American Council on Education®
Leadership and Advocacy

One Dupont Circle NW
Washington, DC 20036
(202) 939-9300
acenet.edu

Comments to the Senate Finance Committee Tax Reform Working Group on Individual Income Tax April 14, 2015

Introduction

On behalf of the higher education associations listed below, which represent approximately 4,300 two- and four-year public and private non-profit colleges and universities, we thank you for the opportunity to share our views with the working group on several tax provisions which are important to college students and their families, as well as on charitable giving tax incentives, particularly the itemized deduction for charitable giving.

Students and their Families:

Although originally enacted discretely, the current federal tax code contains a number of provisions that taken together create a framework that functions as a kind of "three-legged stool" intended to advance three important goals: 1) to encourage saving for higher education; 2) to help students and families pay for college; and, 3) to assist with the repayment of student loans. We strongly support this "three-legged stool" framework. In addition, we believe tax reform provides an excellent opportunity to make improvements to certain provisions in order to maximize their effectiveness and enhance access to higher education.

Provisions to Encourage Saving for Higher Education:

The tax code currently contains two provisions intended to encourage families to save for higher education: Section 529 Education Savings Plans and Coverdell Education Savings Accounts.

- **Section 529 Education Savings Plans**—Under Section 529, states are authorized to sponsor "Qualified Tuition Programs" that are tax-advantaged savings vehicles for qualified postsecondary education expenses, such as tuition, fees, books, required supplies, equipment and room and board. There are two types of 529 Plans: savings plans, which allow families to save for expenses, and pre-paid tuition programs, which generally allow families to make advance tuition payments to cover future attendance at a designated in-state public college or university system.

- **Coverdell Education Savings Accounts**—Under Section 530, individuals can contribute up to $2,000 annually tax-free to pay for the qualified education expenses of a designated beneficiary. Individuals remain eligible to contribute with income up to $110,000 ($220,000 for joint filers). Qualified education expenses are broadly

defined to include tuition, fees, course materials and room and board. The $2,000 annual maximum contribution cap was made permanent as part of the American Taxpayer Relief Act of 2012 (ATRA).

According to a Treasury Department report, Section 529 Education Savings Plans and Coverdell Education Savings Accounts offer "an attractive and convenient means of saving for college that offer substantial tax benefits."[1] We strongly believe that the tax code should continue to encourage saving for higher education expenses. By doing so, the federal government incentivizes financial responsibility by families with the means to save for college. This long-term planning helps reduce student debt, and allows governments and charities to better target scarce student aid funds to those without the means to save.

Provisions to Help Pay for Higher Education:

The current tax code contains several provisions that help students and families pay for higher education: the American Opportunity Tax Credit, the Lifelong Learning Credit, the above-the-line deduction for qualified tuition and related expenses (tuition deduction), Section 127 Employer-provided Educational Assistance, and Sec. 117(d) Tuition Reduction.

- **American Opportunity Tax Credit (AOTC)** —The AOTC significantly enhances and broadens the permanent Hope Scholarship Credit by increasing it from $1,800 to $2,500, expanding eligible expenses, making it available for four rather than only two years of college, increasing the income phase-out thresholds, and making the credit partially refundable. Since its enactment, there has been a significant increase in the use of the AOTC across income levels, particularly for low- and middle-income students and their families. According to a U.S. Government Accountability Office (GAO) study, in 2009, more than 9 million tax filers claimed the AOTC, receiving $16 billion in tax benefits. Approximately 66 percent of these benefits went to low- and middle-income families with incomes at or below $80,000, with more than 50 percent going to those with incomes at or below $60,000.[2] In 2013, according to the Tax Policy Center, 12.6 million taxpayers claimed the AOTC, totaling $21.3 billion, approximately 65 percent with incomes of $75,000 or below.[3] The AOTC was extended until the end of 2017 under ATRA.

---

[1] See U.S. Department of Treasury report, *Analysis of Section 529 College Savings and Prepaid Tuition Plans* (Sept. 2009), p.3.
[2] See GAO Report to the Committee on Finance, U.S. Senate, *Higher Education – Improved Tax Information Could Help Families Pay for College* (May 2012), pp. 24, 63.

