Association of Public & Land-Grant Universities

Concerns with House and Senate Versions of the Tax Cut and Jobs Act

Eliminating Section 117(d) would skyrocket some students' taxable income and damage the nation's scientific research enterprise. [House Bill]

Section 117(d) contains two benefits we strongly urge Congress to retain.

- ***Section 117(d)*** allows colleges and universities to provide their employees and their spouses or dependents with tuition reductions for undergraduate education that are excluded from taxable income.

Under the Internal Revenue Code, if an institution chooses to offer tuition discounts to employees, spouses, and their dependents, then all employees must be eligible. The provision benefits a range of employees, including administrative staff, maintenance and janitorial staff, and faculty. According to a 2017 survey conducted by the College and University Professional Association for Human Resources, the majority of employees benefitting from the provision are low and middle income. Fifty percent of recipients of tuition reductions earned $50,000 or less and 78 percent earned $75,000 or less. If Section 117 were repealed, taxable income would increase sharply for those receiving tuition benefits thus providing a disincentive for employees to utilize the benefit and advance their career and life prospects.

- ***Section 117(d)(5)*** allows colleges and universities to lower the cost of graduate education for their graduate students who are serving as teaching or research assistants as part of their academic training without the tuition reductions counting as taxable income.

Public universities often support graduate students serving essential roles in our nation's research enterprise with tuition assistance. According to the most recent Department of Education data available, in 2011-12, nearly 55 percent of all graduate students had adjusted gross incomes of $20,000 or less and nearly 87 percent had incomes of $50,000 or less. During the same period, master's degree students received an average of $10,949 and Ph.D. students received an average of $13,609 in tuition waivers for serving as research and teaching assistants. A repeal of Section 117(d)(5) would lead to a completely unaffordable increase in taxable income and make the pursuit of a graduate degree much more challenging, if not impossible, for a large number of these students. In turn, this would greatly damage our nation's scientific research enterprise. Section 117(d)(5) is critical for developing the science and technology workforce pipeline that employers need to propel our nation's economy forward.

Eliminating Section 127 would revoke a critical incentive for the private sector's partnership with higher education. [House Bill]

- Section 127 of the tax code allows for employers to provide tuition reimbursement to employees, tax free (up to $5,250) thus incenting the private sector's investment in the advancement of its employees and encouraging partnerships with colleges and universities.

Section 127 has proven effective in encouraging the private sector to invest in its employees in a way that advances all of society by increasing the number of college graduates and boosting our nation's competitiveness. Section 127 has also led to innovative public-private partnerships between public universities and the private sector. Arizona State University's partnership with Starbucks in the Starbucks College Achievement Plan (SCAP) is a model of the kind of creative partnerships between industry and academia that will help the United States answer its workforce competitiveness needs of the future. Through this program, Starbucks offers all its benefits-eligible employees full tuition coverage toward earning a bachelor's degree. Presently, more than 8,000 Starbucks employees are participating with a Starbucks goal of 25,000 graduates by 2025.

Eliminating the Lifetime Learning Credit without additional changes to the American Opportunity Tax Credit disproportionately harms nontraditional and graduate students. [House Bill]

The American Opportunity Tax Credit (AOTC), which presently is available for up to four years of postsecondary education, works in partnership with the Lifetime Learning Credit (LLC) to encourage higher education and degree attainment. Since there is not a cap on years of eligibility for the comparatively less generous LLC, the benefit fills in gaps of AOTC to support students' advancement to graduate education and support students needing more than four years to graduate (part-time and other nontraditional students). H.R. 1's elimination of LLC without significant expansion of AOTC is not simplification; it is a cut of critical assistance that helps students complete higher education and advance to the next level. While the bill would add a fifth year of AOTC eligibility at half of the benefit, that is not a replacement for LLC. Without further changes, the legislation would leave nontraditional students, who are an increasing percentage of students in postsecondary education, without support while they are working towards their degrees and would repeal critical assistance for graduate students. For graduate students, harm created by repeal of 117(d)(5) would be compounded by repeal of LLC.

APLU urges restoration of LLC or further expansion of AOTC to cover nontraditional and graduate students.

Eliminating Student Loan Interest Deduction would make loan repayment more challenging for borrowers with modest income. [House Bill]

The Student Loan Interest Deduction is important tax relief targeted to borrowers with modest incomes. APLU urges Congress to retain the deduction. Eliminating this provision would increase the cost of student loans by an estimated $24 billion over ten years for those who most need assistance.

