

Practice Update

The Tax Cut and Jobs Act: Passed to Make Higher Education Less Attainable?

December 4, 2017

Having passed a critical hurdle in the Senate, it appears likely that some version of the Tax Cut and Jobs Act will be passed into law. It is also becoming clear that the passage of this Act will impact higher education by making college less affordable for students.

Although proponents of the new tax bill urge that the goal is to spur economic activity, opponents of the bill believe that the proposed changes will create additional barriers for millions of Americans who seek affordable higher education.

Here is a rundown of some of the more important provisions of the new bill:

Graduate Student Tuition Waivers:

- House: graduate student tuition waivers are taxed as taxable income.
- Senate: does not call for the taxation of these waivers.

Taxing Other Students:

- House: eliminates deductions of up to \$2,500 for interest on student loans, the Hope Scholarship Tax Credit (worth up to \$2,500), and the Lifetime Learning Credit (up to \$2,000; and the \$5,250

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corporate deduction for employee education-assistance plans).

- Senate: does not eliminate any of these provisions.

Tax on Investment Income:

- House: taxes approximately 65 colleges which enroll at least 500 students and have assets of \$250,000 per full-time student.
- Senate: the pool of colleges are narrowed to approximately 30 institutions or those who have assets of \$550,000 per full-time student.

Business and Sports:

- Both: include proposals for a 20% tax on compensation in excess of \$1 million paid to any of a nonprofit organization's five highest-paid employees.
- Senate: removed its previous proposal requiring colleges to pay taxes on royalties. However, the Senate still seeks to eliminate 80% of deductions that sports fans may take for "seat license fees" paid on season tickets to sporting events.
- The new tax bill will also potentially increase the overall tax burden for colleges by prohibiting colleges from using a loss in one unrelated business to offset a gain in a different business.

Overall Charitable Giving:

- Both: propose to double the standard deduction for tax filers. This will likely have an impact on the incentives for individuals to donate to colleges.

Future Funding Hurdles:

- Senate: projected to add more than \$1 trillion to the deficit.
- House: projected to cost \$1.4 trillion.

Of greatest concern is the provision to tax tuition waivers, which could negatively impact the number of students who pursue degrees. This will likely cause an even greater disparity for those communities who are not widely represented in higher education, including a reduction in the number of students currently enrolled in higher education programs.

Impact on Taxing Tuition Waivers

Under the current tax code, 26 U.S. Code § 117(d)(5), tuition waivers given to graduate students are not counted as taxable income. However, under the House version of the tax bill, such waivers will be taxed.

Under this proposed framework, graduate students would face a higher tax burden and could be responsible for paying taxes equivalent to an \$80,000 salary, depending on the university and the graduate program. For some, this could create an additional tax burden of at least \$10,000 annually.

Many fear that this would cause a significant increase in the number of students dropping out of graduate programs or choosing to forego them altogether, preventing all but the wealthiest students from pursuing higher education. Recent data confirms that the nation's most elite schools have catered mostly to the wealthy. Statistically speaking, dozens of colleges enroll more students from the top 1% of earners than the bottom 60% of earners. The students who will suffer the most are from communities that are already underrepresented in higher education.

Even if universities are able to cover tuition for some students, universities may be forced to decrease the total number of graduate students they accept. Universities can also expect that the number of students seeking to obtain higher educational degrees will decrease substantially.

Tuition waiver is just one of the troubling provisions under the new tax bill but one that has sparked the most conversation and controversy.

The Bigger Picture

Overall, if the new bill becomes law, it will create a significant and potential new tax burden for higher education institutions and can possibly adversely affect charitable giving and state budgets that support public colleges and universities.

Proponents of the new tax bill argue that its goal is to promote economic stability and growth. However, the law may have the effect of harming American competitiveness by dramatically reducing enrollment in higher education programs.

Stated differently, many believe the proposed tax bill will remove the educational tools that make it possible for people to shift their own class status – and achieve the American dream.

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