

# EMPLOYEE EDUCATION ASSISTANCE PROGRAMS.

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HEARING  
BEFORE THE  
SUBCOMMITTEE ON TAXATION AND  
DEBT MANAGEMENT GENERALLY  
OF THE  
COMMITTEE ON FINANCE  
UNITED STATES SENATE  
NINETY-FIFTH CONGRESS

SECOND SESSION

ON

**S. 2388**

A BILL TO AMEND THE INTERNAL REVENUE CODE OF  
1954 TO PROVIDE FOR THE EXCLUSION FROM GROSS  
INCOME OF CERTAIN EMPLOYER EDUCATIONAL  
ASSISTANCE PROGRAMS

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JANUARY 20, 1978

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# EMPLOYER EDUCATION ASSISTANCE PROGRAMS

FRIDAY, JANUARY 20, 1978

U.S. SENATE,  
SUBCOMMITTEE ON TAXATION AND  
DEBT MANAGEMENT GENERALLY,  
COMMITTEE ON FINANCE,  
Washington, D.C.

The subcommittee met, pursuant to notice, at 2 p.m., in room 2221, Dirksen Senate Office Building, the Honorable Bob Packwood presiding.

Present: Senator Packwood.

[The committee press release announcing this hearing and the text of the bill, S. 2388 follow:]

## FINANCE SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT SETS HEARINGS ON EMPLOYEE EDUCATION ASSISTANCE PROGRAMS

Senator Harry F. Byrd, Jr. (I.-Va.), Chairman, and Senator Bob Packwood (R.-Or.), Ranking Minority Member, of the Subcommittee on Taxation and Debt Management of the Finance Committee, today announced that hearings will be held at 2:00 P.M. on January 20, 1978 on legislative proposals regarding educational assistance programs provided for workers by employers. Under these proposals education assistance received by employees would not be regarded as taxable income to employees. The hearings will be held in Room 2221, Dirksen Senate Office Building.

Senator Packwood noted that "several recent rulings issued by the Internal Revenue Service may be hampering employer education assistance programs. These programs can be important because they help women, minorities, and others with limited education or training, work for their own advancement" Packwood stated.

*Requests to Testify.*—The Chairman advised that witnesses desiring to testify at this hearing must submit their requests to Michael Stern, Staff Director, Committee on Finance, Room 2227, Dirksen Senate Office Building, Washington, D.C. 20510, not later than Monday, January 16, 1978.

*Consolidated Testimony.*—Senator Byrd also stated that the Subcommittee urges all witnesses who have a common position or with the same general interest to consolidate their testimony and designate a single spokesman to present their common viewpoint orally to the Subcommittee. This procedure will enable the Subcommittee to receive a wider expression of views than it might otherwise obtain. The Chairman urged very strongly that all witnesses exert a maximum effort to consolidate and coordinate their statements.

*Legislative Reorganization Act.*—Senator Byrd stated that the Legislative Reorganization Act of 1946, as amended, requires all witnesses appearing before the Committees of Congress "to file in advance written statements of their proposed testimony, and to limit their oral presentations to brief summaries of their argument."

Witnesses scheduled to testify must comply with the following rules:

- (1) A copy of the statement must be filed by the close of business the day before the day the witness is scheduled to testify.
- (2) All witnesses must include with their written statement a summary of the principal points included in the statement.
- (3) The written statements must be typed on letter-size paper (not legal size) and at least 75 copies must be submitted by noon the day before the witness is scheduled to testify.

(4) Witnesses are not to read their written statements to the Subcommittee, but are to confine their ten-minute oral presentations to a summary of the points included in the statement.

(5) Not more than ten minutes will be allowed for oral presentation.

*Written Testimony.*—The Chairman stated that the Subcommittee would be pleased to receive written testimony from those persons or organizations who wish to submit statements for the record. Statements submitted for inclusion in the record should be typewritten, not more than 25 double-spaced pages in length and mailed with five (5) copies by Friday, February 10, 1978, to Michael Stern, Staff Director, Committee on Finance, Room 2227, Dirksen Senate Office Building, Washington, D.C. 20510.

95TH CONGRESS  
2D SESSION

## S. 2388

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### IN THE SENATE OF THE UNITED STATES

JANUARY 19, 1978

Mr. PACKWOOD (for himself, Mr. JAVITS, Mr. NELSON, and Mr. MOYNIHAN) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1954 to provide for the exclusion from gross income of certain employer educational assistance programs.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. EXCLUSION OF VALUE OF CERTAIN EDUCA-**  
4 **TIONAL ASSISTANCE PROGRAMS.**

5 (a) IN GENERAL.—Part III of subchapter B of chapter  
6 1 of the Internal Revenue Code of 1954 (relating to items  
7 specifically excluded from gross income) is amended by  
8 redesignating section 124 as 125 and by inserting after sec-  
9 tion 123 the following new section:

1 **"SEC. 124. EDUCATIONAL ASSISTANCE PROGRAMS.**

2       “(a) **GENERAL RULE.**—Gross income of an employee  
3 does not include amounts paid or expenses incurred by the  
4 employer for educational assistance to the employee.

5       “(b) **REQUIREMENTS.**—

6               “(1) **DISCRIMINATION.**—Amounts paid or in-  
7 curred for educational assistance, and benefits for edu-  
8 cational assistance, shall not discriminate in favor of  
9 employees who are officers, shareholders, self-employed  
10 individuals, or highly compensated.

11               “(2) **PRINCIPAL SHAREHOLDERS OR OWNERS.**—  
12 Not more than 25 percent of the amounts paid or in-  
13 curred by the employer for educational assistance during  
14 the year may be provided for the class of individuals who  
15 are shareholders or owners (or their spouses or depend-  
16 ents), each of whom (on any days of the year) owns  
17 more than 5 percent of the stock or of the capital or  
18 profits interest in the employer.

19       “(c) **DEFINITIONS; SPECIAL RULES.**—For purposes  
20 of this section—

21               “(1) **EDUCATIONAL ASSISTANCE.**—The term ‘edu-  
22 cational assistance’ means—

23                       “(A) the payment, by an employer, of ex-  
24 penses incurred by or on behalf of an employee for  
25 education of the employee (including, but not lim-

1           ited to, tuition, fees, and similar payments, books,  
2           supplies, and equipment), and

3           “(B) the provision, by an employer, of courses  
4           of instruction for such employee (including books,  
5           supplies, and equipment),

6           but does not include payment for, or the provision of,  
7           tools or supplies which may be retained by the em-  
8           ployee after completion of a course of instruction, or  
9           meals, lodging, or transportation.

10           “(2) SELF-EMPLOYED INDIVIDUAL; EMPLOYEE.—  
11           The term ‘self-employed individual’ means and the term  
12           ‘employee’ includes, for any year, an individual who is  
13           an employee within the meaning of section 401 (c) (1)  
14           (relating to self-employed individuals).

15           “(3) EMPLOYER.—An individual who owns the en-  
16           tire interest in an unincorporated trade or business shall  
17           be treated as his own employer. A partnership shall be  
18           treated as the employer of each partner who is an em-  
19           ployee within the meaning of paragraph (2).

20           “(4) CONTRIBUTION RULES.—

21           “(A) OWNERSHIP OF STOCK.—Ownership of  
22           stock in a corporation shall be determined in  
23           accordance with the rules provided under subsec-  
24           tions (d) and (e) of section 1563 (without regard  
25           to section 1563 (e) (3) (C)).



1           “(B) INTEREST IN UNINCORPORATED TRADE  
2           OR BUSINESS.—The interest of an employee in a  
3           trade or business which is not incorporated shall be  
4           determined in accordance with regulations prescribed  
5           by the Secretary, which shall be based on principles  
6           similar to the principles which apply in the case of  
7           subparagraph (A).

8           “(5) CERTAIN TESTS NOT APPLICABLE.—An edu-  
9           cational assistance program shall not be held or con-  
10          sidered to fail to meet any requirements of subsection  
11          (b) merely because—

12                 “(A) of utilization rates; or

13                 “(B) successful completion, or attaining a par-  
14                 ticular course grade, is required for or considered  
15                 in determining reimbursement under the program.

16           “(6) RELATIONSHIP TO CURRENT LAW.—This  
17           section shall not be construed to affect the deduction or  
18           inclusion in income of amounts (not within the exclusion  
19           under section 124) which are paid or incurred, or re-  
20           ceived as reimbursement, for educational expenses under  
21           Sections 117, 162 or 212.

22           (b) CLERICAL AMENDMENT.—The table of sections  
23           for such part is amended by striking out the item relating  
24           to section 124 and inserting in lieu thereof the following:

“Sec. 124. Educational assistance programs.

“Sec. 125. Cross references to other Acts.”.

**1 SEC. 2. EFFECTIVE DATE.**

- 2** The amendments made by section 1 of this Act shall  
**3** apply with respect to taxable years beginning after Decem-  
**4** ber 31, 1977.

Senator PACKWOOD. The committee will come to order.

We have under consideration today S. 2388. It has been introduced by Mr. Javits, Mr. Moynihan, Mr. Nelson, and myself. Before we begin our hearings today, however, I want to say a few words about the testimony of the Treasury Department yesterday at the tuition tax credit hearings.

Only my strong commitment to the importance of that bill stopped me from expressing my anger then. I did not want to muddy the waters, but as we begin hearing on this measure, I think it is important to point out that the arguments raised by the Treasury Department yesterday were exactly and unfortunately what the American people have come to expect from Washington, and that is doubletalk.

They charged that this would create complexity and add to the burdens of the Internal Revenue Service. This is doubletalk. The purpose of this bill is to simplify the tax code. What could be simpler than saying that educational assistance provided by an employer will not be taxable to the employee?

However, I was most shocked that the administration would tell us that we need not worry about the problems of the overtaxed middle income Americans. The Treasury people indicated they were suffering a temporary liquidity problem. That might be a term suitable for the international finance problems that face this country, but it is a heartless way to describe the plight of these hard pressed Americans struggling with the spiraling cost of tuition. It is a permanent payments crisis. They simply cannot pay their bills. That is what I call doubletalk, and I would submit this doubletalk is masking the real reason for their opposition, which is that this proposal would use tax incentives to encourage the private sector to take responsibility for helping their employees to better themselves.

Why does the administration oppose the private sector doing this? Because it will diminish the control the Federal educational bureaucrats and tax collectors have over the lives of Americans. It will empower the people and depower the centralizers, and that is what we should be doing.

I find it ironic that this administration has dealt so extensively on the evils of the three-martini lunch. I wish instead they would place more emphasis on the importance of the three-R education.

Our first witness this afternoon is Ersa Poston, of the Civil Service Commission. I would like to say as we start these hearings that the Civil Service Commission is not here testifying as to the tax policy of the Government. They are here testifying as an employer, and of course you are aware these are oversight hearings this afternoon, because this committee does not have formal legislative jurisdiction.

Go right ahead.

**STATEMENT OF COMMISSIONER ERSA POSTON, CIVIL SERVICE  
COMMISSION**

Ms. Poston. Thank you, Mr. Chairman and members of the committee, Senator.

Considering the vital need to maintain and improve the skills of the Federal work force, the Civil Service Commission is gravely concerned about the negative effects of the Internal Revenue Service regulations on the taxation of tuition and related payments for employee training. The regulation on itemized deductions of gross income states that any educational expenses incurred by individuals to help them enter a new trade or occupation or to allow them to meet the minimum requirements for employment are not deductible.

If these expenses are paid by an employer, they will be considered taxable income. Thus, an employee sent to training, even though it is for the benefit of the agency, will find his or her take-home pay reduced by the amount of additional tax that would be withheld to cover the cost of the training.

We see this regulation adversely impacting the Federal Service in three key program areas. These are, one, programs designed to equip present employees with the skills necessary to fill new jobs caused by changing work requirements, new technology, reorganization, et cetera; two, programs designed to assist employees who have demonstrated high potential to move out of dead-end jobs into more challenging positions of higher responsibility; and three, programs designed to attract to Government highly qualified young men and women, particularly in fields for which there is great demand and limited supply.

This administration is committed to goals of providing the citizens of the United States a more efficient, more effective and more service-oriented Government. Steps have already been taken to achieve this through efforts to streamline the organizations through which these services are provided. The quality of services to our citizens that has been envisioned by this administration can only be achieved if we are able to attract and maintain a capable and efficient work force. To the extent the training and education can contribute to the building of such a work force, we feel that obstacles to its use should be avoided.

The President has pledged to minimize the adverse impact on employees who may be displaced by reorganization. One means of achieving this is by assisting present employees to obtain new skills to enter occupations required by new organizations and their changing work requirements. The ability to train employees in new skills is an essential and continuing need if Government programs are to be responsive to the dynamics of the times and the changing needs of the public it services.

Taxing the tuition payments for the retraining of these highly qualified and tested individuals will undoubtedly discourage many from entering new fields that are critical to efficient Government operations.

The Federal Government is also committed to the principle of encouraging and aiding its employees to strive toward attaining their highest job potential. Frequently individuals with long service and demonstrated ability can be assisted in moving from jobs with limited

opportunity for professional growth by helping prepare them for more demanding and challenging tasks critical to the Federal Service. Academic education is often an effective part of this preparation. It can serve as an efficient substitute for experience in gaining the new skills and knowledges required.

Encouragement is provided to employees through some form of tuition assistance from the agency with the employees attending classes "after hours" on their own time. To remove or reduce this incentive by taxing such assistance would limit, and possibly deny, these opportunities to many lower grade but highly motivated employees. Many simply could not afford to pay the tax on tuition payments. If the Federal Government is to continue to promote the principle of upward mobility, it must provide relief from this tax.

The Federal Government has attracted many outstanding young men and women through cooperative education programs. These are generally work-study programs that allow them to earn while learning and enable many who would not otherwise be able to continue their formal education. Agencies may provide some tuition assistance to the student with the expectation that the student will become a full-time employee upon graduation. These programs have attracted to the Government scientists, engineers, and those in many other occupations for which the Federal Service has a critical need but for which the supply has been extremely limited.

Federal agencies must, under the law governing the training of Federal employees, chapter 41 of title 5, United States Code, determine that the training it provides employees is directly related to present or future job duties. We believe that Congress intended that employees be provided necessary training to perform their jobs more efficiently. Requiring employees to assume a tax burden for this training is inconsistent with sound work force planning and management practices common to both private and public employers.

In summary, sir, the Commission believes the potential consequences of taxing employee training will have an adverse effect on the Federal Service. Training is vital to the maintenance of a skilled and competent work force. Chairman Campbell has already expressed his concerns over this matter in a letter to Secretary of the Treasury Blumenthal.

Thank you very much.

Senator PACKWOOD. Under the present law, as a rule of thumb, would it be fair to say that for the lowest skilled, the least educated workers, it would be harder to find them educational opportunities for which they would not be taxed for the tuition than it would for someone in a higher echelon?

Ms. POSTON. Yes; it would be.

Senator PACKWOOD. For an example, I have spoken a number of times, and many Members of Congress have, to training sessions put on by Brookings for very high echelon management personnel from major corporations in America. It is a one-week program, and the tuition is quite high. However, it is not taxable, and is a perfectly legitimate business deduction in that this training is indeed job related for those employees.

Under the present law, I cannot foresee any conceivable way that you could send a low-skilled, less educated worker to that training

without the Government saying, that is not related to the job. He would be taxed.

Ms. POSTON. I think it might apply or would apply, as I understand it, to any person, regardless of their level.

Senator PACKWOOD. So long as it is related to the job, but the trouble is, once you get higher in a corporation, more things seem to be related to the job. If you are a vice president in charge of marketing for Mobil Oil or General Motors, you could have a wide expanse of educational experiences that would be job related.

Ms. POSTON. How you deal with your interpersonal relationships would be.

Senator PACKWOOD. Yes; and that covers almost anything, but for the poor devil in private enterprise who dropped out of school at 16 and is working on a production job and would like to move out of that, all you can train him for is to do the production job better. If you try to train him for a job totally unrelated to that, so he could move up, the IRS will say no, that is not related to the job and is therefore taxable income.

Ms. POSTON. That is why we are concerned. As you know, we are very much committed—

Senator PACKWOOD. So the people we have been committed for 20 years to trying to give extra opportunities to, the lower skilled, the minorities, the less educated, are also the ones circumscribed by law.

Ms. POSTON. And they also would probably be the ones who would lose their incentive because they know this is too much of a sacrifice, too much of a burden.

Senator PACKWOOD. We have had the same kind of testimony for the tuition tax credit bill we have been on for the last 2½ days. With a maximum credit of \$500, that is not an overwhelming incentive for someone who can afford to send his son or daughter to Dartmouth. However, it is a big incentive to someone whose children are going to community college.