Impacts on Charitable Giving and Eliminating SALT are deeply concerning. [House and Senate Bills]

While the legislation preserves the deduction for charitable giving, the bill's significant expansion of the standard deduction would have implications for charitable giving as it reduces the number of itemizers and thus the number of individuals who would benefit from the deduction. Only 5 percent of American taxpayers are projected to itemize if the legislation were enacted. As a result, the Joint Committee on Taxation (JCT) projects H.R. 1 would lead to a dramatic drop in the amount of charitable giving. Per JCT, 41 million donors would give around $241 billion in 2018 under current law. If enacted, H.R. 1 would result in a devastating drop to 9 million donors contributing around $146 billion. We have not yet seen projections on the Senate bill but expect similar projections. We urge Congress to consider proposals that would create a universal charitable deduction so taxpayers are incented to give regardless

of whether they itemize. Charitable giving is increasingly important to public colleges and universities as states have sharply reduced support for public higher education.

We continue to study provisions in the House and Senate bills that will have an impact on charitable giving.

Another provision, which may have downstream impacts on public higher education, is the proposed elimination of the state and local tax (SALT) deduction. H.R. 1 would eliminate the state and local income tax deduction (retaining a deduction for local property tax) while the Senate measure would completely eliminate SALT. This could make it more challenging for states to generate revenue to support public higher education or perhaps to even maintain current levels of support. Disinvestment in public higher education is a long-term trend that was exacerbated by the Great Recession. After adjusting for inflation, the average state spent $1,448 or 16 percent less per student in 2017 than 2008. In eight states, per-student funding fell by more than 30 percent over this period.

Eliminating some tax-exempt bond options will stunt growth of public universities, limit ability to modernize education and research facilities, and drive up costs. [House and Senate Bills]

Tax-exempt bonds facilitate the construction, renovation, and expansion of critical facilities including academic buildings, residence halls, modern energy plants, and research laboratories, all essential to advancing our education, research, and community engagement missions. The elimination of some tax-exempt bond options would significantly increase the operating costs of universities -- stunting the growth of our institutions, limiting the opportunities we can provide to students, and ultimately also negatively impacting tuition.

Tax-exempt bonds are an increasingly important financing mechanism for public institutions as state appropriations have declined in the substantial majority of states and enrollment has surged. Between the 2008 and 2016 academic years, enrollment at public institutions of higher education increased by more than 826,000 full-time-equivalent students, or 8 percent. Modernizing old and constructing new facilities is imperative for public universities to serve new students.

We appreciate that the Senate bill retains private activity bonds. However, both the House and Senate bills would eliminate advance refunding bonds. Without the tax exemption of advance refunding bonds, operating costs of public universities will significantly increase. As examples, the University of Colorado has saved approximately $60 million in borrowing costs over the last decade by using advanced refunds.

Increasing taxable income of public universities will have substantial consequences to institutions and students. [Senate Bill]

The Senate bill could significantly increase the amount of unrelated business income tax (UBIT) paid by tax-exempt organizations including public institutions of higher education. The provisions overall increase the operating costs of public universities, detrimentally impacting university finances which would ultimately impact students through the services they receive and tuition they pay. The new provisions in the Senate bill related to UBIT would tax nonprofits in a highly unusual manner and apply standards that do not exist even in taxing for-profit institutions.

Public universities should pay taxes on unrelated business activities as set forth in the Code. But, changes to the Code's guidelines should not result in disparate treatment by holding universities to

standards on taxable income not applicable to corporations. The proposal in the Senate bill that would require separate computation of each “trade or business” rather than in aggregate would be highly unusual and unfair. For example, a for-profit corporation can generally apply losses in one activity to offset gains in another activity for tax purposes. Furthermore, policymakers should not impose needlessly burdensome and unfair recordkeeping and reporting guidelines which would likely result from such a policy.

Additionally, the Senate bill’s automatic treatment of income derived from licensing an organization’s name or logo as UBIT would have expensive repercussions on public universities.

The ultimate impact of these measures would be fewer resources for public universities to devote to education, research, and community engagement.

We urge the Senate to remove these new UBIT provisions as the legislative process proceeds.