[3] Tax Policy Center, Baseline Distribution of Students Receiving Pell Grants, AOTC, LLC, and Tuition and Fees Deduction; All Students, by Adjusted Gross Income, 2013, T13-0091 (Feb.19, 2013), **http://taxpolicycenter.org/numbers/displayatab.cfm?DocID=3849&topic2ID=150&topic3ID=162&DocTypeID=7**.

- **Lifetime Learning Credit (LLC)** —Under this permanent, nonrefundable tax credit, a taxpayer can claim up to 20 percent of the taxpayer's first $10,000—for a maximum of $2,000, which is not indexed for inflation—of qualified tuition and related expenses paid during each calendar year. The LLC is available for all years of postsecondary education, and there is no limit on the number of years that it can be claimed for each student in a family. The credit phases out for a taxpayer with an income of $60,000 or more ($120,000 for married taxpayers filing jointly). The LLC serves as an incentive for taxpayers to pursue higher education or to acquire new or enhanced job skills, thereby strengthening our nation's workforce. According to the GAO, in 2009 3.4 million taxpayers claimed the credit for a total of $2.4 billion. Approximately 80 percent of the taxpayers claiming the LLC had incomes of $80,000 or less.[4] In 2013, according to the Tax Policy Center, 2.6 million taxpayers claimed the LLC, totaling $1.73 billion, approximately 75 percent with incomes of $75,000 or below.[5]

- **Tuition Deduction**—The above-the-line deduction for qualified tuition and related expenses permits students or their parents to deduct up to $4,000 per year in qualified higher education expenses from their taxable income. The deduction phases out for taxpayers with incomes of up to $80,000 ($160,000 for joint filers). Like the AOTC and LLC, the tuition deduction enhances access to higher education by helping to reduce the cost of attending college. The tuition deduction is particularly beneficial to graduate students who are ineligible for the AOTC. The deduction expired at the end of 2014.

- **Enhancing Effectiveness of Tax Credits and the Tuition Deduction Through Consolidation and Simplification**

  It is broadly acknowledged that the current set of higher education tax credits and the tuition deduction are overly complicated and difficult for taxpayers to correctly use.[6] We have long supported legislative efforts to consolidate and simplify these tax incentives in order to maximize their impact and enhance access to higher education. We believe a consolidated credit can simplify the higher education tax benefits while retaining positive aspects of the present credits and deductions to better serve low- and middle-income traditional and nontraditional students now and in the future, helping them attain an associate or bachelor's degree or pursue post-baccalaureate education or lifelong learning. A permanent AOTC-style credit, for example, available beyond the first four years of college, could negate the need for the Hope Scholarship tax credit, a Lifetime Learning Credit and the tuition deduction for undergraduates. In addition, there needs to be better coordination of the interaction

[4] See GAO, *supra* note 2, at 24, 63.

[5] See Tax Policy Center, *supra* note 3.

[6] See GAO, *supra* note 2; GAO Testimony before Subcommittee on Select Revenue Measures, Committee on Ways and Means, U.S. House of Representatives, *Multiple Higher Education Tax Incentives Create Opportunities for Taxpayers to Make Costly Mistakes* (May 1, 2008).

between the AOTC and the Pell grant. Currently, the AOTC eligibility formula sharply limits the size of the tax credit received by needy students at the lowest cost schools. As a result, many of the lowest-income students do not receive any benefit from the current AOTC.

Because the opportunity to reform these provisions does not come along very often, it is critically important that any reforms address the needs and circumstances of the broad range of students in higher education. To be sure, many students in college still come from the traditional cohort, age 18-22. However, today nearly 50 percent of undergraduates and three-quarters of all students are adult learners, age 23 or older, with a quarter over age 30, a proportion that will likely continue to grow. These students are not just older than their traditional classmates. They tend to work full-time or have dependents—including multiple roles as parents and caregivers—serve in the military, or some combination of these, and take a longer time to complete their degree. Moreover, 50 percent of all students attend part-time, which inevitably increases time to completion. While the median time to degree for all bachelor's degree recipients is 4.3 years, for adult students (between ages 24-29), the median time to degree is 6.6 years. A reformed, consolidated credit should preserve current benefits for as many students as possible and take into account the demographic profile of all of today's students. The number of these nontraditional students will increase in the future, and any legislation that creates a permanent, consolidated credit should also address their needs.