Exactly the same theory, I think, holds true here.

Ms. POSTON. This is very important to us, because you see, we consider ourselves probably one of the biggest trainers.

Senator PACKWOOD. It would be my guess that you are the biggest trainer of any public or private organization in the United States. Thank you very much. It is especially helpful to have testimony on this subject from someone in Government who faces the problem as an employer.

Ms. POSTON. Thank you very much.

Senator PACKWOOD. Thank you for coming.

[The prepared statement of Ms. Poston follows:]

#### STATEMENT OF ERSA H. POSTON

#### COMMISSIONER OF THE CIVIL SERVICE COMMISSION

Mr. Chairman and Members of the Committee: Considering the vital need to maintain and improve the skills of the Federal work force, the Civil Service Commission is gravely concerned about the negative effects of the Internal Revenue Service regulations on the taxation of tuition and related payments for employee training. The regulation on itemized deductions of gross income states that any educational expenses incurred by individuals to help them enter a new trade or occupation or to allow them to meet the minimum requirements for employment are not deductible. If these expenses are paid by an employer, they will be considered taxable income. Thus, an employee sent to training, even though it is for

the benefit of the agency, will find his or her takehome pay reduced by the amount of additional tax that would be withheld to cover the cost of the training.

We see this regulation adversely impacting the Federal Service in three key program areas. These are (1) programs designed to equip present employees with the skills necessary to fill new jobs caused by changing work requirements, new technology, reorganization, etc.; (2) programs designed to assist employees who have demonstrated high potential to move out of dead-end jobs into more challenging positions of higher responsibility and (3) programs designed to attract to Government highly qualified young men and women, particularly in fields for which there is great demand and limited supply.

(1) This Administration is committed to goals of providing the citizens of the United States a more efficient, more effective and more service-oriented Government. Steps have already been taken to achieve this through efforts to streamline the organizations through which these services are provided. The quality of services to our citizens that has been envisioned by this Administration can only be achieved if we are able to attract and maintain a capable and efficient work force. To the extent that training and education can contribute to the building of such a work force, we feel that obstacles to its use should be avoided.

The President has pledged to minimize the adverse impact on employees who may be displaced by reorganization. One means of achieving this is by assisting present employees to obtain new skills to enter occupations required by new organizations and their changing work requirements. The ability to train employees in new skills is an essential and continuing need if Government programs are to be responsive to the dynamics of the times and the changing needs of the public it serves. Taxing the tuition payments for the retraining of these highly qualified and tested individuals will undoubtedly discourage many from entering new fields that are critical to efficient Government operations.

(2) The Federal Government is also committed to the principle of encouraging and aiding its employees to strive toward attaining their highest job potential. Frequently individuals with long service and demonstrated ability can be assisted in moving from jobs with limited opportunity for professional growth by helping prepare them for more demanding and challenging tasks critical to the Federal Service. Academic education is often an effective part of this preparation. It can serve as an efficient substitute for experience in gaining the new skills and knowledges required. Encouragement is provided to employees through some form of tuition assistance from the agency with the employees attending classes "after-hours" on their own time. To remove or reduce this incentive by taxing such assistance would limit, and possibly deny, these opportunities to many lower-graded, but highly motivated, employees. Many simply could not afford to pay the tax on tuition payments. If the Federal Government is to continue to promote the principle of upward mobility, it must provide relief from this tax.

(3) The Federal Government has attracted many outstanding young men and women through cooperative education programs. These are generally work/study programs that allow them to earn while learning and enable many who would not otherwise be able to continue their formal education. Agencies may provide some tuition assistance to the student with the expectation that the student will become a full-time employee upon graduation. These programs have attracted to the Government scientists, engineers and those in many other occupations for which the Federal Service has a critical need but for which the supply has been extremely limited.

Federal agencies must, under the law governing the training of Federal employees (chapter 41 of title 5, United States Code), determine that the training it provides employees is directly related to present or future job duties. We believe that Congress intended that employees be provided necessary training to perform their jobs most efficiently. Requiring employees to assume a tax burden for this training is inconsistent with sound work force planning and management practices common to both private and public employers.

In summary, sir, the Commission believes the potential consequences of taxing employee training will have an adverse effect on the Federal Service. Training is vital to the maintenance of a skilled and competent work force. Chairman Campbell has already expressed his concerns over this matter in a letter to Secretary of the Treasury Blumenthal.

**Senator PACKWOOD.** Next we will take Mr. John Shambo, chairman of the International Union of Electrical, Radio, and Machinist Workers. Mr. Shambo?

[No response.]

Senator PACKWOOD. We do have, if he does not appear, his written testimony, which will be inserted in the record.

[The prepared statement of Mr. Shambo follows.]

STATEMENT OF JOHN SHAMBO, CHAIRMAN, IUE-GENERAL ELECTRIC CONFERENCE BOARD, INTERNATIONAL UNION OF ELECTRICAL, RADIO AND MACHINE WORKERS (AFL-CIO)

#### SUMMARY

The IUE supports the proposal by Senators Javits and Packwood to exempt from federal taxation all educational assistance income received by employees from employers.

The IUE negotiates tuition refund programs with employers as a step toward our goal that all contracts provide full reimbursement for educational expenses, ranging from training in specific job-related skills through preparation for high-school equivalency tests, to college undergraduate and graduate study.

Tuition benefits or refunds provide education and training—the keys to economic survival in an age of skill obsolescence and the export of American jobs. These benefits are sought to aid black workers, members of minorities and women overcome the effects of past discrimination through training for higher skilled jobs.

We believe that confusion, uncertainty, and resentment over the taxation of tuition refunds has discouraged participation in tuition-aid programs.

Therefore, the IUE supports the proposal to exempt tuition refunds or aid from federal taxation as one step to greater participation in these programs.

#### INTRODUCTION

My name is John Shambo. I am Chairman of the General Electric Conference Board of the International Union of Electrical, Radio and Machine Workers (known as the IUE). The Conference Board is made up of all local unions of the IUE which represent employees of the General Electric Company, more than 80,000 people in all. In addition, I am a member of the Executive Board of the IUE whose 250,000 members work at hundreds of companies throughout the U.S.

On behalf of the IUE, I would like to express support for the proposal by Senators Javits and Packwood to exempt from federal taxation all educational assistance income received by employees from employers. This proposal has the triple merit of eliminating injustice and inconsistency resulting from current IRS interpretation and enforcement of the tax law; of fostering advancement in position and skills by working people, including women and minorities, and of promoting education, a process that is always beneficial to society.

As part of its collective bargaining program, adopted by its International Conventions, IUE seeks to negotiate tuition refund programs with employers. Our goal is to include in all our contracts full reimbursement for expenses for education, ranging from training in specific job-related skills, through preparation for high-school equivalency tests, to college undergraduate and graduate study. Some of our existing tuition refund benefits are described below.

There are two important reasons why IUE seeks tuition benefits that are especially relevant to exempting such benefits from federal income taxes. One is that education and training are the keys to economic survival in our society.

Today, no skill or job is secure from the threat of obsolescence brought on by technological advances. My union, which is in an industry in the forefront of these advances, knows this better than most. It is only by having access to the learning that opens doors leading upward on the occupational ladder that the worker is able to escape the trapdoor that leads to unemployment and the welfare rolls. This situation is made worse by the loss of jobs to imports and the movement of plants overseas. These developments force many workers out on the street in their forties and early fifties. The less training they have had, the more narrow their skills—and indeed the less general education they've received—the less able they are to cope with the catastrophe of middle-age job loss.

The second pertinent basis for IUE's pursuit of tuition refund benefits is our commitment to equal opportunity for black workers, members of minorities and women. Combined, these groups constitute close to 50% of IUE's membership. To fulfill IUE's commitment, members of these groups must have the chance to further their training and education which tuition refund provides. This point is brought out again and again in social action conferences and women's conferences sponsored by IUE. Minority and women members testify in eloquent terms at these conferences as to the value of training in making advancement possible and

how the lack of training serves as a real limit or as a pretext for holding them back.

Needless to say, not only my union but the federal government is committed to advancement, through affirmative action, of minorities and women.

#### TYPES OF TUITION ASSISTANCE PROGRAMS AVAILABLE TO IUE MEMBERS

Tuition assistance or refund programs available to IUE members for educational courses may be set forth in a single paragraph in a collective bargaining agreement with one employer or in a sixteen-page booklet at another employer.

For example, IUE Local 808's agreement with the Whirlpool Corporation in Evansville, Indiana, provides for tuition refunds as follows:

"The Company will refund the cost of all tuition, compulsory fees, and books for employees successfully completing job related educational programs or classes, providing that the total refund to each employee shall not exceed \$500 in a calendar year. The employee must obtain prior approval of the educational program or classes and also must submit evidence of the successful completion."

At General Electric, on the other hand, a sixteen-page booklet describes the "Individual Development Program". IDP covers tuition refunds, training opportunities for employees on layoff, and Company-sponsored training programs for hourly and non-exempt salaried employees.

Under the tuition refund part of the Program, General Electric will refund to an employee 100 percent of tuition and other compulsory fees, up to a maximum of \$400 in a calendar year, upon satisfactory completion of an approved course or courses. The educational institutions at which courses are taken must also be approved. An employee must obtain advance written approval before enrollment in a course.

The types of courses which may be approved for tuition refund are those related to maintaining and improving an employee's skill in performing the current job or contributing to an employee's general career development for future jobs within General Electric.

Employees are told that the following are examples of courses which may be approved:

"Basic literacy courses or courses in fundamental reading, reading comprehension, and basic mathematics. These include courses usually designed to assist an individual to achieve a basic competence in reading, writing and numerical skills.

Courses taken to complete grammar school or obtain a high-school diploma, or equivalent.

Specific courses designed to update you in the technology of your trade or occupation.

Courses related to the next job in the logical development of your career in the Company.

Occupational or vocational courses which will prepare you for openings that management expects to occur in the future.

College-level programs or courses related to your career opportunities in the Company."

IUE's agreement with the Westinghouse Electric Corporation provides for an Educational Opportunity Program with a \$400 per year maximum refund for tuition and compulsory fees.

Another major employer under contract with our union is the General Motors Corporation. IUE members at GM are covered by a tuition refund program under which General Motors will pay up to \$450 per year in tuition fees for workers taking approved courses at an approved business, trade or vocational school or at an accredited secondary school. For approved courses taken at an accredited college or university the corporation will pay up to \$900 per year in tuition.

Union health and safety representatives at GM are eligible to apply for tuition refund for industrial hygiene or safety-related courses at approved educational institutions. Approved "Quality of Work Life" courses also are included in the tuition refund program.

In addition, under the tuition refund program, an IUE member at GM may take approved courses of instruction directed toward qualifying the employee as an apprentice in the skilled trades. This provision is helpful to women and minorities in particular.

#### A TYPICAL PARTICIPANT IN TUITION REFUND PROGRAMS

The typical participant in tuition refund programs takes job related courses. About four out of five participants enroll in courses for the high school equivalency



program, technical training for their job or career development. General education courses are taken by some 15% to 20% of the participants.

Women have used tuition refunds to advance to skilled jobs. At one of our GE shops in Cincinnati, Ohio, a female employee utilized tuition refunds to advance from a general helper to a Machinist, Class B—a skilled job traditionally viewed as a "man's job."

In general, all age groups are represented in those seeking additional education although a large proportion are under 35 years of age. There is a good participation rate for minorities—about a third higher than the nonparticipation rate.

#### TAXES DISCOURAGE PARTICIPATION

There is evidence that paying federal income and social security taxes from tuition refunds tends to discourage participation in these programs.

General Electric's IDP booklet lists questions frequently asked by employees interested in the tuition refund program. Strong animosity to tax withholding and confusion over deductible expenses are shown in the following question and answer:

**Question.** I don't think its right for GE to deduct social security and income tax from the refund I get for approved courses under the Individual Development Program. Why is it done?

**Answer.** GE has no choice. The government's Internal Revenue Service—the income tax people—say we have to withhold your tax. If you receive money, or the Company pays money for you, its considered "wages" by the government and you must pay a tax on it. The Company must withhold income and social security taxes from all "wages". However, there is one ray of sunshine. If the course you take relates closely to doing your job, the government may consider it a deductible expense. In this case, you can deduct the tuition refund payment received and thus get the withheld income tax returned. This is done when you file your income tax return and you will want to ask the income tax people or a private tax adviser about it."

Uncertainty over the treatment of a tuition refund as a deductible expense is clearly evident from this answer. Such uncertainty tends to discourage participation.

Many company officials as well as union officials believe that worker objections to paying income tax on tuition aid results in fewer workers participating in tuition refund programs.

#### CONCLUSION

In the light of the importance of tuition refund to all workers seeking to survive in an ever-changing technological society and to those victims of past discrimination who are seeking upward mobility at long last, taxation of this benefit is counter-productive. It means that the government takes away part of what the worker and the union have fought to win. The result is to make this benefit less attractive and possibly even prohibitive in cost to the worker. What the Federal Treasury gains as a result of this policy is miniscule compared to the loss to the individual, to the employer who benefits from greater training and education among employees, and to a society which urgently needs a productive and knowledgeable workforce.

Senator PACKWOOD. Next, Mr. Donald Garrison, president of Tri-County Technical Institute.

#### STATEMENT OF DR. DON C. GARRISON, PRESIDENT, TRI-COUNTY TECHNICAL COLLEGE, PENDLETON, S.C., ACCOMPANIED BY JOHN E. TIRRELL, VICE PRESIDENT FOR GOVERNMENTAL AFFAIRS, AMERICAN ASSOCIATION OF COMMUNITY AND JUNIOR COLLEGES

Mr. GARRISON. Thank you for this opportunity. Jack Tirrell, who is vice president for governmental affairs of the Association I am representing today, is here to provide a little support.

Senator PACKWOOD. He was here this morning, and gave excellent testimony.

Mr. GARRISON. Thank you. Mr. Chairman, I am happy to be here in Washington today, in the snow, to have this opportunity to represent AACJC. AACJC is an organization of over 1,000 2-year colleges across America, and really represents a new kind of institution in America. We are still relatively the new kid on the block. We have a very exciting purpose and mission, and those of us who are in the movement are just as committed today as when the movement was in its zenith in the sixties.

I would point out that 426 of our 435 congressional districts in America are served by 2-year colleges, and last fall we had over 4 million Americans enrolled in mass numbers. Fifty-three percent of this population group I referenced are students enrolled in occupational programs, with an average age of about 27 years.

Now, the dreams of so many of our U.S. Presidents and congressional leaders and others as to the question of equality of higher educational opportunity has really become a reality or close to it today in America, thanks to the 2-year college, and there are many of us in leadership positions who attempt to keep abreast with what is going on, who have some concern about this legislation, but certainly not as much as these 4 million Americans I referenced earlier.

We stand as a people's college. We stand for mass America. We stand for the little man. Now, I pointed out a moment ago that about one-half of that 4 million are enrolled in occupational education. Occupational education, technical education, vocational education means different things in different parts of the country, but insofar as the kinds of programs we are involved with, I would point out that we have many of these in engineering technologies and the allied health fields, craft level programs, metalworking, construction trades, auto, and so on, and then a good number of these, 50 percent, who are enrolled in occupational education are minorities and women, and we are beginning to see some of our high American ideals take a hold now as a result of the work we are doing.

Now, I would like to add to the testimony that I already filed with you a statement about our 2-year college system in South Carolina and how it came into being as a tool to be used for economic development, to diversify our manufacturing base, to increase the per capita income in our State. We were very low in all economic indicators at that time. We still are, but we have made great strides. We have had over \$6 billion in new risk capital investment made in our State since 1961, when the system was created.

Now, the important point to make about this, and it certainly relates to the question at hand today, is that to get these new risk capital investments into our States and into our Nation, because much investment has been made of a European based effort—Michelin Tire is a good example, based in France, of course—but we make two commitments to these prospects, if you please.

One is to provide an ongoing supply of people in occupational education, and then, after they locate their plant there, we will continue to upgrade their labor force.

Now, this upgrading question, or the matter of continuing education, is one that certainly zeros in on the topic. Our technology today, our society in America not only desires to have continuing education of an upgrading, updating nature, but it literally demands it.

I was reading a report which came out recently about the GNP being up this year. Certainly if we are going to continue to compete in the international marketplace, we have to have a high scale of technical manpower available for manufacturing, business, and industrial establishments, and with the changing technology, we have to continue to educate people, and this has been a major emphasis of the 2-year college since it was created.

