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.

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "American Opportunity Tax Credit Permanence and Consolidation Act of 2013".

SEC. 2. EXTENSION AND MODIFICATION OF AMERICAN OPPORTUNITY TAX CREDIT.

(a) IN GENERAL.—Section 25A of the Internal Revenue Code of 1986 is amended to read as follows:

"SEC. 25A. AMERICAN OPPORTUNITY TAX CREDIT.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual who is an eligible student for any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year the amount determined under subsection (b) with respect to such individual.

"(b) AMOUNT OF CREDIT.—

"(1) STUDENT ENROLLED AT LEAST ½ TIME.—In the case of an eligible student who is carrying at least ½ the normal full-time workload for the course of study the student is pursuing, the amount determined under this subsection with respect to such individual is the sum of—

"(A) 100 percent of so much of the qualified tuition and related expenses paid by the taxpayer during the taxable year (for education furnished to the eligible student during any academic period beginning in such taxable year) as does not exceed $2,000, plus

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

"(2) OTHER STUDENTS.—In the case of an eligible student not described in paragraph (1), the amount determined under this subsection with respect to such individual is 30 percent of so much of the qualified tuition and related expenses paid by the taxpayer during the taxable year (for education furnished to the eligible student during any academic period beginning in such taxable year) as does not exceed $10,000.

"(c) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

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

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

"(A) the excess of—

"(i) the taxpayer's modified adjusted gross income for such taxable year, over

"(ii) $80,000 ($160,000 in the case of a joint return), bears to

"(B) $20,000 ($40,000 in the case of a joint return).

"(3) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.

"(d) OTHER LIMITATIONS AND SPECIAL RULES.—For purposes of this section:

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

"(A) such credits are claimed on the return of tax filed by the individual or by another taxpayer, or

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

"(2) REPORTING.—No credit shall be allowed under this section to a taxpayer with respect to the qualified tuition and related expenses of an eligible student unless the taxpayer includes the name and taxpayer identification number of such eligible student on the return of tax for the taxable year.

"(3) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS, ETC.—

"(A) IN GENERAL.—The amount of qualified tuition and related expenses otherwise taken into account under this section with respect to an individual for an academic period shall be reduced (before the application of subsections (b) and (c)) by the sum of any amounts paid for the benefit of such individual which are allocable to such period as—

"(i) a qualified scholarship which is excludable from gross income under section 117,

"(ii) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or under chapter 1606 of title 10, United States Code, and

"(iii) a payment (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for such individual's educational expenses, or attributable to such individual's enrollment at an eligible educational institution, which is excludable from gross income under any law of the United States.

"(B) COORDINATION WITH PELL GRANTS NOT USED FOR QUALIFIED TUITION AND RELATED EXPENSES.—Any amount determined with respect to an individual under subparagraph (A) which is attributable to a Federal Pell Grant under section 401 of the Higher Education Act of 1965 shall be reduced (but not below zero) by the amount of the expenses (other than qualified tuition and related expenses) which are taken into account in determining the cost of attendance (as defined in section 472 of the Higher Education Act of 1965, as in effect on the date of the enactment of the American Opportunity Tax Credit Permanence and Consolidation Act of 2013) of such individual at an eligible educational institution for the academic period for which the credit under this section is being determined.

"(4) TREATMENT OF EXPENSES PAID BY DEPENDENT.—If a deduction under section 151 with respect to an individual is allowed to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins—

"(A) no credit shall be allowed under this section to such individual for such individual's taxable year, and

"(B) qualified tuition and related expenses paid by such individual during such individual's taxable year shall be treated for purposes of this section as paid by such other taxpayer.

"(5) TREATMENT OF CERTAIN PREPAYMENTS.—If qualified tuition and related expenses are paid by the taxpayer during a taxable year for an academic period which begins during the first 3 months following such taxable year, such academic period shall be treated for purposes of this section as beginning during such taxable year.

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

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

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

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

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

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

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

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

“(2) QUALIFIED TUITION AND RELATED EXPENSES.—

"(A) IN GENERAL.—The term 'qualified tuition and related expenses' means tuition, fees, and course materials required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151,

at an eligible educational institution for courses of instruction of such individual at such institution.

