

**DESCRIPTION OF H.R. 5193,
THE “BACK TO SCHOOL TAX RELIEF ACT OF 2002”**

Scheduled for a Markup
By the
HOUSE COMMITTEE ON WAYS AND MEANS
July 25, 2002

Prepared by the Staff
of the
JOINT COMMITTEE ON TAXATION



July 23, 2002
JCX-79-02

CONTENTS

	<u>Page</u>
INTRODUCTION	1
A. Extend Tuition Deduction to Qualified Elementary and Secondary Education Expenses	2

INTRODUCTION

The House Committee on Ways and Means has scheduled a markup on July 25, 2002, of H.R. 5193, the “Back to School Tax Relief Act of 2002.” This document,¹ prepared by the staff of the Joint Committee on Taxation, provides a description of the “Back to School Tax Relief Act of 2002.”

¹ This document may be cited as follows: Joint Committee on Taxation, *Description of H.R. 5193, the “Back to School Tax Relief Act of 2002,”* (JCX-79-02), July 23, 2002.

A. Extend Tuition Deduction to Qualified Elementary and Secondary Education Expenses

Present Law

An individual is allowed an above-the-line deduction for qualified tuition and related expenses for higher education paid by the individual during a taxable year.² Qualified tuition and related expenses are tuition and fees required for the enrollment or attendance of the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer with respect to whom the taxpayer may claim a personal exemption, at an eligible institution of higher education for courses of instruction of such individual at such institution. The deduction generally is not available for expenses with respect to a course or education involving sports, games, or hobbies, and is not available for student activity fees, athletic fees, insurance expenses, or other expenses unrelated to an individual's academic course of instruction. The expenses must be in connection with enrollment at an institution of higher education during the taxable year, or with an academic term beginning during the taxable year or during the first three months of the next taxable year. The deduction is not available for tuition and related expenses paid for elementary or secondary education.

For taxable years beginning in 2002 or 2003, the maximum deduction is \$3,000 for an individual whose adjusted gross income for the taxable year does not exceed \$65,000 (\$130,000 in the case of a joint return). For taxable years beginning in 2004 or 2005, the maximum deduction is \$4,000 for an individual whose adjusted gross income for the taxable year does not exceed \$65,000 (\$130,000 in the case of a joint return), or \$2,000 for other individuals whose adjusted gross income does not exceed \$80,000 (\$160,000 in the case of a joint return). No deduction is allowed an individual whose adjusted gross income exceeds the relevant adjusted gross income limitations, a married individual who does not file a joint return, or an individual with respect to whom a personal exemption deduction may be claimed by another taxpayer for the taxable year.

The amount of qualified tuition and related expenses must be reduced by certain scholarships, educational assistance allowances, and other amounts paid for the benefit of such individual,³ and by the amount of such expenses taken into account for purposes of determining any exclusion from gross income of: (1) income from certain United States Savings Bonds used to pay higher education tuition and fees; and (2) income from a Coverdell education savings account.⁴ Additionally, such expenses must be reduced by the earnings portion (but not the return of principal) of distributions from a section 529 qualified tuition program if exclusion under section 529 is claimed with respect to expenses eligible for an exclusion under section 222. No deduction is allowed for any expense for which a deduction is otherwise allowed or with

² Sec. 222. (All section references are to the Internal Revenue Code, except as otherwise indicated.)

³ Sec. 222(d)(1) and sec. 25A(g)(2).

⁴ Sec. 222(c).

respect to an individual for whom a Hope Scholarship Credit or Lifetime Learning Credit is elected for such taxable year.

The deduction is not available for taxable years beginning after December 31, 2005.

Description of Proposal

The proposal would extend the above-the-line deduction to “qualified elementary and secondary education expenses” paid in connection with an “eligible K-12 student.” Qualified elementary and secondary education expenses generally would be defined under the present-law rules applicable to Coverdell education savings accounts⁵ and would include (1) expenses for tuition, fees, academic tutoring, special needs services,⁶ books, supplies, and other equipment that are incurred in connection with enrollment or attendance at a public, private, religious, or home school as determined under State law that provides elementary or secondary education as determined under State law; (2) expenses for uniforms, transportation, and supplementary items and services (including extended day programs) that are required or provided by such a school (other than a home school) in connection with such enrollment or attendance; and (3) expenses for the purchase of any computer technology or equipment or Internet access and related services, if such items are to be used by the student or the student’s family during any of the years the student is in school.⁷ Qualified elementary and secondary education expenses would not include room and board.⁸

An eligible K-12 student would be an individual with respect to whom the taxpayer is allowed to claim a personal exemption for the taxable year and who is enrolled in a school that provides elementary education or secondary education (kindergarten through grade 12) as determined under State law (including a home school). The expenses would be required to be in connection with enrollment at a school during the taxable year, or with an academic term beginning during the taxable year or during the first three months of the next taxable year.

The proposal would retain the present-law maximum deduction and adjusted gross income limitations applicable to qualified tuition and related expenses for higher education, and provide a separate maximum deduction and adjusted gross income limitation applicable to the taxpayer’s qualified elementary and secondary education expenses. A taxpayer’s maximum

⁵ Sec. 530(b)(4).

⁶ For this purpose, special needs services generally would include services required because a physical, mental, or emotional condition (including learning disability) of the student requires additional time of the student in order to complete his or her education.

⁷ Qualified elementary and secondary expenses would not include expenses for computer software designed for sports, games, or hobbies unless the software is predominantly educational in nature.

⁸ The present-law rules regarding coordination of the deduction for qualified tuition and related expenses with other education incentives also would apply to qualified elementary and secondary expenses.

deduction for qualified elementary and secondary education expenses for a taxable year would be \$3,000 for an individual whose adjusted gross income for the taxable year does not exceed \$20,000 (\$40,000 in the case of a joint return).⁹

Effective Date

The proposal would be effective for taxable years beginning after December 31, 2002, and before January 1, 2006.

⁹ No deduction would be allowed an individual whose adjusted gross income exceeds the relevant adjusted gross income limitation, a married individual who does not file a joint return, or an individual with respect to whom a personal exemption deduction may be claimed by another taxpayer for the taxable year.