Now, I would offer some major points of concern that we have about the problems with the tax exemption question. The current regulations are certainly inadequate. They are vague and they are discriminatory. There is a conflict also with these regulations, because in the legislation we are all committed to affirmative action. We deal with business and industry daily, and certainly they are committed as we are in education, and it is absolutely essential that if we are to meet affirmative action criteria, if we are to have more women and more minorities employed, then there must be educational opportunity for them and for middle America.

There are growing numbers of women and minorities in enrollment figures, so we in education and business and industry as well must, through education, offer opportunities, and the regulations work against this.

We have studies we have referenced here in our report that reflect this. The IRS indicates that they are going to continue for all training to include in-service job training, which at our institution, we had 13,000 enrolled last year, about 10,000 of these were individuals who were enrolled in continuing education. Our base industry is the textile industry. The textile industry has made available scholarships, 60 in number. This would be to students. They have also financed in-plant training.

These are just some of the things that I cite that we are doing, that we are involved with, but the present policy works against these endeavors since, employees are taxed, not only on the salaries they receive, but also on the value of the training that they receive for increased job potential. The ASD Task Force study analyzed the question and found that indeed, the present policy has a negative effect of the number of employees enrolled in continuing education efforts when the industrial investment is counted as the employees income.

The IRS, it appears, is committed to enforcing the law, and that is as it should be, and that is why the proposed new law is necessary, and certainly would eliminate this obvious inequity for educational opportunities.

We believe that this legislation is necessary also because the present IRS regulations require that employees pay tax on any educational support they get from their employees which advances their career or prepares them for a new job. Not only is this a broad-scale deterrent to employer supported continuing education generally, but again I would submit that we cannot afford to do less insofar as this employer supported continuing education effort.

This is especially significant for lower income employees such as women and minorities, who may need more education to advance themselves. The employer educational support which is now exempt from taxation as employee income is that which directly relates to the employee's present job. So, if education is to prepare the employee

for a new job, the employee's expense is considered taxable income to the employee, and this is bad, and it works against everything that we stand for in the 2-year college, as a major part of our purpose is providing continuing education activities, so that the student can indeed enhance his or her standard of living, and to have an opportunity not only to advance but in so many cases keep the job they are in.

I had lunch yesterday with the vice president for training for Delta Airlines on this very question, in terms of what they are doing in training, and it is absolutely essential that their employees maintain the current state of the art in the technology in which they are employed, if indeed they hold their present job.

So, you have the question of holding the job, but also there is the one of opportunity for advancement, so as the IRS has become increasingly strict about this interpretation, some litigation implications there are beginning to develop, and of course this is potentially an increase to the consumer, and that is where the cost will be borne in the end.

I have touched on some of the high points here. At this time I would certainly entertain some questions and respond to them on any particular point you would like, Mr. Chairman.

Senator PACKWOOD. The argument raised against this is that it will cause an explosion of people taking irrelevant gimmicky courses. I wonder if an answer to that would be that an employer is not going to be interested in financing something totally unrelated to the business. That is certainly one check.

Mr. GARRISON. Very much so. It has been my experience that, if a person desires to be reimbursed for educational expenses in a given industry in which they are employed, first they have to be enrolled in the course and pass the course, and then it must be certified by industry as being relevant. So, those checks and balances are there. I know there is concern about this question, but in my experience working day to day with business and industry, as we have a strong interface there, that is just not a threat. They will govern themselves on that question.

Senator PACKWOOD. Could you answer this, or maybe Mr. Tirrell? Mr. Tirrell, did you state this morning that 75 percent of the Chicanos in higher education are in junior and community colleges?

Mr. TIRRELL. Yes, sir, that is correct. I just happen to have that figure readily available. We have a very high percentage of the blacks enrolled, but I cannot give it to you that accurately, but in the southwest and on the west coast. Also, there is a Hastas Community College in New York City which is 90 percent Puerto Rican, in that case, but they were in the Chicano figures.

Senator PACKWOOD. I am also impressed with your average age figures. Your average age is 27. You have a stunning amount of people 35, 40, 45 years of age who are obviously there for no other purpose than to advance themselves.

Mr. TIRRELL. Let me give this back to Dr. Garrison, but before I do, the 18 to 22-year-old student is in the minority now. He or she is the nontraditional student. They talk about women returning and older students. They are the majority. They are not the nontraditional.

Seriously, it is the 18 to 22-year-old that is the nontraditional student, and I know Dr. Garrison has a lot of experience with this.

Mr. GARRISON. There is another point that needs to be touched on. This 27-year-old age group average that you referenced, it has been our experience that they are people who are hard working. They have put in hard work in manufacturing, as a rule, or the business place all day, and when they enroll, they mean business. They are serious. They demand higher quality teaching, if you please, as an example, higher than the average student, and obviously they will not be there if it is not important to them. They have worked all day. They are away from their families at night, and so on.

Senator PACKWOOD. Doctor, thank you. I have no more questions.

Mr. TIRRELL. Could I just say, Senator, that had we had a bit more time, we might also have had with Dr. Garrison one of the people from your fine State of Oregon. I am sure you know Portland, Clacamus, and the like. I see a smile. We could have had Emo D. Bernardis here from Portland, who might not be finished now, but we love him.

Senator PACKWOOD. No; he would not be finished by now. I can assure you of that. I know him very well.

I want to read into the record—I will not read the entire statement, but just so that the witnesses will know here the breadth of the support we have—in fact, there is no opposition other than the Treasury Department, as far as I know, to this bill, for reasons unrelated to education. It is just that the Treasury Department is convinced that all money should be taxed somehow, that it belongs to them rather than you.

[The prepared statement of Dr. Garrison follows:]

STATEMENT OF DR. DONALD C. GARRISON, PRESIDENT, TRI-COUNTY TECHNICAL COLLEGE, PENDLETON, SOUTH CAROLINA, ON BEHALF OF THE AMERICAN ASSOCIATION OF COMMUNITY AND JUNIOR COLLEGES

As a representative of an Association with 1000 members across the country that cooperates with business and industry in providing educational and training programs, we support the exclusion of tuition paid by employers from the income of employees.

This will assist many people in low-incomes, women and minorities to up-grade their work skills and adjust to changing demands in the market place.

STATEMENT

Mr. Chairman and Members of the Subcommittee: My name is Donald C. Garrison, President of Tri-County Technical College in Pendleton, South Carolina. I am representing the American Association of Community and Junior Colleges, who have about 1000 member institutions in 426 out of the 435 congressional districts. Last fall these institutions enrolled over 4,000,000 credit students, with an average age of 27 years of age. Thus, we have many, many students who would have concern for this legislation.

In addition to being deeply involved in developing job entry skills for youth and the unemployed, most of our members, in all parts of the country, work with business and industry to upgrade their personnel. Over 50% of our students nationally are in some type of occupational program. A very high percentage of these are women and minorities, who in most cases have the least discretionary income to expend on improving their work skills.

Let me briefly summarize for the record our concerns:

A—The current regulations are not only inadequate and vague but discriminatory as well. The present Federal government tax regulations conflict with the Federal government's affirmative action initiatives. Minorities, women and those lowest on their career ladders are least able to bear the burden of such taxation.

B—In addition, recent indications are that the IRS intends to count *all* training, including in-service job training, as taxable because it increases the individual's job qualifications. Employees would be taxed not only on their salaries received during training periods, but taxed again for the *value* of the training they received (i.e. their job potential).

C—The IRS is committed, as we understand it, to enforcing the present regulations unless there is legislative relief. The new law would eliminate the obvious inequity for educational opportunity and the widespread confusion in tax withholding practices. Recent studies have confirmed that employer withholding practices vary widely and that many more employees participate in tuition aid programs where the employer does not withhold income tax for educational expenses.

D—This legislation is necessary because the present Internal Revenue Service regulations require that employees pay tax on any educational support they get from their employers which advances their career or prepares them for a new job. Not only is this a broad scale deterrent to employer-supported continuing education generally, but is especially significant for lower income employees such as women and minorities who may need more education to advance themselves. These employees must pay tax on the educational "income" which they never actually receive as money.

The employer educational support which is now exempt from taxation as employee income is that which directly relates to the employee's present job. If the education is to *prepare* the employee for the present job or to *advance* the employee to a new job, the employer expense is considered taxable income to the employee.

In the past, many employers have taken a liberal viewpoint about what kinds of education relate to the "present job" but the IRS has become increasingly strict about such interpretations and has, in fact, been challenging an increasing number of employers about their decisions on what kinds of education are job related. More and more employers are facing substantial tax liabilities and penalties as a result of this trend. More and more cases are moving to litigation in the courts. These IRS trends have many ramifications, such as apprentices having to pay income tax on apprentice education program costs.

In almost all parts of the country our member institutions work with the American Society for Training and Development (ASTD), the men and women from business and industry responsible for their company's education program.

The ASTD Task Force on Tuition Aid developed this position, with which we concur:

"Research and surveys by the Task Force, along with studies by other groups including Consolidated Edison of New York, Mobil Oil Company and the American Telephone and Telegraph Company, have developed compelling evidence of large-scale inequity to employees—especially for employee populations such as minorities and women—as well as widespread confusion and even potential tax liability for employers and employees. Further, preliminary data from a study by AT&T indicates a direct relationship between income tax withholding practices on tuition aid and participation rates in employer tuition-aid programs.

"The Task Force concluded that the best solution would be new federal legislation to exempt all tuition aid from taxations as employee income without the present requirements which exempt only educational aid directly related to the present job of the employee. Widely varying practices have resulted from diverse interpretations of what education is related to a present job and the requirements clearly say that employer aid to education for career advancement is taxable income to the employees—an obvious barrier to upward mobility—with disproportionate impact on lower-income employees."

We believe the draft of the bill on this topic prepared by Senators Packwood and Javits would answer many of these concerns.

Let me in closing raise six points to consider in tuition-aid taxation:

1. Employers are playing an increasingly major role in the development of the nation's skilled manpower and in lifelong learning opportunities by encouraging employee development programs.
2. The present taxation of tuition payment is in conflict with equal employment opportunity initiatives.
3. Employer tuition aid can provide effective support for institutions providing continuing education and contribute to better education-work relations.
4. Recent evidences of Congressional intent have been unusually supportive of lifelong learning and investment in human capital.

5. An obvious and broadly beneficial solution to this problem would be new legislation exempting all tuition aid from taxation as employee income—with provision that such support be available to all employees on a nondiscriminatory basis.

6. Control of abuse in this broad exemption is inherent in the reasonably assured prudent employer administration of tuition-aid programs. Employers are not likely to disburse organization funds for irrelevant education on any significant scale.

I appreciate your time and attention and would be willing to attempt to respond to any questions the Subcommittee might have now or in writing.

Thank you.

Senator PACKWOOD. The Graphics Arts International Union, the United Automobile Workers, the National Organization of Women. (Statements may be found in appendix B.) Mr. Shambo, from the International Union of Electrical and Radio and Machine Workers has not arrived, but his statement will be in the record on behalf of that union also.<sup>1</sup>

Our next witness is Mr. P. J. Boglioli, accompanied by Mr. J. M. Evans, representing Mobil Oil. Their statement will be placed in the record. They have been delayed and cannot get here. We have had that problem with several witnesses this morning.

[The prepared statement of Mr. Boglioli follows.]

#### SUMMARY OF WRITTEN STATEMENT OF MOBIL OIL CORPORATION

I am Patsy J. Boglioli, Manager of Management and Professional Education for Mobil Oil Corporation. I am accompanied here today by John Miles Evans, of the Office of Mobil Tax Counsel. I very much appreciate this opportunity to present testimony on behalf of Mobil on the subject of tuition aid provided to workers by employers.

In our written statement submitted to the Subcommittee we have provided data on the widespread use of tuition-aid programs in business and industry and the importance of such programs in the development of the nation's human resources. They benefit the individual who takes the courses, the employer who helps pay the bill, the economy which needs the skills, and society in general which consumes the goods and services produced.

There are two key problems with the tax law and the implementing regulations which apply to tuition-aid programs they are ambiguous and inequitable. Let me give you a couple of examples of how the law works:

Mary Jones (not her real name) is a Secretary in Mobil's New York Office, and she is ambitious to move ahead in the company. She is studying for a degree in Business Administration with the help of Mobil's tuition aid. Because she is seeking to move up into the professional ranks, the tuition aid she received was taxable. Mobil gave her 100 percent of the tuition fee, but taxes of almost 33 percent had to be withheld. As a result, she had to obtain a loan to pay the difference between her reimbursement and her school tuition.

John Smith (not his real name) is a Marketing Analyst in our U.S. Marketing and Refining Division. He already had a Bachelor's Degree and a Master's Degree in Liberal Arts when he came to work for Mobil. He is now taking courses towards a Master's Degree in Business Administration to increase his knowledge of business and accounting. Because his studies are related to his present work, the tuition aid he received for one school year (\$2,106) was tax-exempt.

Similarly, tuition aid to a blue-collar worker who undertakes to prepare for a new field of work, like Computer Programming, would be taxable. But tuition aid to a professional Accountant who takes courses leading to a Master's Degree in Business Administration to prepare for a management position in the Accounting Department would not be taxable.

We feel strongly that taxing employer tuition aid for courses undertaken by employees to improve their career prospects is wrong, and that the wrong is compounded when such taxation falls with disproportionate weight on workers at the lowest levels of the occupational ladder who are frequently women and minorities.

A solution to the problem would be new legislation which would have the effect of exempting from taxation tuition aid made available to all employees,

<sup>1</sup> See p. 11.

on a nondiscriminatory basis for any course that: Maintains or improves a present skill or develops a new skill needed by an employee to:

- (a) Keep up with the requirements of, or make progress in, his or her present work activity or function; or
- (b) Move to another work activity or function within the employer-corporation;

or

Is part of a program for a certificate or degree which will be of such aid.

Control of abuse under this broad exemption is inherent in the prudent employer administration of tuition aid programs. In Mobil, for example, tuition aid cannot be granted for:

Any post-high school course which provides instruction in, or would prepare an employee for, an activity which is not present within the company; or

Any course or program of instruction which is purely recreational or avocational in nature, or is related to an employee's private or family affairs (e.g., Ballroom Dancing, Portrait or Landscape Painting, Family Budgeting, Personal investing, etc.).

We think any loss of tax revenue due to exempting tuition aid will be more than offset by the additional tax revenue derived from the increased earnings of those advancing their careers and by the increased productivity and social effectiveness of better educated Americans—women as well as men, minorities as well as non-minorities.

We urge the Subcommittee to work for the passage of legislation that would eliminate the ambiguities and inequities resulting from present regulations by exempting such employer tuition-aid programs from taxation. We think the draft proposal by Senators Packwood and Javits recently made available to us is a welcome step in the right direction.

I will now be glad to try to answer any questions you may have.

**STATEMENT OF P. J. BOGLIOLI, MANAGER, MANAGEMENT AND PROFESSIONAL EDUCATION, MOBIL OIL CORPORATION**

I am Patsy J. Boglioli, Manager of Management and Professional Education for Mobile Oil Corporation. I am accompanied here today by John Miles Evans, of the Office of Mobil Tax Counsel. I appreciate this opportunity to testify on the subject of tuition aid to employees.

We believe it is wrong to tax as income company reimbursement for courses undertaken by an employee to improve his or her career prospects with the Company. We believe that the wrong is compounded when such taxation falls disproportionately on workers at the lowest levels of the occupational ladder who are often women and members of minority groups.

Labor unions, business organizations, educational institutions, and government agencies agree that educational assistance programs provided for workers by employers constitute a significant part of our country's educational system. These tuition-aid programs help to increase the pool of skilled human resources. They benefit the individual who takes the courses, the employer who helps pay the bill, the economy which needs the skills, and society in general which consumes the goods and services produced.

According to The Conference Board, an independent nonprofit business research organization:

" . . . Tuition-aid programs are virtually omnipresent among all classes of companies with 1,000 or more employees. Even in the 500 to 999 employees category, they are present in 82 percent of the firms. . . . Companies with 500 or more employees spent about \$225 million on tuition-aid reimbursement in 1974-75." (Education in Industry, by Seymour Lusterman, Senior Research Associate, The Conference Board Research Report No. 719, 1977.)

Mr. Lusterman estimated in his study that 1.25 million employees were enrolled in courses in a recent year under tuition-aid plans and further stated that: "Tuition-aid programs, perhaps uniquely among corporate education activities, are not uncommon among companies that employ fewer than 500 workers, so that an industrywide total would be appreciably higher than this estimate."

