section 170(c)) to a scholarship
 23 granting organization.

1 “(2) SCHOLARSHIP GRANTING ORGANIZA-
2 TION.—The term ‘scholarship granting organization’
3 means any organization—

4 “(A) which is described in section
5 501(c)(3) and exempt from tax under section
6 501(a),

7 “(B) whose exclusive purpose is to provide
8 scholarships for the qualified elementary and
9 secondary education expenses of eligible stu-
10 dents, and

11 “(C) which meets the requirements of sub-
12 section (d).

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

15 “(A) who is enrolled in an elementary or
16 secondary school (within the meaning of section
17 530(b)(3)(B), after the application of para-
18 graph (4)(B)), and

19 “(B) who is a member of a household with
20 a total annual household income which does not
21 exceed 250 percent of the Federal poverty
22 guidelines (as determined by the Secretary of
23 Health and Human Services).

24 “(4) QUALIFIED ELEMENTARY AND SECONDARY
25 EDUCATION EXPENSES.—The term ‘qualified ele-

1 mentary and secondary education expenses’ has the
2 meaning given such term by section 530(b)(3), ex-
3 cept that—

4 “(A) ‘child’ shall be substituted for ‘bene-
5 ficiary’ and ‘a child’ shall be substituted for
6 ‘the designated beneficiary of the trust’ in
7 clauses (i) and (iii) of subparagraph (A) there-
8 of, and

9 “(B) in applying such paragraph, the term
10 ‘school’ shall only include schools which—

11 “(i) charge tuition for attendance,

12 “(ii) comply with all applicable State
13 laws, including laws relating to unlawful
14 discrimination, health and safety require-
15 ments, and criminal background checks of
16 employees, and

17 “(iii) agree to provide annual reports
18 as described in subsection (e) to a scholar-
19 ship granting organization and to the par-
20 ents or guardians of eligible students re-
21 ceiving a scholarship from the scholarship
22 granting organization.

23 “(5) SCHOLARSHIP.—The term ‘scholarship’
24 does not include any payment to fulfill or fund any

1 obligation or project of any school or school system
2 to provide a free, appropriate public education.

3 “(d) REQUIREMENTS FOR SCHOLARSHIP GRANTING
4 ORGANIZATIONS.—An organization meets the require-
5 ments of this section if—

6 “(1) such organization does not provide grants
7 to eligible students for any expenses other than
8 qualified elementary and secondary education ex-
9 penses,

10 “(2) such organization provides grants to—

11 “(A) more than 1 student, and

12 “(B) different students attending more
13 than 1 school,

14 “(3) such organization does not earmark or set
15 aside contributions for scholarships on behalf of any
16 particular student or to any specific school or group
17 of schools,

18 “(4) such organization takes appropriate steps
19 to verify the annual household income and family
20 size of eligible students to which it provides grants,

21 “(5) such organization obtains annual audits
22 from an independent certified public accountant and
23 submits such audits to the Secretary,

1 “(6) no employee of such organization has vio-
2 lated any law relating to the audit described in para-
3 graph (4), and

4 “(7) such organization—

5 “(A) requires any eligible student who re-
6 ceives a scholarship—

7 “(i) to participate in the evaluation
8 conducted by the Institute of Education
9 Science under section 2(d) of the Edu-
10 cational Opportunities Act, and

11 “(ii) to permit such organization to
12 share assessment information and other
13 data regarding the student with the Insti-
14 tute in accordance with subparagraph (B),
15 and

16 “(B) provides the reports described in sub-
17 section (e)(1)(C) and such other information as
18 necessary to the Director of the Institute of
19 Education Science for the purposes of identi-
20 fying eligible students receiving a scholarship
21 from such organization and conducting the eval-
22 uations and reports required under section 2(d)
23 of the Educational Opportunities Act.

24 For purposes of paragraph (5), the term ‘inde-
25 pendent certified public accountant’ means, with re-

1 spect to an organization, a certified public account-
2 ant which is not a related person (within the mean-
3 ing of section 465(b)(3)(C)) with respect to such or-
4 ganization or any employee of such organization.