For this reason, we strongly support the "American Opportunity Tax Credit Permanence and Consolidation Act of 2015" (S. 699) introduced by Senator Charles Schumer (D-NY). The bill would make a number of important reforms to the AOTC and Lifetime Learning Credit, benefiting families across income categories. The bill significantly improves the current AOTC and Lifetime Learning Credit by consolidating them into one simplified, permanent AOTC that would provide up to $3,000 per year in tax relief. In addition, the bill incorporates the expanded eligible expenses of the current AOTC, increases income phase-out thresholds and replaces current limits on the number of years a student can utilize the AOTC with a $15,000 lifetime cap. Moreover, in steps that will particularly benefit low- and moderate-income students, the bill increases the 40 percent partial refundability of the current AOTC to $1,500, and better coordinates the interaction of the credit with the Pell Grant, thereby making postsecondary education more affordable. This bill provides a model for reform of these provisions but there are others, such as Rep. Lloyd Doggett's (D-TX) "American Opportunity Tax Credit Act of 2015" (H.R.1260), which currently has 145 House co-sponsors. We welcome the opportunity to work with the committee on reforming these important higher education tax incentives.

- **Section 127 Employer-provided Educational Assistance**—Section 127 allows employers to offer employees up to $5,250 annually in tuition assistance, which is excluded from taxable income. It is effectively a matching grant program in which the federal government forgoes a proportionally small amount of revenue to leverage the investment employers make in their employees and the American workforce.

According to the most recent available Department of Education data, the more than 1.1 million American workers who used this tuition assistance in the 2011-12 academic year had average annual earnings of $53,880. This provision has been an important means of building and adding to the competencies of the workforce and is a critical tool to help our nation accelerate its economic growth. The top majors among recipients of this benefit include those in the STEM fields. More than 35 percent of degrees pursued by employees using education assistance are master's degrees.

This provision is a terrific public-private partnership, helping to leverage private dollars for higher education. It supports innovation by employers such as Starbucks, which joined with Arizona State University in a partnership that relies on Section 127 to provide access to higher education for Starbucks' employees. It is widely supported by the employer community and organized labor, and members from both sides of the aisle.

Made permanent by ATRA, we believe that this very successful tax provision should be enhanced to allow employers to offer higher levels of tax-favored tuition assistance to their employees. We recommend that the $5,250 annual limit, which has not changed since the 1970s, be increased with an automatic adjustment for inflation. This would be an extremely effective reform that would generate more private sector funds for financial aid to low- and middle-income students.

- **Sec. 117(d) Qualified Tuition Reduction**—Section 117(d) permits educational institutions, including colleges and universities, to provide their employees, spouses or dependents with tuition reductions that are excluded from taxable income. This long-standing provision helps employees and members of their families afford a college education, providing an important benefit to many middle and low-income college employees. A broad cross-section of our employees benefit from Section 117(d). Indeed, under the law, if an institution chooses to offer this benefit, then all employees must be able to receive it. As such, the benefit has been used by a range of employees, including secretaries and other front-line administrative staff, maintenance and janitorial staff. In addition to the help it provides our employees, Section 117(d) also gives colleges and universities an important tool for recruiting and retaining valued employees, helping maintain the quality of education our schools can offer. It has been particularly important for many small, private, denominational schools to compete for top employees. This benefit is essential to employees who are poised to send their children to college and have premised their career choices and college savings decisions on the existing tuition benefits for their children.