In the typical employer educational assistance program, the worker takes job-related courses on his own time and the employer pays all or part of the tuition cost. There is no commitment on the part of the worker to remain with the employer because of the educational assistance received. Indeed, workers who have acquired special skills through Mobil's tuition-aid program, may and do move to other employers when they find better opportunities elsewhere.



This does not mean that Mobil's tuition-aid program is a bad investment. I know that Mobil has hired its share of workers who acquired their skills through the tuition-aid programs of other companies. The results of the widespread use of employer tuition-aid programs for workers are an increased pool of skilled workers and increased mobility of the individual workers in that pool—results that benefit our society in general, as well as company shareholders.

The question of taxability of employer tuition aid has been controversial for some time. It is our understanding that under Section 162 of the Internal Revenue Code, as interpreted by Treasury Regulations, tuition aid received by a worker is exempt from income tax only when courses:

1. Maintain or improve skills required by the individual in his or her employment; or
2. Meet the express requirements of the individual's employer imposed as a condition to the retention of an established employment relationship, status, or rate of compensation.

Employees must include tuition-aid payments in taxable income, however, when the education:

1. Is required of the individual in order to meet minimum educational requirements for qualification in his or her employment or other trade or business; or
2. Is part of a program of study being pursued by an individual which will lead to qualifying him or her in a new trade or business.

There are two key problems with the tax law and the implementing regulations—they are ambiguous and inequitable. Consider first the question of ambiguity. We know from our own and others' experience that the distinction between improving skills in one's present job and preparing for a new field of work is frequently so fine and so subjective that there is considerable difference of opinion in applying the Treasury Regulations.

For example, how would you appraise the situation of a Secretary who was promoted to a Junior Investment Advisor position and then began taking courses in management? As a Junior Investment Advisor, she was not a Manager, yet she had some basic management responsibilities. There was a substantial difference of legal opinion as to the taxability of tuition-aid payments in this case. I believe the management courses were related directly to her employment at Mobil. Nevertheless, the reluctant decision was to withhold taxes which, for a New York City employee, amounted to almost 33 percent of the total tuition aid (20 percent Federal Income Tax, 5.85 percent Social Security Tax, 5 percent New York State Income Tax, and 1.8 percent New York City Income Tax).

The second and more serious problem is the inequity of the law as construed by the regulations. On the one hand, the courts and the Equal Employment Opportunity Commission are urging and, in fact, mandating, that employers develop specific programs and affirmative action plans to support the growth and advancement of workers—specifically women and minorities—who have had limited access to both educational opportunities and job opportunities in the past. On the other hand, the IRS is compelled under existing law to hold that such educational benefits are taxable in the majority of cases to the employees most in need of such aid. Taxation of tuition aid to employees who seek to meet job requirements or advance themselves, erodes Mobil's efforts to help employees who want to help themselves. It is literally true, as my Company has stated in a news release, that "Mobil giveth and Uncle Sam taketh away."

Let's take a look at a couple more cases. Mary Jones (not her real name) is a Secretary in Mobil's New York Office and she's ambitious to move ahead in the Company. She is studying for a degree in Business Administration with the help of tuition aid under our Educational Assistance Program. She entered college just after Mobil increased tuition aid from 75 percent to 100 percent. But under IRS guidelines, withholding tax on her tuition aid brought her net reimbursement down to less than 70 percent. She had to obtain a loan to pay the difference between her reimbursement and her full tuition.

John Smith (not his real name) is a Market Analyst in our U.S. Marketing and Refining Division. He already had a Bachelor's degree and a Master's degree in Liberal Arts when he came to work for Mobil. He is now taking courses towards a Master's degree in Business Administration to increase his knowledge of business and accounting. Because his studies are related to his present work, the tuition aid he received for one school year (\$2,106) was tax-exempt.

As we interpret the law, educational assistance payments to the following employees would be taxed:

A Secretary in the Tax Department who takes courses which are part of a program designed to prepare for a promotion to the position of Paralegal Assistant.

A Mail Clerk who takes courses as part of a program leading to a Bachelor's degree in Business Administration.

A blue collar employee who undertakes a course of study to become a Computer Programmer.

In contrast, the following employees could receive tuition aid exempt from taxes:

An Attorney practicing tax law who takes graduate legal courses in taxation.

A professional Accountant who takes courses leading to an MS in management to prepare for a management position in the Accounting Department.

We at Mobil feel very strongly that a law that leads to results such as these, systematically discriminates against workers with the least education and who most need employer assistance to acquire the education necessary to advance themselves. Clearly the law needs to be amended or reinterpreted.

We therefore recommend that the Internal Revenue Code be amended to include an equitable and unambiguous set of rules which will allow companies to provide tax-free educational assistance for job-related courses designed to advance their employees within the company. Such legislation should ensure that a course would be tax-exempt when it:

Maintains or improves a present skill or develops a new skill needed by an employee to:

(a) Keep up with the requirements of, or make progress in, his or her present work activity or function; or

(b) Move to another work activity or function within the employer-corporation; or

Is part of a program for a certificate or degree which will be of such aid.

One possible approach would be an expanded definition of trade or business expenses under which qualified educational expenses incurred by full-time employees who take job-related educational courses at qualified educational institutions would be deductible where the employer has determined that the education will be to the benefit of the company.

Qualified educational expenses would include only the amount of admission, matriculation, tuition, laboratory and examination fees and books provided to an employee to aid him in pursuing his studies. Such expenses would not include expenses for travel, room or board or similar personal, living or family expenses.

The trade or business of a full-time employee, whatever his status in the company, should be identical with the trade or business of the company in all of its aspects. Thus, the trade or business of a Mail Clerk would include accounting if the company employs Accountants.

If further evidence of the job-related nature of the approved educational courses were needed, the statute could require that the employer's educational program be qualified with the Internal Revenue Service before employee deductions were permitted.

Control of abuse under this broad exemption is inherent in the prudent employer administration of tuition-aid programs. In Mobil, for example, tuition aid cannot be granted for:

Any post-high school course which provides instruction in, or would prepare an employee for, an activity which is not present within the Company; or

Any course or program of instruction which is purely recreational or avocational in nature, or is related to an employee's private or family affairs (e.g., Ballroom Dancing, Portrait or Landscape Painting, Family Budgeting, Personal Investing, etc.).

We think any loss of tax revenue due to exempting tuition aid will be more than offset by the additional tax revenue derived from the increased earnings of those advancing their careers and by the increased productivity and social effectiveness of better educated Americans—women as well as men, minorities as well as nonminorities.

In closing, I would like to emphasize that the principle which should be followed in resolving the inequities and ambiguities inherent in the present law is to exempt qualified employer tuition-aid payments from taxation. The specific approach that I have suggested is only one of a number of possible ways to get at the problem. We at Mobil are interested in the results of legislation and not, at this moment, in the mechanics of how those results are achieved. We think the draft proposal of Senators Packwood and Javits recently made available to us is a welcome step in the right direction.

Senator PACKWOOD. Mr. Charles Morrison.

## STATEMENT OF CHARLES MORRISON, NATIONAL TRAINING AND DEVELOPMENT SERVICE

Mr. MORRISON. My name is Charles Morrison, and I am vice president of the National Training and Development Service for State and local government. NTDS is a not-for-profit corporation created and supported by the general government public interest groups representing local and State governments. Our work consists of three principal aspects: one, the designing and conducting of training programs for local and State government officials and personnel; two, consulting assistance to local and State governments to help them improve their own organization; and, three, research resulting in new training programs and/or organizational development approaches aimed at improving the effectiveness of local and State governments.

Recent actions by the Internal Revenue Service to make certain educational and training tuition payments to employees taxable are cause for great concern among local and State government employers. Specifically, tuition payments for training or education intended to prepare an employee for a new occupation or position, and training for which a continuous service agreement is required, are considered taxable income under these rulings.

The implications of these rulings are clear: upward mobility scholarships, cooperative work-study training and education, and education provided as a part of an employment agreement will be seriously deterred. The following are several specific examples of programs which I believe might be curtailed as a result of these rulings.

Programs for hiring the disadvantaged, the unemployed and the underemployed. The Federal Government funds these programs through CETA and other sources and requires that public employers and unions work to provide mainstream opportunities.

Affirmative action programs for minorities and women. Many local and State governments have been taking a leadership role in providing entry positions with defined career ladders which can be achieved via training and educational opportunities for these new employees.

Programs of cities, counties, and States to encourage public safety personnel, (police, fire, corrections, and court personnel), to continue their education.

Finally, special training and development programs which States, counties, and cities have instituted aimed at improving the overall effectiveness and responsiveness of their organizations.

These examples show that not only do the IRS rulings potentially incapacitate many present local and State government human resource and development programs, but also they reduce the accomplishment of the congressional goals on several major pieces of legislation.

Gentlemen, it is clear that legislative relief from the Internal Revenue Service rulings is needed. NTDS is joined by our sponsoring organizations, the National Governors' Association, the National Association of Counties, the National League of Cities, and the International City Management Association in requesting that Congress enact legislation which exempts from taxation public employers' tuition payments for training and education and other public employer-sponsored training and development programs.

We believe that in so doing Congress can preserve and encourage the present trend to employer-sponsored human resource development programs which recognize work to enhance the human worth and dignity of each individual employee.

Senator PACKWOOD. I assume you also have no objection to eliminating the same limitations on private employers.

Mr. MORRISON. None whatsoever. I think human resource development programs are the growing trend in this country, both in private and public enterprise, and something to be encouraged.

Senator PACKWOOD. Is it fair to say that this bill—I want to make sure I do not overstate it—is endorsed by the National Governors' Association, the National Association of Counties, the National League of Cities, and the International City Management Association?

Mr. MORRISON. It is fair to say so. I checked it myself.

Senator PACKWOOD. Thank you very much. I appreciate your coming.

Next is Gerald W. Padwe, from Touche Ross.

**STATEMENT OF GERALD W. PADWE, ASSOCIATE NATIONAL DIRECTOR, TAX SERVICES, TOUCHE ROSS & CO.**

Mr. PADWE. Mr. Chairman, thank you. I am a partner and associate national director of tax services for Touche Ross & Co. We are a major public accounting firm, domestic and international.

I am here today, Mr. Chairman, because in the professional field we are a large employer, although we fade into insignificance when stacked up against some of our industrial employers, but I am also here because the firm has a very significant tax practice. Our clients range from the largest businesses to the very smallest. They also range from all types of individuals, both the least poor, as we heard that defined this morning, middle income, and lower income people. We have seen at first hand the problems of dealing with the educational expense rules that we have under our tax structure today.

I read this morning Assistant Secretary Lubick's printed statement for your committee on tuition tax credits, and the points that he made with respect to the employee assistance programs. This subject is not, to me, a question of tax equity. It is a question of providing skills for jobs, and while I have not seen your final bill, Senator Packwood, I am aware of the thrust of it, and it strikes me that what this bill accomplishes is permitting more skills to be provided to disadvantaged people, to fill jobs that they should have an opportunity to fill.

Senator Packwood. Let me ask you one question. One of the arguments that Treasury uses against the bill is that it increases the complexity of the tax.

Mr. PADWE. That is very much on my list of things I would like to discuss with you, sir. I have two points that I would like to take strong issue with Secretary Lubick on, if I might. The first is a question of equity.

I understand the problems of equity, both vertical and horizontal. I am a lot less impressed with Mr. Lubick's point that this bill would be inequitable in the technical sense, when you realize that there are at least 25 specific sections of the Internal Revenue Code which permit today statutory exclusions from gross income.

Now, included in these sections is at least one dealing specifically with education, which is to say scholarships. There are several aimed specifically at employees as a group, which is, of course, inequitable to those who are not employees, such as the exclusion of some group life insurance premiums paid by the employer, certain employee accident and health plans, meals or lodging furnished for the convenience of the employer to the employee, or group legal services plans, paid for by the employer. I think that the question of equity falls very rapidly compared with the thrust of the bill to provide skills.

The second area where the Treasury Department and my firm would depart, would be exactly the one you mentioned, sir, which is complexity. Secretary Lubick said yesterday, I gather, that your bill would make more complex our present program. A good part of my written statement is devoted to the thesis that our rules today are quite complex in dealing with educational expenses, and, if anything, this kind of bill will perhaps make them less complex.

Senator PACKWOOD. It just seems logical to me that if all educational expenses paid for by the employer are not taxable income to the employee, that is about as simple as you can make it. The only conceivable thing that could fall outside of that, and I am not sure then that even the employee would be held liable, is if the employer paid for expenses totally unrelated to the business, in which case there might not be a deduction, but that is the employer's problem.

Mr. PADWE. I would not want to speak for Mr. Lubick, but I suspect the kinds of things Treasury would be concerned about would be, for example, that a program could be set up by a corporation which might discriminate in favor of shareholders, officers, or highly paid employees. I think that is easily taken care of by statutory language.

Senator PACKWOOD. I think our bill has the same provisions in it as the prepaid legal services bill. There is a nondiscrimination provision in it.

Mr. PADWE. You also would not want to have a situation where maybe a smaller company would be able to use this kind of a program as a fringe benefit to provide tax deductible education for the children of the employees, and that could easily be taken care of as well. It is not a matter of complexity, Senator Packwood, in my judgment. Today, under our present rules, and the rulings of the Internal Revenue Service, the regulations of the Treasury Department, if an employer is going to reimburse an employee for his educational expenses, any kind of training expenses, or if he is going to pay them directly to a third party, to a college for tuition for example, the burden is on the employer to determine whether or not the employee would ultimately be able to deduct those expenses.

The employer has to make that determination because, until he does, he does not know whether it is income to the employee, and therefore he has to withhold income taxes, employment taxes, and so forth, on it.

So, we are putting on the employer the burden of determining the ultimate tax treatment by the employee of those expenses.

Now what is more complex, our present system or one in which the employee would have excluded from gross income payments by the employer educational costs? It seems fairly clear to me that if anything, this type of bill will make our tax laws less complex and not more.

The IRS has set forth some fairly strong and stringent rules as to when an employee will be able to deduct some of these expenses, and if I could give you just one as an example to show you the kind of distinctions an employer will have to make, they issued a ruling in 1976 that said if an employer reimbursed an employee to take legal courses which would be helpful, not to a lawyer but to somebody to whom a knowledge of some aspects of law would be helpful in his work, if those courses would not lead to permitting the employee to sit for the bar exam in his State, then it was not income, and the employer could reimburse him tax free.

If the courses would lead to permitting the employee to sit for the bar exam of his State, it is then taxable to the employee, and the employer has to withhold on it.

Now, these types of distinctions, which may be very obvious to the Internal Revenue Service or to the more sophisticated tax practitioners—not to me—I think are certainly not going to be very obvious to a lot of employers, and it puts an awful burden on them. We feel that these employer-assisted education programs is a very valid area for congressional encouragement. Virtually any change in our tax law produces some kind of an inequity, be it horizontal or vertical. So, it is impossible to make a change in the law without having an inequity created. I do not think that even the Treasury Department would claim we have complete equity today in our present tax structure relating to educational expenses.

Finally, we think that where we are using our tax laws to provide education, training for those individuals who will find it difficult to finance in whole or in part their own educational training, is this an incentive that will help a lot of people improve their positions, and we feel this is a very important part of the American value system. I find it very difficult to have sympathy with a tax structure that, as it is constituted today, tends to penalize individuals for trying to improve their lot, while, if you will, subsidizing them for mediocrity.

What I mean by that, Senator, is that our tax structure today provides that as long as an employee or employer is willing to take courses to maintain his present level of skill or to move ahead within his particular narrow employment, then it is perfectly okay for him to do so with the blessing of the Federal Government, which will pick up a part of those costs via tax deductions, but let him step out of line and try and show some ambition and improve himself by taking some type of training that could qualify him for doing something else; the Government lowers the boom, and the cost is completely the employee's.

Senator PACKWOOD. Let me ask you the same question I have asked a lot of others. Would it not be easier to justify a tax deduction for a higher educated, higher echelon employee who has had a spectrum of experience already in the company than for someone in the lowest end of the scale in terms of education?

Mr. PADWE. There is no question. The laws specifically and clearly provide that the minimum educational requirements for filling a position are not deductible. Now, it is your people who are at the lowest skills level who therefore are going to find that whatever education they take, it is more likely to be filling those minimum requirements of those positions, and therefore not deductible.

Senator PACKWOOD. The reasons I got into asking this was speaking to these Brookings groups, where I was talking to vice presidents of the major corporations, and I discovered—I think the tuition is \$300 or \$400 a week for these programs, plus whatever it costs to stay at the Madison Hotel for a week, and it was totally deductible to the corporation and not income to that employee, and I am not saying that the courses were a lark. I know they did learn a lot about government, and they came there to learn about government, but I would wager there would not be a production worker in the country who would not be delighted to come and sit through a week of listening to us speak and living in the Madison Hotel, but they couldn't do it. It would be taxable income to them.