5 “(e) ELIGIBLE SCHOOL REPORTING REQUIRE-
6 MENT.—

7 “(1) IN GENERAL.—The reports described in
8 this subsection include—

9 “(A) a report to the parents on the stu-
10 dent’s academic achievement, including a com-
11 parison with the aggregate academic achieve-
12 ment of other students in the same grade or
13 level at the school who receive a scholarship
14 from a scholarship granting organization, if
15 available, and

16 “(B) a report, to each scholarship granting
17 organization that provides scholarships to stu-
18 dents at the school, that includes—

19 “(i) the test results, in the aggregate
20 and disaggregated by race or ethnicity and
21 grade level, of the students receiving such
22 scholarships who are in grades 3 through
23 12 on a grade-appropriate nationally norm-
24 referenced standardized test, or a grade-

1 appropriate State-recognized assessment,
 2 and

3 “(ii) any additional data requested by
 4 the Director of the Institute of Education
 5 Sciences in accordance with section
 6 2(d)(B) of the Educational Opportunities
 7 Act.

8 “(2) NO PERSONALLY IDENTIFIABLE INFORMA-
 9 TION.—In preparing and submitting the report de-
 10 scribed in paragraph (1)(B), a school shall not in-
 11 clude any personally identifiable information regard-
 12 ing a student.

13 “(f) DENIAL OF DOUBLE BENEFIT.—No deduction
 14 shall be allowed under any provision of this chapter for
 15 any expense for which a credit is allowed under this sec-
 16 tion.

17 “(g) ELECTION.—This section shall apply to a tax-
 18 payer for a taxable year only if such taxpayer elects to
 19 have this section apply for such taxable year.”.

20 (2) CLERICAL AMENDMENT.—The table of sec-
 21 tions for subpart A of part IV of subchapter A of
 22 chapter 1 of such Code is amended by inserting
 23 after the item relating to section 25D the following
 24 new item:

“Sec. 25E. Qualified elementary and secondary education tuition.”.

25 (b) CREDIT FOR CORPORATIONS.—

1 (1) IN GENERAL.—Subpart D of part IV of
2 subchapter A of chapter 1 of the Internal Revenue
3 Code of 1986 is amended by adding at the end the
4 following new section:

5 **“SEC. 45S. CONTRIBUTIONS TO SCHOLARSHIP GRANTING**
6 **ORGANIZATIONS.**

7 “(a) GENERAL RULE.—For purposes of section 38,
8 in the case of a corporation, the education scholarship
9 credit determined under this section for the taxable year
10 is the aggregate amount of qualified contributions for the
11 taxable year.

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

15 “(c) QUALIFIED CONTRIBUTIONS.—For purposes of
16 this section, the term ‘qualified contribution’ has the
17 meaning given such term under section 25E.

18 “(d) DENIAL OF DOUBLE BENEFIT.—No deduction
19 shall be allowed under any provision of this chapter for
20 any expense for which a credit is allowed under this sec-
21 tion.

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

25 (2) CONFORMING AMENDMENTS.—

1 (A) Section 38(b) of such Code is amended
 2 by striking “plus” at the end of paragraph
 3 (35), by striking the period and inserting “,
 4 plus” at the end of paragraph (36), and by
 5 adding at the end the following new paragraph:
 6 “(37) the education scholarship credit deter-
 7 mined under section 45S(a).”.

8 (B) The table of sections for subpart D of
 9 part IV of subchapter A of chapter 1 of such
 10 Code is amended by adding at the end the fol-
 11 lowing new item:

“Sec. 45S. Contributions to scholarship granting organizations.”.

12 (c) EXCISE TAX ON FAILURE OF SCHOLARSHIP
 13 GRANTING ORGANIZATIONS TO MAKE DISTRIBUTIONS.—

14 (1) IN GENERAL.—Chapter 42 of the Internal
 15 Revenue Code of 1986 is amended by adding at the
 16 end the following new subchapter:

17 **“Subchapter H—Scholarship Granting**
 18 **Organizations**

“Sec. 4968. Tax on failure to distribute receipts.

19 **“SEC. 4968. TAX ON FAILURE TO DISTRIBUTE RECEIPTS.**

20 “(a) TAX IMPOSED.—There is hereby imposed a tax
 21 on the failure of a scholarship granting organization (as
 22 defined in section 25E(c)(2)) to make distributions in any
 23 taxable year in an amount equal to or in excess of the

1 required distribution amount before the distribution dead-
2 line.

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

6 “(1) the required distribution amount with re-
7 spect to the taxable year, over

8 “(2) the amount of receipts of the scholarship
9 granting organization for such taxable year which
10 are distributed before the distribution deadline with
11 respect to such receipts.

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

13 “(1) REQUIRED DISTRIBUTION AMOUNT.—The
14 required distribution amount with respect to a tax-
15 able year is the amount equal to 90 percent of the
16 total receipts of the scholarship granting organiza-
17 tion for such taxable year.

