

Ways and Means Tax Reconciliation Tax Package Summary of Key Higher Ed Provisions

The House Committee on Ways and Means has advanced a tax package that would extend provisions of the 2017 Tax Cuts and Jobs Act (TCJA) and make changes relevant to higher education and nonprofit institutions, including adjustments to the endowment tax and other provisions affecting institutional finance. On May 14, the committee voted 26-16 along party lines to approve the measure.

The tax package includes the following provisions:

Modification of the endowment tax for certain private colleges and universities (Sec. 112021)

This provision replaces the current 1.4 percent excise tax on net investment income (“endowment tax”) with a four-tiered system based on the size of their endowment per full-time equivalent student:

- 1.4 percent for institutions with an endowment of \$500,000 to less than \$750,000 per student;
- 7 percent for institutions with an endowment in excess of \$750,000 and less than \$1,250,000 per student;
- 14 percent for institutions with an endowment in excess of \$1,250,000 and less than \$2,000,000 per student; and
- 21 percent for institutions with an endowment in excess of \$2,000,000 per student.

In addition to the new tier system, the tax would be changed in several other important ways:

- The calculation of an institution's student-adjusted endowment excludes international and undocumented students (per Section 484(a)(5) of the Higher Education Act) as provided in the Protecting American Students Act (H.R. 8913)(118th Congress);
- The tax includes an exception for religious institutions; and
- The calculation of a school's net investment income subject to the tax includes student loan interest income and any royalty income derived from federally subsidized research, development, and/or intellectual property. **(Raises \$6.7 billion over 10 years).**

Impact on Charitable Giving (Secs. 110002 and 110112)

The tax package would impact charitable giving in two key ways:

- 1) It makes permanent the standard deduction for individuals and couples enacted in the TCJA, while also temporarily increases the standard deduction for individuals and couples for three years. The increase in the standard deduction reduced the number of taxpayers who itemize, significantly

reducing the value of the charitable deduction, and led to a drop in donations to colleges and universities;

- 2) In part to mitigate the decline in charitable giving since 2017, the proposal creates a temporary three-year deduction for non-itemizing taxpayers up to \$150 for individuals and \$300 for couples. **(Costs \$6.9 billion over 10 years).**

Employer Provided Educational Assistance (Sec. 110113)

This provision makes two important changes to Sec. 127:

- 1) it indexes for inflation tax-free employer provided educational assistance, which would result in an increase over time of the current \$5,250; and
- 2) it makes permanent student loan repayments by employers of up to \$5,250 tax-free per year. **(Costs \$11.2 billion over 10 years).**

Extension of exclusion from gross income of student loans discharged on account of death or disability (Sec. 110019)

- This provision permanently extends a current law which provides that any income resulting from the discharge of student debt on account of death or total disability of the student is excluded from taxable income. **(Costs \$385 million over 10 years).**

Modification to Unrelated Business Income Tax (Sec. 112025)

- Modifying current law, this provision would apply unrelated business income tax to royalty income from any sale or licensing by a tax-exempt organization of its name or logo. **(Raises \$3.8 billion over 10 years).**

Certain postsecondary credentialing expenses treated as qualified higher education expenses for purposes of 529 accounts (Sec. 110111)

- This provision allows tax-exempt distributions from 529 college savings plans to be used for additional qualified higher education expenses, including “qualified postsecondary credentialing expenses” in connection with “recognized postsecondary credential programs” and “recognized postsecondary credentials.” **(Cost included in K-12 529 proposal of \$145 million over 10 years).**

Higher Education Tax Credits – Social Security number requirement for American Opportunity Tax Credit (AOTC) and Lifetime Learning Tax Credits (LLC) (Sec. 112106)

- This provision adds requirements for taxpayers to include their SSN on their tax return to access the AOTC or LLC. **(Raises \$366 million over 10 years).**

Tax Exemption Issues – Termination of tax-exempt status of terrorist supporting organizations (Sec. 112209)

- This provision would allow the Treasury Secretary to designate section 501(c) nonprofits as “terrorist-supporting organizations” at the Secretary’s discretion and revoke their tax-exempt

status if the Secretary determines that the nonprofit provided material support or resources to a terrorist group within the past three years of the designation.

Unfortunately, the provision does not require the Secretary to share their full evidence or reasoning with accused nonprofits. In addition, it undermines constitutional due process protections by placing the burden of proof on the accused organization and providing only 90 days for organizations to demonstrate their innocence before their tax-exempt status has been revoked.

(Negligible revenue effect).

Tax Exempt Compensation – Expanding tax on excess compensation within tax-exempt organizations (Sec. 112020)

- The provision imposes an excise tax on executive compensation above \$1 million annually paid to certain highly compensated employees by applicable tax-exempt organizations. **(Raises \$3.8 billion over 10 years).**