Mr. PADWE. That is correct. There would be no question about it. I feel that what your proposed bill is doing is restoring some of the backward nature, reversing the backward nature of our present values in educational expenses, which can permit the disadvantaged and others to obtain some of the skills that will put them further ahead in our society. I think that is very much to the good, and we enthusiastically support your efforts for that effect.

Senator PACKWOOD. I have had a chance to read your excellent statement prior to your coming, as you turned it in ahead of time. It is a very complete, very explanatory, very well written statement, and we appreciate your having taken the time to come.

I have no further questions. I have interrupted you all of the way already.

Mr. PADWE. I have finished my statement, sir.

Senator PACKWOOD. Thank you.

Mr. PADWE. Thank you.

[The prepared statement of Mr. Padwe follows:]

STATEMENT OF GERALD W. PADWE, ASSOCIATE NATIONAL DIRECTOR—TAX SERVICES, TOUCHE ROSS & CO.

## SUMMARY OF POINTS

### NEED FOR EMPLOYER ASSISTED PROGRAMS

Present and projected costs of education prevent many Americans from obtaining the education necessary to qualify for present or future positions in the job market. It is in the interests of our stated national priorities for Congress to encourage additional training and education—with the ultimate goal of more and better jobs—through incentives including liberalization of present tax rules concerning educational and training costs incurred by an employer on behalf of an employee.

### PRESENT TAX ENVIRONMENT FOR EMPLOYER ASSISTED PROGRAMS

Present tax rules are quite restrictive since employer payments for employee education are taxable to the employee unless they maintain or improve skills of the present position. Further, the employer must decide whether payments he makes would be deductible by the employee (if the employee made them directly) before he can determine whether withholding is required on such payments.

There are several problems with this system:

1. The tests for deductibility are highly subjective and have been narrowly interpreted by the Internal Revenue Service and the courts;
2. Compliance with, and administration of, present rules on employer assisted programs is unduly complex;
3. The present rules do not meet the needs of today's economic realities.

## RECOMMENDATIONS

1. We support tax incentives such as an exclusion from the employee's gross income for employer paid education and training;
2. Deductibility of such payments by the employer should remain assured.
3. Any legislation should contain safeguards against abuse, such as prohibiting discrimination in favor of officers, shareholders, or highly compensated employees.

## STATEMENT

My name is Gerald W. Padwe, and I am a partner and Associate National Director of Tax Services for Touche Ross & Co. Touche Ross is one of the largest international public accounting firms and has a significant tax practice within and without the United States. We are most supportive of this subcommittee's efforts to examine employee education assistance programs for two reasons: first, because of our tax work for thousands of clients we are very much aware of some of the administrative and substantive complexities concerning the tax treatment of educational expenses; and second, as a firm with 5,000 professional personnel, we expend several million dollars annually (and over 200,000 training hours last year) on educational and development programs for our own staff and partners. For these reasons, my firm greatly appreciates the opportunity to present our views to the subcommittee.

## NEED FOR EMPLOYER ASSISTED EDUCATIONAL AND DEVELOPMENT PROGRAMS

In an increasingly complex economic environment, and with a high national priority placed on providing jobs, it is appropriate that Congress encourage educational assistance programs which will equip more individuals with the skills they need to fill particular jobs. In many instances, this will require training of a highly specific nature, but in many others it may require a general level of education that many Americans today find impossible to achieve on their own. The Joint Committee on Taxation's pamphlet, prepared for the use of this subcommittee in its parallel hearings on tuition tax credits, points out the dramatic rise in post-secondary school costs over the past decade, as well as the estimated cost of such education for the future: \$47,000 to attend a public university and \$82,000 to attend a private university in the 1990's to obtain a degree. Even with scholarship and similar grants, the ability of many citizens to become educationally qualified for positions in our growing economy is highly problematical.

Given this situation, numerous employers have shown willingness to provide educational and training skills for their employees. Larger companies, like ours, provide much of this needed developmental training through their internal training departments. However, most employers have to look outside their organizations—either to general educational institutions, professional or trade organizations, or specific groups to develop specific skills—since it is substantially more cost effective for them to send their employees outside rather than develop an educational expertise within their own organization. In these instances, the employer may either pay the outside organization directly or may reimburse the employee for that individual's payment to the outside organization.

## OVERVIEW OF THE PRESENT TAX ENVIRONMENT FOR EMPLOYER ASSISTED EDUCATIONAL PROGRAMS

Present tax rules for treatment of educational expenses are somewhat more liberal today than in the early 1960's, thanks to a change in the regulations governing educational expenses in 1967, but the rules are generally still quite restrictive. Whether a deduction is being sought for educational expenses by an employer or by the individual who has received the training, success is governed by whether or not the expense is an ordinary and necessary one of the trade or business: the employer's trade or business of providing goods, services, or whatever it is the employer does; or the individuals' trade or business of being an employee.

The Treasury Department and Internal Revenue Service have chosen to interpret the trade or business concept, in applying it to educational expenses, as being limited to improving or maintaining the skills of an individual's present employment or trade. With the usual deference to tax regulations shown by the courts in the absence of abuse of discretion, this regulatory approach has been judicially upheld time and again.



In determining the types of expenses permitted as deductions for maintaining or improving skills of one's present employment, the regulations specifically prohibit deductions for costs of meeting minimum educational requirements for the trade or business and costs involving a course of study that could qualify an individual for another trade. With respect to this latter, the fact that the individual has no intention of entering another trade, or actually has not entered it, has no bearing on the deductibility of the expense: even though the course of study improves skills of one's present occupation, it is not deductible if it could qualify the individual to enter a different line of work. See Regulation Section 1.162-5(b) (3)(ii) example (2); and *Jeffrey Weiler*, 54 T.C. 398 (1970).

The situation obviously becomes a little more complicated when an employer enters the picture by paying the costs of an employee's training, either to the employee as a reimbursement or directly to the educational institution (for tuition, books, etc.). Here one must face the question of whether the employer's payment is deductible to the employer, whether it is income to the employees, and if it is whether the employee gets a corresponding educational expense deduction on his or her individual return. And, recent rulings by the Internal Revenue Service seem to have placed on the employer the burden of determining whether the employee would eventually be entitled to a deduction for the expense. If the employee would be entitled to a deduction for the expense on his return, where reimbursed by the employer, IRS has ruled that the reimbursement *is income* to the employee. However, the employer is not required to withhold income or employment taxes with respect to that reimbursement and the employee need only note on his return that reimbursement was received in the amount of the expense. Where payment is made directly by the employer to the institution, it is not income to the employee and there are no withholding consequences to the employer.

If, on the other hand, the educational expense is of a nature that would not justify its deduction on the employee's return, then regardless of whether the employer pays the cost directly to an institution or reimburses the employee, the payment is compensation to the employee with all its withholding ramifications, and is presumably to be reported on the employee's form W-2. See Revenue Rulings 76-71, 1976-1 CB 308; and 76-352, 1976-2 CB 37.

Thus, in determining the treatment of educational expenses paid by an employer on behalf of an employee, present rules require the employer to determine the ultimate deductibility of that expense by the employee, a position we would argue is improper on two grounds: first, reasonable people will differ as to the deductibility of a particular item under non-objective standards; and second, the present system is both complex and inequitable where it requires one taxpayer (employer) to arrive at a subjective judgment on the tax treatment of educational expenses to another taxpayer (employee) before the first taxpayer can properly report that expense on his own return. Further, because of the numerous questions that are bound to arise as to where one can properly draw the line in deducting such expenses, both compliance with and administration of the tax laws become more complex.

Looking to the accounting profession for illustration, many public accounting firms hire paraprofessionals (or technical assistants) to work on return preparation and other tax compliance matters for clients. It may well be in the interests of firms and employees for the firm to pay for accounting courses or even an accounting degree for such individuals, since their added knowledge would qualify them for the professional staff and to work on more complex tax consulting problems. However, it might also equip them for positions outside of a public accounting firm, and could conceivably be challenged by IRS as a nondeductible expense qualifying an individual for a new trade or business. (We are not concerned here with deduction by the employer, since the payment would probably constitute compensation in any case, but we are concerned with ultimate deductibility by the employee.)

For their audit and tax staffs, many firms hire primarily individuals with accounting undergraduate degrees. Again, it could well be a matter of mutual interest for the employer to pay for night courses leading to a Master of Business Administration degree (perhaps with a concentration in taxation, for the members of the tax staff). Such courses, however could conceivably permit these individuals also to enter the fields of finance, banking, management, etc. Would such education qualify these individuals for a new trade and, therefore, become nondeductible to them?

Numerous large organizations (industrial and professional) maintain their own internal training departments and deduct the costs of training their employees.

However, there is nothing in the present rules which would preclude the Internal Revenue Service from challenging their judgment that the internal training is job related and meets all criteria for deductibility in Regulation Section 1.162-5. And, on behalf of ourselves and other large employers, I would not even want to consider the accounting and administrative problems which would be caused to the employer if a portion of in-house training was deemed income to certain employees, requiring inclusion in their income of some direct training costs, as well as an allocation of other indirect costs.

Thus, it is our position that the present rules cause unfortunate and unneeded complexity in compliance and administration and, more important, they are not responsive to the needs of the American economic system today. Therefore, we would strongly support efforts to change the present framework for the tax treatment of educational expenses.

#### RECOMMENDATIONS

We would support an approach whereby employer assistance to employee education and development becomes clearly deductible to the employer and not includable in the employee's income. We urge that any legislation proposed in this area cover both aspects of education expense treatment:

1. For ease of administration and compliance, and to fulfill the policy underlying such a change in the law, an exclusion from gross income should be provided for educational expenses paid on behalf of an employee by the employer, whether paid directly to the institution or as reimbursement to the employee. Language could be included to avoid discrimination in favor of officers, shareholders, highly compensated employees, etc.; however, we feel strongly that the gross income exclusion should extend to all individuals in the organization (including officers, partners, etc.) so long as it is on a non-discriminatory basis, since the need for continuing education and training of management level personnel (as well as blue or white collar employees) is a real one.

2. At the same time an exclusion from income is provided with respect to the employee, the deductibility of the payment to the employer should remain unambiguous. Under today's rules, payment by the employer should result at least in a deduction for compensation; that may become less clear where the payment is specifically excluded from the employee's income (if not compensation income to the employee, perhaps it is not a compensation deduction to the employer). Since the test of deductibility to the employer would then shift to that for educational expenses, providing only the exclusion for the employee could merely shift the need to prove deductibility from the employee to the employer. We believe this is inappropriate: the purpose of new legislation should not be to shift the burden of tax from employee to employer where the employer is providing educational assistance, but should be an inducement to employers to provide such assistance, partially at federal cost, as an incentive for creating and filling job positions.

Obviously, such a broad change in the approach to educational expense deductions could lead to abuse. We believe that anti-discriminatory language in a bill would solve much in the way of potential abuses. Language would probably also have to be incorporated to avoid situations where an employer could provide, as a fringe benefit, tax deductible education for employees' children.

With respect to some possible objections, we would let the marketplace decide what education is appropriate for employer assistance. For example, it could be argued that such a change in the law would encourage an employer to hire someone from high school and fund the individual's entire college education on a tax deductible basis. We believe this is a proper marketplace and business decision for an employer to make. It is our view that all employers would think more than once before undertaking such a program with a substantial dollar impact (even after tax benefits), and with the possibility that the employee may be working for someone else a few years after finishing the education program.

#### OTHER

We urge this subcommittee to bear in mind that a large percentage of projected educational growth in the next decade will be in the field of adult education. Much of this will be job or skills related education, and to the extent that an employer wishes to encourage development of these skills, there should be a clear incentive for that to happen.

We are also seeing what appears to be a growing pattern of career changes well before an individual's working years are completed. More and more, it is

not unusual for an individual to change career direction in the 40's or 50's decade, with the change in direction requiring the acquisition of new skills. We feel it is appropriate for Congress to recognize and encourage this pattern, and the legislative changes being considered by this subcommittee are a proper form of encouragement.

Finally, on a somewhat more philosophical note, the educational expense area is one in which the true values of American life and the American people have never been given recognition by our tax law. To oversimplify, how does one justify a tax system which tends to reward mediocrity and penalize ambition or a desire for improvement. Our present tax rules say that as long as you educate yourself to stand still, or to move ahead within the narrow confines of your present employment, the government will help subsidize your efforts through tax deductions. However, if your intention is to reflect ambition by way of improvement in a manner which might equip you to do something more useful for society in a different field, then the government has no interest in assisting your ambitions. We think this is wrong, and we welcome the efforts of this subcommittee and the Congress to restate these tax rules and bring them more into line with our values.

Senator PACKWOOD. That will conclude the hearings this afternoon.

[Whereupon, at 2:45 p.m., the hearings were concluded.]



**APPENDIX A**

**(Description of S. 2388 relating to Employer Educational Assistance  
Programs listed for a hearing)**

**(88)**

DESCRIPTION OF S. 2388  
RELATING TO  
EMPLOYER EDUCATIONAL ASSISTANCE  
PROGRAMS  
LISTED FOR A HEARING  
BY THE  
SUBCOMMITTEE ON TAXATION AND  
DEBT MANAGEMENT  
OF THE  
COMMITTEE ON FINANCE  
ON JANUARY 20, 1978

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PREPARED FOR THE USE OF THE  
COMMITTEE ON FINANCE  
BY THE STAFF OF THE  
JOINT COMMITTEE ON TAXATION



JANUARY 19, 1978

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## I. INTRODUCTION

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This bill, S. 2388, described in this pamphlet has been scheduled for a hearing on January 20, 1978 by the Subcommittee on Taxation and Debt Management of the Committee on Finance. The bill relates to the tax treatment of employer educational assistance programs.

In connection with this hearing, the staff of the Joint Committee on Taxation has prepared a description of the bill. The description indicates the present law treatment, the issues involved, an explanation of what the bill would do, the effective date of the bill, its revenue effect, and the Treasury Department position.

(1)

## II. BACKGROUND

### A. PRESENT LAW

Under present law, the issues concerning whether money or benefits furnished to an individual to assist him in his education are includable in income generally are governed by sections 61 and 117 of the Code. Section 61 provides that, unless otherwise excluded by law, gross income means all income from whatever source derived including, but not limited to, compensation for services. Under section 117, subject to certain qualifications, amounts received as scholarships at educational institutions and amounts received as fellowship grants are excluded from gross income.<sup>1</sup> The exclusion also covers incidental amounts received to cover expenses for travel, research, clerical help, and equipment when they are expended for these purposes.

The exclusion for scholarships and fellowship grants is restricted to educational grants by relatively disinterested grantors who do not require any significant consideration from the recipient.<sup>2</sup>

With respect to the deductibility of educational expenditures under present law (Reg. § 1.162-5), expenditures made by an individual for his own education generally are deductible if they are for education that (1) maintains or improves skills required by the individual's employment or other trade or business, or (2) meets the express requirements of the individual's employer or the requirements of applicable law or regulations imposed as a condition to the retention by the individual of an established employment relationship, status, or rate of compensation. These types of education are commonly called "job-related education." However, no deduction is allowed for expenditures for education required of the individual in order to meet the minimum educational requirements for employment qualification in the individual's employment or other trade or business or for expenditures for education which is part of a program of study which will qualify the individual in a new trade or business. Such expenses may not be deducted even if the education maintains or improves skills required by the individual in the individual's employment or other trade or business or meets the express requirements of the individual's employer or applicable law or regulations. Nondeductible educa-

<sup>1</sup> To some extent, qualifications differ for individuals who are candidates for degrees and individuals who are not degree candidates. A degree candidate cannot exclude any amount to the extent it represents compensation for teaching, research, or other part-time services which he or she is required to render in order to obtain the grant unless such services are required of all candidates for a particular degree as a condition for receiving the degree.

In the case of a non-degree candidate, the exclusion is available only for up to \$300 per month for no more than 36 months and then only if the grantor of the scholarship is a qualified governmental unit, charity, or international organization.

<sup>2</sup> *Bingler v. Johnson*, 394 U.S. 741 (1969).



tional expenditures are personal expenses of the employee. Similarly, expenses which are incurred by an individual for recreation and which are not connected with a trade or business or the production of income, such as taking courses with respect to a hobby, are personal expenses of the individual and are not deductible. Thus, unless the education expenses are deductible to the individual under the above rules, an employee ordinarily will have income which is not offset by deductions in the following situations:

- (1) the employee is reimbursed for educational expenses by the employer;
- (2) educational expenses of the employee are paid directly by the employer; or
- (3) the employer furnishes educational services directly to the employee.