"(B) EXCEPTION FOR EDUCATION INVOLVING SPORTS, ETC.—Such term does not include expenses with respect to any course or other education involving sports, games, or hobbies, unless such course or other education is part of the individual's degree program.

"(C) EXCEPTION FOR NONACADEMIC FEES.—Such term does not include student activity fees, athletic fees, insurance expenses, or other expenses unrelated to an individual's academic course of instruction.

"(D) COMPUTER TECHNOLOGY AND EQUIPMENT.—Such term includes expenses for the purchase of computer technology or equipment (as defined in section 170(e)(6)(F)(i)), or Internet access and related services, only to the extent the purchase of such technology, equipment, or services is specifically required by the individual's academic course of instruction or degree program.

"(3) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means an institution—

"(A) which is described in section 481 of the Higher Education Act of 1965, as in effect on the date of the enactment of the American Opportunity Tax Credit Permanence and Consolidation Act of 2013, and

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

"(g) PORTION OF CREDIT REFUNDABLE.—Forty percent of the credit allowed under this section (determined after application of subsections (c)(1) and (d) and without regard to this subsection and section 26(a)(2) or subsection (c)(2), as the case may be) shall be treated as a credit allowable under subpart C (and not allowed under this section). The preceding sentence shall not apply to any taxpayer for any taxable year if such taxpayer is a child to whom subsection (g) of section 1 applies for such taxable year.

"(h) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations providing for a recapture of the credit allowed under this section in cases where there is a refund in a subsequent taxable year of any amount which was taken into account in determining the amount of such credit.".

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

"Sec. 25A. American Opportunity Tax Credit.".

(c) CONFORMING AMENDMENTS.—

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

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

(A) by striking "25A(g)(2)" in subparagraph (B) and inserting "25A(d)(3)", and

(B) by striking "25A(f)(2)" and inserting "25A(f)(3)".

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

serting "25A(f)(1) (but only with respect to a student who is carrying at least ½ the normal full-time workload for the course of study the student is pursuing)".

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

(A) by striking "25A(f)" and inserting "25A(f)(2)", and

(B) by striking "25A(g)(2)" and inserting "25A(d)(3)".

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

(A) by striking "25A(g)(2)" in subclause (I) and inserting "25A(d)(3)", and

(B) by striking "HOPE AND LIFETIME LEARNING CREDITS" in the heading and inserting "AMERICAN OPPORTUNITY CREDIT".

(6) Clause (i) of section 529(e)(3)(B) of such Code is amended by striking "25A(b)(3)" and inserting "25A(f)(1) (but only with respect to a student who is carrying at least ½ the normal full-time workload for the course of study the student is pursuing)".

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

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

(B) by striking ''HOPE AND LIFETIME LEARNING CREDITS'' in the heading and inserting ''AMERICAN OPPORTUNITY CREDIT''.

(8) Clause (iii) of section 530(d)(4)(B) of such Code is amended by striking ''25A(g)(2)'' and inserting ''25A(d)(3)''.

(9) Section 1400O of such Code is amended—

(A) by striking ''25A(f)(2)'' and inserting ''25A(f)(3)'',

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

(C) by inserting ''(as in effect on the date of the enactment of this section)'' after ''25A(c)(1)'' in paragraph (3).

(10) Subsection (e) of section 6050S of such Code is amended by striking ''subsection (g)(2)'' and inserting ''subsection (d)(3)''.

(11) Subparagraph (A) of section 6211(b)(4) of such Code is amended by striking ''subsection (i)(6)'' and inserting ''subsection (g)''.

(12) Subparagraph (J) of section 6213(g)(2) of such Code is amended by striking ''25A(g)(1)'' and inserting ''25A(d)(2)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2012.

SEC. 3. EXPANSION OF PELL GRANT EXCLUSION FROM GROSS INCOME.

(a) IN GENERAL.—Paragraph (1) of section 117(b) of the Internal Revenue Code of 1986 is amended by striking ''received by an individual'' and all that follows and inserting ''received by an individual—

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

''(2) as a Federal Pell Grant under section 401 of the Higher Education Act of 1965 (as in effect on the date of the enactment of the American Opportunity Tax Credit Permanence and Consolidation Act of 2013).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2012.

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