  In addition, many schools combine the Section 117 Qualified Scholarships exemption with Section 117(d)(5) to help mitigate the tax liability of graduate students engaged in teaching and/or research as part of their academic programs, many of whom earn very little and increasingly finance their graduate educations. According to the U.S. Department of Education, in 2011-12 a quarter of all graduate students earned less

than $11,000, and half were below $32,000. During that same year, there were 1.3 million master's degree students—nearly three-quarters of all graduate students—and approximately 31 percent received no financial aid. Forty-six percent of all master's students and 25 percent of all doctoral students borrowed for their degree. The median amount of those loans per year was $15,665 for master's students and $17,629 for doctoral students. The repeal of Section 117(d)(5) likely would result in an immediate, unforeseen tax burden for these graduate students, who would be unlikely to have the disposable income to satisfy this tax liability and would be forced to finance their education through additional loans. For all of these reasons, we strongly believe that Section 117(d)(5) should be preserved.

Provisions to Assist in Repayment of Student Loans:

The current tax code contains provisions that affect the ability of students to repay their student loan debt. As students increasingly have come to rely on loans to finance their college education, we strongly believe the tax code should continue to assist borrowers as they repay their loans.

- **Student Loan Interest Deduction (SLID)** —SLID currently permits taxpayers with less than $75,000 of income ($155,000 for joint filers) to deduct up to $2,500 in federal student loan interest payments each year. To qualify, a student loan must have been for qualified educational expenses, such as tuition and fees, course materials and room and board. Over the course of an undergraduate education, many students take out at least one federal student loan. According to the College Board, 33 percent of undergraduates used federal loans to finance their education in the 2013-14 academic year. Managing student loan debt after graduation can be a significant hardship. Recent federal actions have increased borrowing costs by increasing interest rates for all student borrowers and eliminating the in-school interest exemption for graduate student borrowers. With these increased loan costs, SLID has become even more important. The current $2,500 interest limit has been in place since 1997. SLID should be preserved.

- **Exclusion of Discharge of Student Loan Debt**—Currently, the tax code provides an exclusion for student loan debt that is forgiven for individuals who worked for a specified time period in certain professions or for a class of employers. This tax exclusion applies to several federal and state loan forgiveness programs, including the Public Service Loan Forgiveness program for borrowers working in government and certain nonprofit jobs, the TEACH program to assist future teachers, and the National Health Services Corps Loan Repayment Program, which assists medical health professionals working in underserved areas of the country. Each of these programs permits former students with high student loan debt to more easily manage their debt and avoid default in exchange for working, likely for lower salaries, in ways that serve our society.

Congress created various student loan forgiveness programs, including some of the programs mentioned above, in an effort to increase college access and affordability by lowering the burden of student loan debt. We have long supported these efforts and the tax exclusion of the discharge of remaining student loan debt as part of these programs because we believe in the policy goal and the attendant benefits it provides to the larger society. Indeed, we have long advocated that this tax exclusion be extended to two other federal loan forgiveness programs, Income-Based Repayment (IBR) and Income Contingent Repayment (ICR), to which it does not currently apply. Repeal of the current tax exclusion of discharge of student loan debt would undermine the purpose of these important loan forgiveness programs. In addition, for those programs that require regular loan repayment over many years, taxing the discharge of remaining student loan debt would amount to punishment of these responsible borrowers.

Currently, there are more than 20 million students enrolled in college in the United States, with approximately 50 percent taking out student loans to pay for college. Student loan debt is now in excess of $1 trillion, exceeding debt in consumer credit cards. At a time when more students are borrowing more money for college, this exclusion should be preserved and expanded to cover amounts forgiven under the IBR and ICR programs.

The Charitable Deduction and Charitable Giving Incentives:

For private nonprofit and public colleges and universities, the charitable deduction is vital to generating private support to help achieve their educational missions of teaching, research and public service. As a result, we urge you to proceed very cautiously when considering any potential changes to the current charitable deduction, which is an extremely efficient and effective incentive for giving that supports many beneficial purposes and causes and, ultimately, our society.

Enacted in 1917, the charitable deduction is a long-standing feature of the federal income tax code. The deduction was created in recognition that funds voluntarily donated to support a charitable or educational purpose were no longer available to the donor for their personal consumption or, for that matter, to pay taxes to the Treasury. As a result, the charitable deduction is unique in recognizing that this income has been foregone, transferred to support public purposes and advance the common good.