An employer normally will be able to deduct amounts paid or incurred to provide educational assistance to employees because such amounts will be treated as compensation under section 162.<sup>3</sup> However, such amounts may be nondeductible as excessive compensation or, in some cases where the employees benefited are shareholders, as dividends.

Generally, unless specifically excluded by statute, all remuneration paid to employees, regardless of the form in which paid, constitutes wages subject to withholding of income and employment taxes. Remuneration is not necessarily excluded from the definition of employment tax wages simply because it is excludable from gross income under some other section of the Code. However, Treasury regulations provide that certain advances and reimbursements paid to employees for ordinary and necessary business expenses are excluded from the definition of wages for withholding and employment tax purposes. Pursuant to these regulations, the Internal Revenue Service has ruled that educational expenses paid on behalf of, or reimbursed to, an employee for courses which maintain or improve skills required in employment, or meet express requirements of an employer as a condition to retaining employment, (that is, job-related educational expenses), are excludable from the wages of the employee for purposes of employment taxes and withholding. If the education courses do not satisfy these tests, their cost is considered a personal expense of the employee and the advance or reimbursement is includable in wages and subject to employment taxes and withholding.<sup>4</sup>

## B. ISSUES

The primary issue presented by this bill is whether it is appropriate to provide an exclusion from gross income for expenses paid or incurred, or benefits furnished in kind, by an employer to provide educational assistance to an employee in situations where (1) these amounts

<sup>3</sup> In situations where an employer acquires items with a useful life in excess of one year and uses them for the direct furnishing of educational assistance to the employees, the cost would have to be recovered through deductions for depreciation over the useful lives of such items. In other situations, the deductions would normally be allowed when the amount is paid or incurred (depending on the employer's method of accounting).

<sup>4</sup> See Treas Reg. §§ 31.8121(a)-1(h), 31.3306(b)-1(h), and 31.3401(a)-1(b) (2) : Rev. Ruls. 76-62, 1976-1 C.B. 12, 76-71, 1976-1 C.B. 303, and 76-352, 1976-2 C.B. 37.

do not qualify for exclusion as scholarships or fellowship grants, and (2) the expenses are not job-related and therefore not deductible by the employee under present law.

Assuming that the primary issue is resolved in favor of providing an exclusion for at least some of these amounts, a number of related issues arise, including the following:

(1) should any conditions or limitations be placed on the eligible recipients, the employer, or the amounts received or paid;

(2) should any limitations be imposed on the type of education or the identity of the party furnishing the education; and

(3) should these amounts be treated as wages for purposes of income tax withholding, social security taxes, and unemployment taxes.

### III. DESCRIPTION OF S. 2388

The bill, introduced by Senator Packwood for himself and Senators Javits and Nelson, excludes from an employee's gross income amounts paid for expenses incurred by the employer for educational assistance to the employee if such amounts are paid or such expenses are incurred pursuant to a program which meets certain requirements. In the case of education paid for or furnished by an individual's employer, the bill eliminates the need to distinguish job-related educational expenses from personal ones for income tax purposes.<sup>5</sup>

The educational benefits which may be excluded from income are those furnished by an employer only to employees. However, the types of educational assistance which may be furnished are not restricted. Thus, the employer may provide educational assistance to the employee directly or the employer may reimburse the employee for his expenses. Under the bill, an employee could exclude from income tuition, fees, and similar payments, and the cost of books, supplies, and equipment paid for or provided by his employer; however, the employee cannot exclude tools or supplies which the employer provides and which the employee may retain after completion of the course of instruction. Meals, lodging, or transportation also may not be excluded. There is no limitation on who furnishes the educational assistance; such assistance may be furnished by an educational institution or any other party. Also, the employer (alone or in conjunction with other employers) may furnish the education directly to the employees. The education which may be furnished is not limited to job-related courses nor to courses which are part of a degree program. There are no requirements that a program obtain advance approval from the Internal Revenue Service nor that it be funded.

In order to be a qualified program, an educational assistance program also must meet requirements with respect to nondiscrimination in contributions or benefits and in eligibility for enrollment. The bill requires that the benefits provided under a program may not discriminate in favor of employees who are officers, shareholders, self-employed individuals, or highly-compensated. The bill specifically provides that a program shall not be considered discriminatory merely because it is utilized to a greater degree by one class of employees than by another class or because successful completion of a course, or attaining a particular course grade, is required for, or considered in, determining the availability of benefits.

A limit is placed on the proportion of the amounts or benefits provided under the program which can be for employees who own more than 5 percent of the stock or of the capital or profits interest in the

<sup>5</sup> However, such a distinction would still have to be made in situations where the education is not paid for nor furnished by the individual's employer.

employer corporation or unincorporated trade or business. The aggregate of the contributions for those employees and their spouses and dependents must not be more than 25 percent of the total contributions.

An individual who qualifies as an employee within the definition in section 401(c)(1) of the Code is also an employee for purposes of these provisions. Thus, in general, the term "self-employed individual" means, and the term "employee" includes, individuals who have earned income for a taxable year, as well as individuals who would have earned income except that their trades or businesses did not have net profits for a taxable year.

An individual who owns the entire interest in an unincorporated trade or business is treated as his own employer. A partnership is considered the employer of each partner who is also an employee of the partnership.

For determining stock ownership in corporations, the bill adopts the attribution rules provided under subsections (d) and (e) of section 1563 (without regard to sec. 1563(e)(3)(C)). The Treasury Department is to issue regulations for determining ownership interests in unincorporated trades or businesses, such as partnerships or proprietorships, following the principles governing the attribution of stock ownership.

*Effective date.*—The bill would apply to taxable years beginning after December 31, 1977.

***Revenue effect***

It is estimated that S. 2388 will decrease tax liability by \$23 million for calendar year 1978, \$26 million for 1979, \$29 million for 1980, \$32 million for 1981, \$36 million for 1982, \$40 million for 1983, and increasing amounts thereafter.

***Departmental position.***

The Department of the Treasury opposes a general statutory exclusion from income for employer-provided educational assistance primarily because it believes that such an exclusion would be unfair.

## IV. ANALYSIS

As is the case with any proposed exclusion, this bill raises the issue of whether it is appropriate to provide an exclusion which encourages a particular activity but which also narrows the income tax base. Any proposed exclusion raises horizontal equity problems. Thus, it may be relevant to consider whether the disparity between persons with equal incomes will be increased or decreased by this bill. Also, because exclusions frequently tend to reduce the progressivity of the income tax (thereby reducing vertical equity), it may be appropriate to consider the extent of the decrease in progressivity and whether such a decrease is desirable. Furthermore, the issue of whether this exclusion increases or decreases complexity should be addressed.

Under the bill, the type of educational assistance which could be paid for or furnished tax-free by the employer includes many expenses which, even under a liberal interpretation of the law, are presently considered personal. It might be desirable to consider whether some type of job nexus should be required.

Alternatively, the rules relating to the deductibility of educational expenses could be reexamined with a view to simplifying and, perhaps, liberalizing them.

The bill also raises issues relating to employment tax and withholding requirements. The bill does not distinguish between educational assistance which is job-related and that which is personal. However, in order to comply with employment tax and withholding requirements, the distinction between job-related and personal educational expenses would still have to be made. The job-related assistance would not be subject to employment taxes or withholding under present law, but the assistance relating to courses taken for personal purposes would be subject to such taxes. The committee may wish to consider whether or not educational assistance covered by the bill should be excepted from employment taxes and withholding without regard to whether it is job-related or personal in nature.

A number of other issues relating to other types of fringe benefits have recently been raised. It may be appropriate to consider educational assistance programs in conjunction with an overall examination of fringe benefits rather than separately.

## APPENDIX B

(Communications received by the committee showing an interest in this hearing)

STATEMENT OF DONALD C. LUBICK, ACTING ASSISTANT SECRETARY OF THE  
TREASURY FOR TAX POLICY

Mr. Chairman and Members of this Subcommittee:

*Employer-provided Education Assistance.* Tomorrow this Subcommittee will hold hearings on legislative proposals regarding education assistance programs provided for workers by employers. We have been requested to comment briefly on this subject at this time. Under the proposals, education assistance received by employees would not be regarded as taxable income to employees. Treasury opposes a general statutory exclusion from income for employer-provided education assistance.

Equity requires that if compensation received by some employees is taxed, compensation received by other employees should also be taxed. Compensation received in kind, such as compensation received in the form of education benefits, is just as valuable as compensation received in cash. An exclusion for employer-provided educational assistance would allow students who receive education benefits from their employers to receive those benefits tax free, while other students must pay for their education out of after-tax income. A principle of our tax laws has been that those with equal incomes should pay equal taxes, and each violation of that principle erodes the confidence of taxpayers in that system.

Moreover, any proposal that provides that certain types of income not be taxed encourages taxpayers to rearrange their affairs so that taxable income is received in a non-taxable form. An exclusion for employer-provided education assistance would be likely to produce a growing revenue loss to the government.

It has been suggested that employer-provided education assistance programs should be encouraged because they promote the advancement of low-income employees with limited education or training. However, middle- and upper-income employees also receive education benefits, and, when benefits are provided tax free, those taxpayers with the highest incomes receive the greatest benefits from the tax exemption. National education policy should not be created in such a manner that those with the least needs receive the greatest benefits. Poor persons who receive employer-provided benefits which are subject to tax are nonetheless not taxed on those benefits because their total incomes are too low. The President's tax proposals will raise these tax-exempt levels of income even more. It is by raising tax-exempt levels of income that a direct and equitable attack can be made on the problems of those persons at or near poverty levels, not by providing an exemption to a selected group of persons, only some of whom may be poor.

Finally, if employer-provided education assistance were excluded from income, administrative complexity could result. For instance, a rule would be needed to prevent one- or two-person corporations from converting all their normal personal education expenses into deductible expenses of the corporation.

Consideration should also be given to the relationship between an exclusion for employer-provided education benefits and the current tax treatment of education expenses. In many cases, education expenses are already deductible by the employee as business expenses under Code Section 162 and, hence, in effect exempt from tax. In some cases, the value of deductible employer-provided education benefits need not even be reported on the employee's return. If the primary reason for proposing an exclusion is disagreement with existing rules on the circumstances under which education expenses are deductible as business expenses, consideration should be given to simply modifying those rules on deductibility. Such an approach would properly be more narrow in scope than a blanket exclusion. Such an approach would also avoid favoring employer-financed education over education financed by the individual student.

## CONCLUSION

Finally, in the area of employer-provided education assistance, we oppose a general statutory exclusion from income because of the unfairness that such an exclusion would create and because it could represent a significant drain on Federal finances.

U.S. CIVIL SERVICE COMMISSION,  
Washington, D.C., January 3, 1978.

HON. JACOB K. JAVITS,  
U.S. Senate,  
Washington, D.C.

DEAR SENATOR JAVITS: You were correct in your letter of December 7, 1977 that the Civil Service Commission has been examining the recent Revenue Rulings on taxing employees for tuition aid. The enclosed letter to Secretary Blumenthal expresses our concerns in a fairly complete manner. His reply is also enclosed.

In brief, we are particularly concerned about the effect these rulings will have on upward mobility training, cooperative education programs, training in critical skills areas, and training to assist individuals change occupations in case of the restructuring of their jobs or the reorganization of their offices.

Using data from the Commission's publication, "Employee Training in the Federal Service: Fiscal Years 1974, 1975 and 1976," the Bureau of Training has indicated that the expected revenue loss resulting from adherence to these rulings would be approximately \$4,400,000. The enclosed chart indicates how this figure was derived.

If an administrative solution cannot be found, the Civil Service Commission plans to submit legislation on this matter as part of its 1978 legislative program.

I hope this information is helpful to you and appreciate your interest.

Sincerely yours,

ALAN K. CAMPBELL, *Chairman.*

Enclosures.

U.S. CIVIL SERVICE COMMISSION,  
Washington, D.C., October 7, 1977.

HON. W. MICHAEL BLUMENTHAL,  
Secretary of the Treasury,  
Washington, D.C.

DEAR MR. SECRETARY: The Civil Service Commission is gravely concerned about the impact on training management of the Internal Revenue Service's more vigorous efforts to collect taxes on "hidden income" in the form of tuition payments to employees. The regulation on itemized deductions of gross income states that any educational expenses incurred by individuals to help them enter a new trade or occupation or to allow them to meet the minimum requirements for employment are not deductible. If these expenses were to be paid by an employer, they would be considered taxable income.

The Federal Government operates two major programs that would be negatively affected by the enforcement of this regulation. The first is the *training in support of upward mobility*. Upward mobility programs are designed to allow individuals with high potential to overcome the disadvantages of poverty and poor education. Employees are competitively selected from the lower-graded occupations and are given preparation to enter different Government occupations that have longer career ladders. Academic education is often part of this preparation because it is efficient to substitute education for part of the experience required in the minimum qualification standards for a position. As a consequence of this ruling many lower-graded employees will not be able to participate in this special program because they could not afford to pay the tax on the tuition payments. If the Government wants to continue upward mobility, it will either have to provide relief from this tax or incur greater expenses by training employees through on-the-job experience only.

The second is the Government's *cooperative education program*. This program is designed to attract highly qualified students for Government service. The program provides employment in *lower-graded positions (GS-2—GS-4, generally)*. Typically, a participant in the program works a few months each year and attends a college or university for the balance of the year while in a leave-without-pay status. Agencies may use the Government Employees Training Act to provide tuition support to the students. Because of this work opportunity and the possibility of tuition support, this program has attracted students who, but for this assistance, would have considerable difficulty in completing their undergraduate education. If these "scholarships" are taxed, the number of qualified applicants will decrease and the Government will be interposing a serious obstacle to an excellent method for upgrading the education and employment opportunities of the nation's poor citizens.

In order to manage the workforce better, agency officials occasionally train employees for new occupations. This training is covered by a training agreement

which is an accepted method for promoting special recognition to individuals with high potential in *critical* fields by enabling those employees to substitute intensive, accelerated training for part of the normal qualification requirements in a new occupation. Taxing tuition payments would result in discouraging tested high quality individuals from entering occupations that are *critical* to Government operations.

Besides negatively affecting the programs mentioned above, the potential consequences on all types of training involving non-Government facilities are tremendous. (Non-Government institutions provide 23% of all training received by Federal employees). It is impossible to estimate the full impact of this tax policy upon Federal training activities since individual revenue agents will be making independent judgments about the job relatedness of the training. The uncertainty caused by this situation could mean that agency officials will curtail their use of non-Government training because they are unsure of the tax implications of such a decision. In short, the increased probability that non-Government training will be taxed might give rise to an enormous disruption in Government training programs.

There is an additional justification for exempting all Federal training from the tax. Federal employment is unique: it is service to the nation. According to the Government Employees Training Act, the purpose of all Government training must be to improve service to the public because it must be related to the performance of official duties. All training must be approved by responsible officials who are held accountable for their expenditures and the proper administration of Government operations.

Finally, the administration of training is subject to several levels of review to determine if it is really being administered in the public interest. Periodic evaluations are made by the Civil Service Commission; the General Accounting Office conducts program reviews; and, occasional reviews are made by Congressional Committees.

I would be glad to meet with you to discuss this serious matter more fully.

Sincerely yours,

ALAN K. CAMPBELL, *Chairman.*

THE SECRETARY OF THE TREASURY,  
*Washington, December 6, 1977.*

HON. ALAN K. CAMPBELL,  
*Chairman, U.S. Civil Service Commission,*  
*Washington, D.C.*

DEAR SCOTTY: I am writing to acknowledge your letter of October 7 concerning possible taxation of amounts received under scholarship programs maintained by the Civil Service Commission as income to the scholarship recipients.

As you are aware, the entire question of the taxability of scholarship income has been under active scrutiny by the Internal Revenue Service. Among other things, this has led to the Service's publication of a ruling that treats amounts received by participants in its own cooperative education program as taxable income. However, in view of your letter I have asked our tax policy group to re-examine the question raised by the specific CSC programs you have described, and I will write you further about this on completion of their review.

Best regards,

Sincerely,

W. MICHAEL BLUMENTHAL.

*Estimate of taxes foregone<sup>2</sup> for non-Government and interagency training*

Purpose: <sup>1</sup>	<i>Thousands</i>
Program change.....	\$256
New technology.....	787
New work assignment.....	957
Meet future staffing needs.....	1, 421
Develop unavailable skills.....	894
Apprentice.....	31
Adult education.....	55
<b>Total.....</b>	<b>4, 401</b>

<sup>1</sup> Defined in the Annual Report on Employee Training in the Federal Service (T-7) fiscal year 1974, 1975, and 1976, pp. 53-54.

