

Public Law 98-611  
98th Congress

An Act

Oct. 31, 1984  
[H.R. 2568]

To amend the Internal Revenue Code of 1954 to extend for 2 years the exclusion from gross income with respect to educational assistance programs, 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. AMENDMENTS RELATING TO EDUCATIONAL ASSISTANCE PROGRAMS.**

26 USC 127.

(a) **2-YEAR EXTENSION OF EXCLUSION FROM GROSS INCOME.**—Subsection (d) of section 127 of the Internal Revenue Code of 1954 (relating to educational assistance programs) is amended by striking out “December 31, 1983” and inserting in lieu thereof “December 31, 1985”.

(b) **ANNUAL EXCLUSION LIMITED TO \$5,000.**—Subsection (a) of section 127 of such Code is amended to read as follows:

“(a) **EXCLUSION FROM GROSS INCOME.**—

“(1) **IN GENERAL.**—Gross income of an employee does not include amounts paid or expenses incurred by the employer for educational assistance to the employee if the assistance is furnished pursuant to a program which is described in subsection (b).

“(2) **\$5,000 MAXIMUM EXCLUSION.**—If, but for this paragraph, this section would exclude from gross income more than \$5,000 of educational assistance furnished to an individual during a calendar year, this section shall apply only to the first \$5,000 of such assistance so furnished.”

(c) **SPECIAL RULE FOR CERTAIN GRADUATE STUDENTS.**—Subsection (c) of section 127 of such Code is amended by adding at the end thereof the following paragraph:

“(8) **COORDINATION WITH SECTION 117(d).**—In the case of the education of an individual who is a graduate student at an educational organization described in section 170(b)(1)(A)(ii) and who is engaged in teaching or research activities for such organization, section 117(d)(2) shall be applied as if it did not contain the phrase ‘(below the graduate level)’.”

Ante, p. 887.

(d) **REPORTING AND RECORDKEEPING REQUIREMENTS.**—

(1) **IN GENERAL.**—Subpart A of part III of subchapter A of chapter 61 of such Code is amended by inserting after section 6039C the following new section:

26 USC 6039D.

**“SEC. 6039D. RETURNS AND RECORDS WITH RESPECT TO CERTAIN FRINGE BENEFIT PLANS.**

“(a) **IN GENERAL.**—Every employer maintaining a specified fringe benefit plan during any year beginning after December 31, 1984, for any portion of which the applicable exclusion applies, shall file a return (at such time and in such manner as the Secretary shall by regulations prescribe) with respect to such plan showing for such year—

- “(1) the number of employees of the employer,
- “(2) the number of employees of the employer eligible to participate under the plan,
- “(3) the number of employees participating under the plan,
- “(4) the total cost of the plan during the year, and
- “(5) the name, address, and taxpayer identification number of the employer and the type of business in which the employer is engaged.

“(b) RECORDKEEPING REQUIREMENT.—Each employer maintaining a specified fringe benefit plan during any year shall keep such records as may be necessary for purposes of determining whether the requirements of the applicable exclusion are met.

“(c) ADDITIONAL INFORMATION WHEN REQUIRED BY THE SECRETARY.—Any employer—

- “(1) who maintains a specified fringe benefit plan during any year for which a return is required under subsection (a), and
- “(2) who is required by the Secretary to file an additional return for such year,

shall file such additional return. Such additional return shall be filed at such time and in such manner as the Secretary shall prescribe and shall contain such information as the Secretary shall prescribe.

“(d) DEFINITIONS.—For purposes of this section—

“(1) SPECIFIED FRINGE BENEFIT PLAN.—The term ‘specified fringe benefit plan’ means—

- “(A) any cafeteria plan (as defined in section 125), and
- “(B) any educational assistance program (as defined in section 127).

“(2) APPLICABLE EXCLUSION.—The term ‘applicable exclusion’ means—

- “(A) section 125, in the case of a cafeteria plan, and
- “(B) section 127, in the case of an educational assistance program.”

(2) PENALTY.—Subsection (f) of section 6652 of such Code (relating to failure to file certain information returns, registration statements, etc.) is amended by striking out “125(h) (relating to information with respect to cafeteria plans)” and inserting in lieu thereof “6039D (relating to returns and records with respect to certain fringe benefit plans)”.

*Ante*, p. 882.

(3) CONFORMING AMENDMENTS.—

(A) Section 125 of such Code (relating to cafeteria plans) is amended by striking out subsection (h) and inserting in lieu thereof the following:

*Ante*, p. 882.

“(h) CROSS REFERENCE.—

“For reporting and recordkeeping requirements, see section 6039D.”

(B) Section 127 of such Code is amended by adding at the end thereof the following new subsection:

26 USC 127.

“(e) CROSS REFERENCE.—

"For reporting and recordkeeping requirements, see section 6039D."

(4) **CLERICAL AMENDMENT.**—The table of sections for subpart A of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6039C the following new item:

"Sec. 6039D. Returns and records with respect to certain fringe benefit plans."

26 USC 127. (e) **CLARIFICATION OF DISALLOWANCE OF CREDIT OR DEDUCTION.**—Paragraph (7) of section 127(c) of such Code (relating to definitions; special rules) is amended by inserting "to the employee" after "allowed".

Ante, p. 884. (f) **EXCLUSION FROM RAILROAD RETIREMENT TAXES OF AMOUNTS WHICH MAY BE EXCLUDED UNDER SECTION 127.**—Subsection (e) of section 3231 of such Code (defining compensation for purposes of the railroad retirement taxes) is amended by adding at the end thereof the following new paragraph:

"(6) The term 'compensation' shall not include any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127."

26 USC 127 note. (g) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1983.

(2) **SUBSECTION (d).**—The amendments made by subsection (d) shall take effect on January 1, 1985.

(3) **SUBSECTION (f).**—The amendment made by subsection (f) shall apply to remuneration paid after December 31, 1984.

26 USC 3101. (4) **NO PENALTIES OR INTEREST ON FAILURE TO WITHHOLD.**—No penalty or interest shall be imposed on any failure to withhold under subtitle C of the Internal Revenue Code of 1954 (relating to employment taxes) with respect to amounts excluded from gross income under section 127 of such Code (as amended by this section and determined without regard to subsection (a)(2) thereof) with respect to periods during 1984.

Ante, p. 3176. (5) **COORDINATION WITH SECTION 117 (d).**—In the case of education described in section 127(c)(8) of the Internal Revenue Code of 1954, as added by this section, section 117(d) of such Code shall be treated as in effect on and after January 1, 1984.

Ante, p. 3176. (h) **STUDY.**—

Ante, p. 887. (1) **IN GENERAL.**—The Secretary of the Treasury shall conduct a study of the effect of the provisions of section 127 of the Internal Revenue Code of 1954.

(2) REPORT.—Not later than October 1, 1985, the Secretary of the Treasury shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the study conducted under paragraph (1) (together with such recommendations as he may deem advisable).

Approved October 31, 1984.

**LEGISLATIVE HISTORY—H.R. 2568:**

HOUSE REPORT No. 98-1049 (Comm. on Ways and Means).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 1, considered and passed House.

Oct. 11, considered and passed Senate.