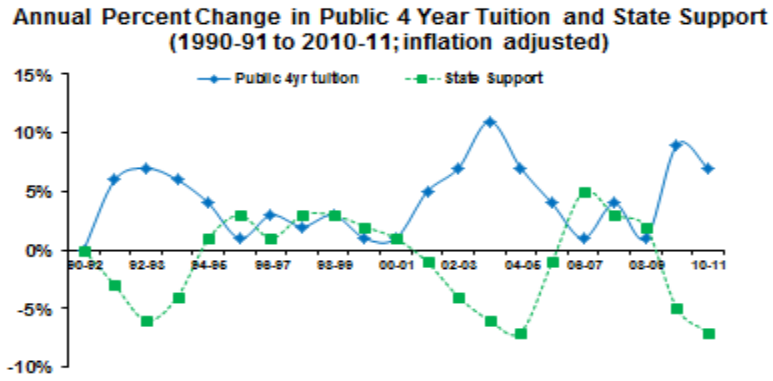
The deduction has long served as an important and effective incentive for charitable giving, which benefits both higher education as well as society in general. While private donors make gifts for many reasons, it is well established that the charitable tax deduction helps generate and sustain donations. The benefit to society of a charitable donation far exceeds the financial benefit received by a donor. In fact, for each dollar a

typical donor receives in tax relief, the public gains approximately three dollars of benefit.[7]

The Importance of the Charitable Deduction to Higher Education

Now more than ever, the ability of colleges and universities to fulfill their teaching, research and public service missions depends upon charitable giving. According to the Council for Aid to Education, colleges and universities in 2014 received about $37 billion in charitable gifts, an increase of 10.8 percent over the previous year. Private donations work in concert with federal and state investments in student aid to ensure access to higher education for students irrespective of their socio-economic status. Charitable gifts also support teaching, groundbreaking research and technological innovation, and the public service activities of colleges and universities. In short, the partnership with private donors has delivered enormous economic benefits to our society, but unfortunately it is a partnership undergoing severe stress.

Colleges and universities are facing great financial challenges, escalating the importance of private giving to help restrain tuition increases and sustain these anchor institutions. For public institutions, which enroll approximately 80 percent of all students in the nation, the single largest factor driving up tuition is declining state support. Indeed, there is a direct and inverse relationship between the level of state appropriations and the level of tuition increases, as illustrated in the chart below.



As a result of the Great Recession, state support per student for public higher education fell to a 20-year low in 2011-12, triggering increased tuition at public institutions to offset reduced state appropriations. Adjusting for inflation, in 2010, 2011, and 2012, state and local support per student were the lowest in the last 25 years. Although state and local support per-student rose in 2013 and 2014, it still remains significantly lower than pre-recession levels. As a result of the state disinvestment in public education, students and families pay an increasingly larger portion of educational

[7] Stephanie Strom, *Big Gifts, Tax Breaks and a Debate on Charity,* New York Times, September 6, 2007.

costs. Twenty-five years ago, tuition accounted for 24.5 percent of public higher education revenues. Today that figure is nearly double. Under these circumstances, private philanthropy is critical to helping public college and universities respond to the loss of state appropriations.

Private colleges and universities face a different set of circumstances. They have always relied upon charitable gifts to achieve their educational missions. In fact, many private institutions owe their very existence to generous charitable gifts. Few independent institutions receive significant amounts of state support for their operating budgets. Some states provide financial aid that helps students attend these institutions, but when state financial aid is reduced as a result of budget cuts, private colleges must use even more of their own funds to fill the gap. Private institutions have increased college and university grants, scholarships and fellowships for students.[8] This institutionally provided aid is funded in significant part from charitable donations.

Today's economy has reinforced the importance of obtaining a college education. During the Great Recession and its aftermath, the employment divide between college-educated and non-college-educated workers has widened. At the same time, many families are under budgetary stress, creating greater demand for student financial aid. While increased Pell Grants and institutional financial aid have softened the blow for many students, particularly low-income students, federal funding for financial aid is under tremendous pressure. Charitable gifts colleges and universities receive help to minimize tuition increases and support student financial aid programs, advancing the important goal of providing access to higher education regardless of income.