<sup>2</sup> Estimate is for the average pay of \$16,532. The tax rate used is for the average return which is a joint filing with three exemptions. The fiscal year 1976 average cost and instances are used.



## AMERICAN ASSOCIATION OF COMMUNITY AND JUNIOR COLLEGES,

Washington, D.C., December 29, 1977.

THE CHRONICLE OF HIGHER EDUCATION,  
1717 Massachusetts Avenue,  
Washington, D.C.

To THE EDITOR: I read your November 21st and 28th issues with interest and upon some analysis was pleased to see that—contrary to much we hear—the private institutions are in general enjoying growth and establishing new institutions.

My analysis is as follows:

The November 21, 1977 Chronicle of Higher Education on page 10 listed the 105 private colleges closed from spring 1970 to fall 1976.

They were as follows:

2-year.....	35
4-year.....	38
Special.....	32
<b>Total.....</b>	<b>105</b>
Male only.....	18
Female only.....	25
Coed.....	62
<b>Total.....</b>	<b>105</b>
Catholic.....	50
Independent.....	47
Other.....	8
<b>Total.....</b>	<b>105</b>

Most of the "Specials" were seminaries with a few art and music schools, and a high percentage single sex institutions supported by the Roman Catholic Church. Of those remaining, Parsons College in Iowa and four of its "offshoots" in Iowa and Nebraska were closed (few claimed them a great loss).

Of those 16 listed as shifting from private to public control, it can be noted; 3 were Colleges of Osteopathic Medicine, 7 were two-year colleges (Navajo and 6 others), 6 four-year colleges (1 Art Institute, 1 "Special").

Of the 44 private institutions listed as opened between the spring of 1970 and fall 1976 on page 6 of the November 28, 1977 *Chronicle of Higher Education*, 15 were "Specials"—mainly seminaries, with a few new law schools and graduate institutes. There were 7 new two-year and 22 four-year institutions listed. Almost all (42 out of 44) were coed (1 each men and women). Most (37) were independent, with 2 Roman Catholic and 5 by other Protestant groups.

Thus, there are a total of 44 less two-year and four-year colleges between 1970 and fall 1976. While it is always regrettable to see any institution close, there is no evaluation possible by these figures as to the social service any of these were rendering, or their cost-effectiveness in comparison to those that remain. But one can conclude—there is no great demise of private colleges.

This growth of private colleges is shown by a listing of the total fall enrollments and number of institutions in recent years in USOE reports:

	Enrollments	Number of private colleges
1950.....	1,142,136	1,221
1969.....	2,096,114	1,472
1976.....	2,414,189	1,608

Some only mention the percentage of total enrollment in private institutions overlooking the fact that the absolute number of students enrolled in private colleges has increased significantly—in fact, doubled—since 1950. The USOE reports show 136 additional institutions between 1969 and 1976. I would hope this kind of *factual* information could be kept in mind in the coming months.

As always, we appreciate your efforts to bring current facts and information to your readers.

Sincerely,

JACK TIRRELL,  
*Vice President for Government Affairs.*

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GRAPHIC ARTS INTERNATIONAL UNION,  
*Washington, D.C., January 20, 1978.*

Hon. BOB PACKWOOD,  
*U.S. Senate, Dirksen Senate Office Building, Washington, D.C.*

DEAR SENATOR PACKWOOD: I would like to call your attention to the great concern we have for the apparent position of the Internal Revenue Service on the concept they have of education funding that is taxable. We would at the same time want it known that we strongly support Senate Bill S. 2388 that you are co-sponsoring with Senators Jacob Javits and Gaylord Nelson.

Our great concern is that the more closely the I.R.S. attempts to identify the education requirements of present job status, the more a greater burden is placed squarely on the shoulders of the working men and women of America.

The fact that technology, (if not super technology) is impacting most of the industry of the country is universally accepted. We can reiterate that it is abundantly true in printing and publishing. Not only have individual classifications of jobs (such as linotype operator) practically disappeared, whole segments of the graphic arts industry including photoengraving are drying up and whole plant conversions from one process to another are commonplace. Other segments of the industry are undergoing such constant metamorphosis that what they can be defined as this year will not be with us next year. Electronic Scanners replace cameras and cameramen—automatic imagery systems uproot platemakers—huge web-fed presses replace the more labor-intensive sheet fed presses—entire books are turned out by the millions on Cameron Belt presses—untouched by human hands.

This though, is not a complaint about the impact of technology. As workers in the Graphic Arts International Union we have welcomed, applauded and crested with the miracles of American industrial know-how. Our productivity increases each year and our membership stays constant at 110,000 members. There are many opportunities that come with each new or improved machine, product or process.

What is required though is the constant education and training that we do that enables us to maintain job slots the identity and skill requirements for which are expected to change three, four and as many as five times during individual working careers.

We as a Union with the cooperation and financial support of our employers have addressed ourselves to the realities of our work place, and have in our locals throughout the country educational and training procedures that serve to train our apprentices and to retrain and upgrade our journeymen and journeywomen.

This in our opinion is the investment we make in the single most valuable aspect in our industry—it's human capital. We find it inconceivable that tax considerations are commonplace for investments in machinery or bricks and mortar but that new or changed skills, no matter how essential to simple economic survival, are considered grist for the tax mill. The I.R.S. position in this matter can appear to be a kickback in a still developing National employment policy. The principal that is involved is that employee development should not be considered taxable.

Although our local facilities are considered tax exempt under 501C3 there is the specter that the education and training that is provided in them be considered a financial windfall or boon instead of the individual worker economic necessity that it is.

We, as well, seriously lend our support to others including the American Society for Training and Development in emphasizing that current I.R.S. practices are becoming an increasingly heavier burden on those that can afford it least—lower income employees such as women and minorities who may need more education to advance themselves. There is also the obvious inconsistency between our Federal government tax regulations and our Federal government's affirmative action initiatives.

Finally, the Graphic Arts Union has been working with the Federal government in both a contract with the Department of Labor entitled: "Program for Equal Progression" (P.E.P.), and with the Office of Education, Women's Educa-

tion Equity Act, as sub-contractors with the Center for Human Services, in a grant called: "Career Equity For Workers" (C.E.W.). Both have written into them education components that we will deliver. The former actually provides for improved job status; the latter is aimed at raising the level of awareness of all concerned with the difficult socio-economic issues involved in career equity. It is impossible for us to conceive of such education as being taxable—it is not far removed from all other education that we and our employers provide for workers in the Printing and Publishing Industry.

Senator Packwood, please be convinced of our active support for Bill S. 2388 and our willingness to work for its passage. If there is anything that we can do in this regard please let us know.

Thank you for the consideration you will give this letter.

Sincerely,

JOHN A. STAGG,  
*Director of Education, GAIU.*

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NATIONAL ORGANIZATION FOR WOMEN, INC.  
*Washington, D.C., January 20, 1978.*

Senator ROBERT PACKWOOD,  
*U.S. Senate,  
Washington, D.C.*

DEAR SENATOR PACKWOOD: Education is one key to effective participation in the American economy, but education is expensive. Women, as a result of years of discrimination in salary levels and advancement opportunities, are least able to afford the additional outlays for educational expenses that would afford them advantages in the competition for better jobs and higher salaries. Employers are able and willing to help redress this imbalance through employer provided tuition aid. Many women, particularly minority and undereducated women could benefit the most from such tuition payments, but are unable to afford the additional tax penalties imposed on them for such tuition aid.

In addition, the Internal Revenue Service is interpreting the law to make the value of training and apprenticeship programs taxable to the recipient. This could have a disastrous effect on the programs which have encouraged women to enter non-traditional occupations for which they must have training. The IRS threat to tax the value of the training as well as the salary received by the recipient, seems to us an unfair and unnecessary burden to all low income people, but particularly to women. At the lower pay scales at which women work, such double taxation poses an unnecessary deterrent to their participation in the very programs designed to advance them.

We believe that the legislative relief offered by S.R. 2388 is important to all women seeking equal employment opportunity. Within our society, two groups of women who have the gravest need for tax relief are among the greatest potential beneficiaries—minority women, who are often undereducated, and employed mothers, especially those who are single parents as well.

We therefore urge the Senate Subcommittee on Taxation and Debt Management of the Finance Committee to send S.R. 2388 to the floor of the Senate without amendments as soon as possible.

Sincerely,

NINA L. HEAGSTEDT,  
*Legislative Aide.*

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INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE &  
AGRICULTURAL IMPLEMENT WORKERS OF AMERICA—UAW,  
*Washington, D.C., January 20, 1978.*

Hon. BOB PACKWOOD,  
*U.S. Senate, Washington, D.C.*

DEAR SENATOR PACKWOOD: While it will be impossible for the UAW to testify personally on your legislation to exempt employer paid tuition programs from employees' taxable income, I wish to comment on the legislation on behalf of the 1.4 million member International Union, United Automobile, Aerospace & Agricultural Implement Workers of American (UAW), and would appreciate your including this letter in the Finance Committee hearing record.

More than a million members of the UAW are under contracts which provide for employer-paid education programs. Most of these programs are limited to

job-related education and are associated with career advancement. Our contracts vary but some include grants of up to \$900 a year so that workers can take advantage of classes throughout the school year, if that is their choice.

Our involvement with employer-paid education programs is more than a decade old, having originated in the 1964 contracts between the UAW and the major auto manufacturers. However, since then we have expanded the program to many other employers where we have UAW members.

It is important to bear in mind that a worker who is on the job a minimum of 40 hours a week and who usually has important family responsibilities need be well motivated to undertake the additional burden of classes and class preparation. In many cases the schooling may not be directly related to the worker-student's present job, but clearly designed to enable that worker to advance his or her career by entering the skilled trades, for example. The narrow Internal Revenue Service interpretation of which tuition assistance programs are exempt from taxation would work a severe hardship on those production workers who seek to advance their careers and to expand their horizons.

We find it ironic and unfortunate that at a time when many multibillion dollar tax expenditures are left untouched, that an attempt is being made to deny workers educational opportunities through a ruling which has a de minimis revenue effect. Our members will find it difficult to understand why they should be liable for taxes for such a meritorious program when conspicuous tax loopholes remain open and when the perquisite of management are generally left untouched. Any consideration of changes in the tax code should key on two basic questions, equity and revenue implications. It is the judgment of the UAW that on both counts your legislation is appropriate and necessary, and we hope that your colleagues on the Finance Committee and in the Senate will agree with that conclusion.

Thanks you for your courtesy and for taking the initiative on this important matter.

Kind regards,  
Sincerely,

HOWARD G. PASTER,  
*Legislative Director.*

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AMERICAN SOCIETY FOR TRAINING AND DEVELOPMENT,  
THE GREATER RICHMOND CHAPTER,  
Richmond, Va., January 13, 1978.

HON. HARRY F. BYRD, JR.,  
*U.S. Senate, Russell Senate Office Building, Washington, D.C.*

DEAR SIR: I am pleased to hear that, as Chairman of the Subcommittee on Taxation and Debt Management Generally, you will be holding hearings regarding *Employee Education Assistance Programs*. As a Professional involved in the area of human resource development, I strongly support the need for these hearings and for legislation exempting employee tuition assistance from taxable income.

Current IRS regulations, taxing tuition for courses taken in order to further one's career, place an unnecessary burden on those employees who are most interested in developing themselves to the fullest. In addition, such taxes tend to add to the cost and thus deter affirmative action programs. With our problems of unemployment and foreign competition in the market place, we should be encouraging the development of our workers—not adding roadblocks to the process.

Thank you again for agreeing to chair these hearings.

Sincerely,

KURT E. OLMOSE, Ph.D., *President.*

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NATIONAL UNIVERSITY EXTENSION ASSOCIATION,  
*Washington, D.C., January 27, 1978.*

Senator HARRY F. BYRD, JR.,  
*Chairman, Subcommittee on Taxation and Debt Management Generally, Senate Committee on Finance, Dirksen Senate Office Building, Washington, D.C.*

DEAR SENATOR BYRD: The National University Extension Association submits the following information for the record of your hearing January 20, 1978 on legislative proposals regarding educational assistance programs for workers provided by employers.

The National University Extension Association is an organization of 265 colleges and universities that conduct extension and continuing education programs. These are programs that serve people who are part-time students at these institutions.

The applicable provisions of present laws and IRS rules and regulations as we understand them are that:

When employers make tuition payments for employees for education or training that maintains or improves the employees' skills in their present jobs, these payments are non-taxable. That is, the payments do not need to be reported as income by the employees, or if so reported, may be claimed as deductions.

When employers make tuition payments for employees that are for education or training to help employees qualify for other jobs, the payments must be reported as income by the employees and are fully taxable.

If workers pay for education or training from their income, the same rules apply.

That is, their expenditures are deductible if the expenditures are for training to maintain or improve skills in their present jobs but not deductible if the training helps them qualify for other jobs.

These provisions say in effect that it is the public policy to provide federal financial assistance to help people learn to do their present jobs better and to deny such federal financial assistance to help people acquire knowledge and skills for other jobs. A federal policy that denies tax reductions to people who are preparing for better jobs is not in the public interest and inconsistent with policy expressed through other legislation. In this country there are millions of people who need and want training and education to enable them to advance to better jobs. There is a great need for highly skilled people to fill positions throughout our economy. The efficiency of our economic system is dependent on highly skilled and upwardly mobile workers. There are millions of unemployed and untrained people anxious to get on the first rung of the employment ladder. The Congress has appropriated billions of dollars to train the unemployed for jobs. For these expenditures to be fully effective, upward mobility of employed workers should be encouraged.

Federal programs for affirmative action in the employment of women and minorities provide strong incentives for employers to provide for training of these people to enable them to advance to better jobs, yet it is the present policy to tax those workers on tuition costs paid by employers for such training and to tax them for any expenditures they make for training as they try to get ahead.

Another problem with the current provisions is that they are vague and confusing. There is much uncertainty and confusion within IRS, and among employers and workers as to which training and education expenses qualify for tax deductions.

On this hearing the committee is considering legislation that would exempt employees from reporting as income all payments made by employers for employee education tuition. Such legislation would give preferential treatment to those persons whose employers pay the tuition compared to those who pay tuition from their incomes. We think tuition payments for people who obtain education and training to advance their careers should have the same tax treatment whether paid by employer or employee. This committee is considering in another hearing legislation that would provide tax credits for education expenses. We have strongly recommended to this committee that if such legislation is enacted, its provisions should be applicable to persons who are employed and taking courses as part-time students. (See our letter of January 13, 1978, copy attached). Such tax credit legislation could accomplish the objectives of the proposed legislation that is the subject of this hearing. Tax deductions for tuition costs would provide to persons in high tax brackets a tax reduction at a high percentage of the tuition costs and people in low tax brackets a tax reduction at a low percentage of the tuition costs. Tax credits could provide equal treatment or could be structured to provide more help to people with lower incomes.

We urge the Congress to give favorable consideration to tax legislation that would provide an incentive for people to obtain training and education to perform their present jobs and to prepare for other jobs in which they will be more productive and better citizens. Such tax provisions should apply equally to tuition costs paid by employers and by individuals and should not provide greater assistance to people in higher tax brackets.

We urge you to consider tuition expenses paid by employers as a part of a group of tax matters related to education and to provide a consistent overall approach.

Sincerely,

LLOYD H. DAVIS,  
Executive Director.

Attachment.

NATIONAL UNIVERSITY EXTENSION ASSOCIATION,  
Washington, D.C., January 13, 1978.

Senator HARRY F. BYRD, Jr.

Chairman, Subcommittee on Taxation and Debt Management Generally, Senate Committee on Finance, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR BYRD: The National University Extension Association respectfully submits the following information for the record of your hearing January 18, 19, 20 on proposed legislation that would provide tax credits for educational expenses.

The National University Extension Association is an organization of 265 colleges and universities that conduct extension and continuing education programs. These are programs that serve people who are part-time students at these institutions.

Traditionally, college students have been people 18 to 22 years of age. The situation has changed drastically in recent years. Today over half the people studying at our colleges and universities are older than this traditional age group and are part-time students. These are adults, mostly working people, trying to acquire knowledge to get ahead in the world. They are beyond the stage in life where they are supported by their parents. Many are studying to obtain college degrees. Others seek certification for employment, or just seek knowledge they need.

The trend continues. Each year brings an increasing number of adult part-time students to college and university programs. Colleges and universities are responding to these needs by providing instruction at times and places accessible for these adult part-time students.