18 “(2) DISTRIBUTIONS.—The term ‘distribution’
19 includes amounts which are formally committed but
20 not distributed.

21 “(3) DISTRIBUTION DEADLINE.—The distribu-
22 tion deadline with respect to receipts for a taxable
23 year is the first day of the second taxable year fol-
24 lowing the taxable year in which such receipts are
25 received by the scholarship granting organization.

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

6 (2) ABATEMENT OF TAX.—

7 (A) GENERAL RULE.—Subsection (b) of
 8 section 4962 of such Code is amended by strik-
 9 ing “or G” and inserting “G, or H”.

10 (B) FIRST TIER TAX.—Subsection (a) of
 11 section 4963 of such Code is amended by in-
 12 serting “4968,” after “4967,”.

13 (C) TAXABLE EVENT.—Subsection (c) of
 14 section 4963 of such Code is amended by in-
 15 serting “4968,” after “4967,”.

16 (3) CORRECTION PERIOD.—Subparagraph (A)
 17 of section 4963(e)(2) of such Code is amended by in-
 18 serting “or 4968” after “4942”.

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

“SUBCHAPTER II. SCHOLARSHIP GRANTING ORGANIZATIONS”.

22 (d) EVALUATIONS.—

23 (1) DEFINITIONS.—In this section—

24 (A) the terms “eligible student”, “qualified
 25 elementary and secondary education expenses”,

1 and “scholarship granting organization” have
2 the meanings given such terms in section
3 25E(c) of the Internal Revenue Code of 1986,
4 as added by this Act;

5 (B) the term “Director” means the Direc-
6 tor of the Institute of Education Sciences; and

7 (C) the term “participating student”
8 means an eligible student who receives a schol-
9 arship for qualified elementary and secondary
10 education expenses from a scholarship granting
11 organization.

12 (2) EVALUATIONS.—

13 (A) IN GENERAL.—By not later than April
14 1 of the year following the year of the date of
15 enactment of this Act, and by April 1 of each
16 subsequent year, the Director shall conduct an
17 annual evaluation to determine the effectiveness
18 of scholarships provided by scholarship granting
19 organizations to eligible students in improving
20 the academic achievement and success of the el-
21 igible students.

22 (B) CONTENTS OF THE EVALUATION.—In
23 conducting the evaluation required under this
24 subsection, the Director shall—

1 (i) request, from each scholarship
2 granting organization, the reports provided
3 to the scholarship granting organization by
4 the schools accepting participating stu-
5 dents, in accordance with section
6 25E(e)(1)(B);

7 (ii) using the reports described in
8 clause (i), assess the academic achievement
9 of all participating students in grades 3
10 through 12, based on the nationally norm-
11 referenced standardized test or State-rec-
12 ognized assessment used by each school;

13 (iii) evaluate the school retention
14 rates, secondary school graduation rates,
15 and institution of higher education admis-
16 sion rates of participating students;

17 (iv) evaluate the success of the tax
18 credits allowed under sections 25E and
19 45S of the Internal Revenue Code of 1986,
20 as added by this Act, in expanding school
21 choice options for parents of participating
22 students, increasing the satisfaction of
23 such parents and students, and increasing
24 parental involvement of such parents in the
25 education of their students; and

1 (v) evaluate such other issues with re-
2 spect to the education of participating stu-
3 dents as the Director considers appropriate
4 for inclusion in the evaluation.

5 (3) REPORTS.—By not later than April 1 of the
6 year after the year of the first evaluation under
7 paragraph (2), and by April 1 of each subsequent
8 year, the Director shall submit to the Committee on
9 Ways and Means and the Committee on Health,
10 Education, Labor, and Pensions of the Senate, and
11 the Committee on Finance and the Committee on
12 Education and the Workforce of the House of Rep-
13 resentatives, an annual report on scholarships pro-
14 vided by scholarship granting organizations that in-
15 corporates the results of the most recent evaluation
16 described in paragraph (2).

17 (4) PROHIBITION.—No personally identifiable
18 information shall be disclosed in the data, evalua-
19 tions, and reports required under this subsection.

20 (5) PUBLIC AVAILABILITY.—The Director shall
21 make all evaluations, reports, and underlying data
22 gathered pursuant to this subsection available to the
23 public, upon request and in a timely manner fol-
24 lowing submission of the applicable report or evalua-
25 tion under this subsection, subject to paragraph (4).

1 (e) EFFECTIVE DATE.—The amendments made by
2 subsections (a), (b), and (c) shall apply to taxable years
3 beginning after December 31, 2017.

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