Our nation's long-term economic growth depends upon a larger well-educated and trained workforce and innovations from scientific research. Diminished support for student financial aid undermines access to higher education and, ultimately, the country's ability to produce enough well-trained workers essential to our economy. Workforce projections show that by 2018, there will be jobs for as many as 22 million new workers with college degrees. But on our current trajectory, we will not make that goal—in fact, we will miss it by 3 million.[9] As a result, we need to expand access to education. Similarly, long-term economic growth depends upon sustained and strong investments in scientific research. Indeed, economists generally attribute more than half of all growth in the United States since the end of World War II to technological innovations and advancements. Many of these innovations and advancements trace their origins to federal investments in scientific research, including the laser, GPS and the Internet.

---

[8] 2013 NACUBO Tuition Discounting Survey.
[9] Anthony P. Carnevale, Nicole Smith, and Jeff Strohl, *Help Wanted: Projections of Jobs and Education Requirements Through 2018*, Center on Education and the Workforce, Georgetown University, 18 (June 2010).

While there is no replacing the investments made by federal government in student financial aid and scientific research, private charitable giving plays an increasingly important role in supplementing them. We should continue as a nation to encourage strong charitable giving to support student financial aid, research and other academic programs. The current charitable deduction does just that.

The IRA Charitable Rollover

Since it was first instituted in 2006, the IRA Charitable Rollover has proven to be a very valuable incentive that has helped many different types of non-profit organizations generate new or increased contributions. The IRA Charitable Rollover permits individuals age 70½ and older to donate up to $100,000 from their Individual Retirement Accounts (IRAs) and Roth IRAs to public charities, including colleges and universities, without having to count the distributions as taxable income. Many donations made through this provision to colleges and universities have gone to support student financial aid. The IRA Charitable Rollover is particularly beneficial to so-called "non-itemizers"–individuals who do not itemize tax deductions and cannot take advantage of the charitable deduction. Moreover, taxpayers in states that do not allow itemized deductions and follow federal income inclusion rules may save on their state taxes by making qualified charitable distributions from their IRAs.

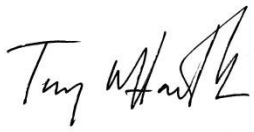
After expiring at the end of 2013, the IRA Charitable Rollover was briefly extended as part of the Tax Increase Prevention Act of 2014 enacted last December, only to expire again at the end of 2014. Permanent extension of this provision would enhance its effectiveness by encouraging greater usage by donors who could better plan their charitable giving and personal finances.

Conclusion:

We strongly support the "three-legged stool" framework in the current tax code that: encourages saving for higher education; helps students and families pay for college; and assists borrowers as they repay student loans. Our nation's long-term economic growth depends upon a larger well-educated and trained workforce. Together these tax provisions help to improve access to and completion of higher education, and advance the important goal of producing enough well-trained workers essential to our economy. We believe that tax reform provides an excellent opportunity to improve some of the individual provisions that will make the framework more effective for students, their families and taxpayers repaying student loans. We also urge you to preserve strong federal tax incentives for charitable donations and avoid measures that could significantly affect giving and thereby harm students, as well as the colleges and universities that serve them and our nation.

We thank the working group for the opportunity to submit these comments and for considering our views. As efforts to reform the tax code move forward, we stand ready to work with you.

Sincerely,



Terry W. Hartle
Senior Vice President

TWH/ldw

On behalf of:

American Association of Community Colleges
American Association of State Colleges and Universities
American Council on Education
Association of American Universities
Association of Community College Trustees
Association of Governing Boards of Universities and Colleges
Association of Jesuit Colleges and Universities
Association of Public and Land-grant Universities
College and University Professional Association for Human Resources
Council for Advancement and Support of Education
Council for Christian Colleges and Universities
Hispanic Association of Colleges and Universities
NASPA – Student Affairs Administrators in Higher Education
National Association of College and University Business Officers
National Association of Independent Colleges and Universities
UNCF