Federal legislation and programs are just beginning to recognize this new majority in higher education. We strongly urge the Congress to consider the financial problems and needs of these adult part-time students as you consider the tax credits as a means of helping people pay costs of education.

Let me illustrate the problems and needs. Take the case of a young man from a low income family who after graduation from high school was not motivated for higher education but had other more pressing goals. He got married, took a job pumping gas at his neighborhood gas station. Now at age 25 he has two children, is still pumping gas, scarcely able to make ends meet and sees a drab future ahead. He decides that his best way out is to study at night at his local community college or university to prepare for a better job, but he is broke every payday, now. He sees his 18 year old brother leaving high school, going on to college and receiving from the government a Basic Educational Opportunity Grant to pay for part of his education. He rightfully wonders "is this just and equitable treatment." Can anyone say the need of one brother is any more a public concern than the other? Can anyone say the needs of one has a higher priority for spending federal money than the other? If now the Congress passes new legislation giving this boy's father a tax break for the educational expenses he pays for the younger brother but not a tax break for the older brother who would take one course per quarter at night, you will only compound the injustice.

There are millions of people in situations like this older brother. This is not an unrealistic example. I cite below some real world examples. The University of Minnesota has a very small fund from which it helps needy part-time adult students. Here is a brief description of a number of people who applied for help to take one course per quarter but whom the university could not help because of a lack of funds:

P.M. is 33, divorced, female, has 4 children (ages 10, 11, 13, 15). She is employed as a secretary. Gross income=\$300/mo. (\$9,600/yr.); net income=\$765/mo. (\$9,180/yr.). Her income includes her salary, plus child support. Medical/dental=\$20/mo.

W.A. is 25, single, male, employed as a school bus driver. Gross income=\$500/mo. (\$6,000/yr.); net income=\$325/mo. (\$3,900/yr.). Student loan=\$30/mo., personal loans=\$66/mo.

D.L. is 24, married, female, has 1 child (age 5). She is employed as a bookkeeper; her husband is employed as a school bus driver. Gross income=\$900/mo. (\$10,800/yr.); net income=\$700/mo. (\$8,400/yr.). Medical/dental=\$15/mo., daycare=\$140/mo.

P.C. is 36, female, divorced, has 2 children (ages 5 and 18). She is employed as a senior clerk. Gross income=\$876/mo. (\$10,512/yr.); net income=\$600/mo. (\$7,200/yr.). Medical/dental=\$30/mo., daycare=\$50/mo.

J.G. is 32, married, female, has 2 children (ages 11 and 15). She is employed as a sales clerk; her husband is self-employed as an architectural draftsman. Gross income=\$1,050/mo. (\$12,600/yr.); net income=\$800/mo. (\$9,600/yr.). Dental=\$25/mo., health insurance=\$68/mo., medical=\$20/mo.

L.H. is 30, separated, female, has 2 children (ages 7 and 10). She is employed. Her income is derived from employment and child support. Gross income=\$950/mo. (\$11,400/yr.) net income=\$795/mo. (\$9,540/yr.). Medical=\$10-15/mo., health insurance=\$10/mo., daycare=\$100/mo.

W.H. is 26, married, male, has 2 children (ages 5 months and 2 years). He is employed as an electronic technician; his wife is a homemaker. Gross income=\$900/mo. (\$10,800/yr.); net income=\$696/mo. (\$8,352/yr.). Medical=\$25/mo., health insurance=\$8/mo.

T.N. is 32, divorced, female, has 2 children (ages 9 and 12). She is employed as a clerk and as a caretaker in her apartment building. Gross income=\$707/mo. (\$8,484/yr.); net income=\$650/mo. (\$7,800/yr.). Her income includes her salary, plus child support. Medical=\$20/mo., dental=\$15/mo., health insurance=\$25/mo., legal fees=\$50/mo.

L.S. is 39, married, female, has 3 children (ages 8, 15, 17). She is a homemaker; her husband is employed as a research agronomist. Gross income=\$970/mo. (\$11,640/yr.); net income=\$729/mo. (\$8,748/yr.). Medical=\$70/mo.

C.W. is 22, single, female. She is employed as a fashion consultant. Gross income=\$500/mo. (\$6,000/yr.); net income=\$400/mo. (\$4,800/yr.). Medical/dental=\$20-30/mo.

These are real people. They will not speak at a congressional hearing because they are working and couldn't pay the cost anyway. They are not organized and so have no one to speak for them. The National University Extension Association speaks for university personnel that are trying to serve their needs.

We urge you, if you pass a bill that provides tax credits for educational expenses, don't limit the benefits to parents of "traditional" students. Help these hardworking, dedicated, deserving and needy people too. They are just as needy, just as deserving, and their education is as much in the public interest as the full-time "traditional students" and their parents. If you limit the benefits to full-time students, to those who are full-time students part of the year, or to better-than-half-time students, these hardworking part-time students will be dished out another injustice.

Sincerely,

LLOYD H. DAVIS,  
*Executive Director.*

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UNIVERSITY OF WISCONSIN SYSTEM,  
OFFICE OF PERSONNEL, EMPLOYEE RELATIONS,  
AND PAYROLL SERVICES,  
Madison, Wis., January 19, 1978.

Mr. MICHAEL STERN,  
*Staff Director, Senate Committee on Finance, Dirksen Senate Office Building,  
Washington, D.C.*

DEAR MR. STERN: This letter is in support of legislation to exempt tuition aid from employee income tax.

Since 1963 I have been involved in employee development at the General Motors Institute, G.T.E. Sylvania and presently am the Training Director for the Universities of Wisconsin. While at Sylvania, I directly administrated tuition aids program. We actively encouraged our employees to participate in the program. Through this program I had a great deal of personal contact with participating employees. Many expressed the feeling that they were benefiting from these programs by developing a more positive attitude towards their work and society. Many were also benefiting career-wise from course credits that were applied to professional certification. Many of these employees were middle age or older (we had 3 employees 45 to 49 years old who were working on Master degrees).

The older employes did not expect to benefit by promotions. Rather they felt personal satisfaction and thought that their efforts might pay-off should the Company cut back and lay them off (the Company did experience layoffs).

Most employes involved in these programs are devoting the following personal effort:

Out of pocket expenses for enrollment fees, etc.

Out of pocket expenses for travel costs (sometimes an evening meal cost, rather than a meal at their home).

Less recreational time due to course time.

Many of the organizations that employ these people do not give full reimbursement.

These programs offer an excellent upward mobility career path for females, minorities and handicapped. They should be supported. Exempting tuition aid from employe income tax will encourage:

Employers who do not want the red tape involved in tracking these costs and including them in the W-2 form.

Employes who will have to devote a great deal of their personal efforts and resources.

Educational and training institutions who may use the exemption in their program promotion.

Training directors such as myself who have more than enough roadblocks in advocating personal and organizational development (there are 12,000 training people in the American Society of Training & Development. Many people involved in training are not in the Society).

Please let me know if I may assist this effort to encourage this very positive effort.

Sincerely,

WILLIAM P. ROWE,  
*Training and Human Resources Coordinator.*

SASKATOON, SASKATCHEWAN, CANADA, *January 26, 1978.*

Subject: Senate Finance Committee Special Sub-Committee Hearing on "Employee Education Assistance Programs"

Mr. MICHAEL STERN,  
*Staff Director, Senate Committee on Finance,  
Dirksen Office Building, Washington, D.C.*

DEAR MR. STERN, HONORABLE SENATORS, AND GENTLEMEN: It is my understanding that by writing to you I may express my views and opinions on the above subject for insertion into the "Hearing Record". If this understanding is correct, I sincerely appreciate this opportunity.

I am a professional "Training Director" in the field of Employee Development in Industry, a National and Washington State Chapter member of the American Society for Training and Development (ASTD), and a U.S. citizen resident "abroad" due to employment.

I am very strongly in favour of complete elimination of any income tax on any educational funds, through reimbursement, grants, or other monetary encouragement, provided to an employe by an employer.

Since education (human resource development) is encouraged by the Federal Government as a matter of policy, it certainly appears to me that an income tax on funds directly used by a student (employe) for his or her education is a contradiction of such encouragement. It has always been my understanding that one of the freedom "corner-stones" on which this Republic was founded is a "free" public education for all who have the initiative to pursue their own development.

We all know that an education is not "free", for the funds must be provided, and the source in public education is the public tax-payer, be it individual or corporate. It seems to me that the realization of our Founding Fathers of the necessity for a "free" public education was to preserve our dynamic democratic way of life and self-government with the enlightened spirit of encouragement to expand our native individual abilities and self-fulfillment. I believe that without this spirit of "freedom" of educational encouragement the spirit of hope in our existence tends to be clouded over by shadows of discouragement; for me, where



there is education (of the right sort) and freedom of expression, there is an open door to fulfillment of individual purpose and ability.

I find it incomprehensible that, with the aforesaid in mind, responsible government would tax the educational funds (paid by employers) of a Student's (employee's) educational payments on one hand, but on the other hand responsible government will diligently encourage the same spirit of human endeavor through education and development by providing billions of dollars for manpower development through tremendously worthwhile programs under the C.E.T.A., and other such enactments, Government Programs and Policies. What must be the general public view of what appears to me to be a subtle hypocrisy and an abnormality in educational encouragement?; this income tax on funds provided students (employees) to better themselves.

If I may be permitted to draw an analogy to your attention, let me point out that as parents, those of us in this Country who have been in a fortunate enough position to do so have spent untold billions of dollars on the education of our children after the age of 18 years for what ever seemed to be in the best interest of their individual development at the time.

May I ask you, would you, as the average salaried or wage earner have been as encouraged to do so if every dollar you spent on education for that boy or girl was taxable income on their part? Even from the point of the principle of the situation, if from no other viewpoint, I think the answer would tend to be negative. Is the situation of an employer providing legitimate education, or educational assistance (as the case may be), to an employee to encourage his or her development through creditable educational pursuit so very different than that of a parent in the everyday human scene? I think not, from an empirical viewpoint.

In the U.S.A., we are, I believe, attempting to "pull-out-all-stops" in the encouragement of manpower development and re-development, as evidenced by: laws newly made in the Land; the efforts of such organizations as the National Center for Productivity and Quality of Work Life; the articles in the news media exemplified by the recent series on "education" and the current "Quality of Life" series in the Christian Science Monitor; what appears to be a desire for many individuals to seek a greater meaning in their lives in naturally creative but creditable educational or craft pursuits other than their direct field of employment or vocation; and a tendency for more naturalness in our way of life with less formality. It would seem that the problem of employee (and executive) "burn-out", as the psychologists term the occurrence, could most certainly be assisted if funds were encouraged to be made available by an employer who wanted to help individual employees find themselves through legitimate educational goals not necessarily directly related to one's job; thereby possibly encouraging the employee to be a more "well-rounded", "self-fulfilled" employee, with a greater future and hope of developing his or her potential.

I think I can appreciate the situation with the U.S. Internal Revenue Service (IRS) whereby there is a need to closely observe the claims of individuals and employers, and that such claims need to be in accord with the law, but I think that the opinion that seems to be required of the IRS in judging the "job-relatedness" of employer-related education is an undue and subtle restriction on employer encouraged and directed education. I fail to be able to view the IRS as being in, or should be placed in, the position of "judge" as to what is viable education for an employee as provided through his or her employer; I seriously question the qualification, even the actual desire to do so, of responsible persons in the IRS to rightly "judge" this matter of the appropriate education for tax purposes. I can however, see that the IRS may need to "judge" the legitimacy of the employer to provide education in a few situations.

I, therefore, strongly suggest that the continuation of the spirit of "freedom" of education in this Country for those (in this case employees) who are willing to spend time and individual initiative, and by those individuals and businesses (employers) who are willing to pay the cost of creditable and legitimate education in the spirit of free enterprise to cultivate an "asset" (in their judgement) be wholeheartedly encouraged by totally eliminating any income tax provision in the law as it relates to Employer-Employee educational costs and benefits.

I wish you every success in discerning the right course of action to be recommended.

Respectfully and sincerely,

DWIGHT K. SAUNDERS.

**INTERNATIONAL INSTITUTE OF MUNICIPAL CLERKS,  
Pasadena, Calif., February 2, 1978.**

**HON. HARRY S. BYRD, JR.,**  
*Chairman, Subcommittee on Taxation and Debt Management, Committee on Finance, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.*

**DEAR SENATOR BYRD:** I would urge the passage of appropriate legislation which would provide relief from the Internal Revenue Service actions in Rules 76-62 and 76-30 which make certain educational and training tuition to employees taxable.

The IIMC has a membership of over 4,000 city, village, town, township and borough clerks, located in every state and in every size of municipality. Nearly a third of our members are from communities under 5,000 population and a quarter of them are elected to their position.

Over the past four years, because of the interest and needs expressed by our members, IIMC has developed a career development program which presently involves 25 universities and over 2,000 participants. The purpose of the program is to provide the necessary skills and information needed by the municipal clerks to cope with the changing conditions of the urban scene.

Specifically, the program involves 100 hours of instructor/student classroom contact in the areas of public administration, managerial skills, interpersonal relationship, decision-making, problem solving, and related courses. The programs are usually under the direction of the university's Continuing Education School, with faculty from the school of Public Administration, and are held on the university's campus. The program is usually presented in a four to five day time frame once a year, with the entire program being completed in three years.

In many communities, especially in the smaller ones, the Municipal Clerk is the key local official who serves both the public and the elected local council. Often the Municipal Clerk is the only full-time municipal employee, and the person to whom the citizens go to in order to find information on government service, register a complaint, or just express an opinion.

Since the majority of municipal clerks have received little or no academic training in the area of public administration, government management or urban affairs, these 25 or so career development institutes provide an excellent means for them to understand the problems of government and to relate them to their own responsibilities and their own community.

While most communities pay the municipal clerk's costs to these programs, municipal clerks feel so strongly about professional education, that many pay for it out of their own pocket when the cost is not reimbursed or when it is only partially covered. It is a satisfying experience to see public officials returning to the classroom after 10, 20 and in some cases 30 years absence because they want to be fully prepared to meet the needs of their office and their community.

I would think that any ruling adversely affecting tuition reimbursement for professional development programs would place an additional burden upon a group of local officials who already have assumed an immeasurable burden in lost time from the office, disruption of home life, and readjustment to new ideas and thinking. To place a further financial burden upon them for pursuing their professional education in the interest of their community, is asking a great deal.

I would think that the goal should be to encourage local government officials to seek all the tools and knowledge that are available to them in order to meet the uncertainties and challenges of the future.

Sincerely yours,

**JOHN J. HUNNEWELL, CAE,**  
*Executive Director.*

**NATIONAL ASSOCIATION OF TOWNS & TOWNSHIPS,  
Washington, D.C., January 30, 1978.**

**Senator HARRY F. BYRD, JR.,**  
*Chairman, Subcommittee on Taxation and Debt Management, Senate Committee on Finance, Dirksen Senate Office Building, Washington, D.C.*

**DEAR SENATE BYRD:** I am writing to you on behalf of the Board of Directors of the National Association of Towns and Townships (NATaT), a not-for-profit federation of state organizations representing officials from over 13,000 predominantly smaller communities.

Members of NATaT are deeply concerned about rulings by the Internal Revenue Service which make taxable certain education and training tuition payments to employees. Specifically, Revenue Rules 76-62 and 76-230 will reduce or eliminate many of our important capacity-building programs, adversely affecting the delivery of public services to our citizens. These rulings fly in the face of numerous goals previously established by the United States Congress.

We request that, in order to clarify the situation, Congress enact remedial legislation to explicitly exempt training tuition payments and other public employer-sponsored training programs from taxation. Such action would help sustain the present trend in state and local government toward higher levels of competence and better public service.

Sincerely,

BARTON D. RUSSELL,  
*Executive Director.*

WARREN BENNIS,  
*Aspen, Colo., February 8, 1977.*

Senator HARRY S. BIRD, Jr.,  
*Chairman,*

Senator ROBERT PACKWOOD,  
*Ranking Minority Member, Subcommittee on Taxation and Debt Management Generally, Committee on Finance, U.S. Senate, Washington, D.C.*

DEAR SENATORS BYRD AND PACKWOOD: As a recently retired university president (University of Cincinnati, 1971-1977) and one who has been deeply interested in recurring education for working adults, I want to register my concern with the recent actions of the Internal Revenue Service reflected in Revenue Rules 76-62 and 76-230 and to express my support (as a Board member of the National Training and Development Service) for legislative relief from the above rules which would make educational and training payments to employees taxable.

I find it extremely difficult to believe that the Senate would consider such a change at this time when it is becoming more obvious and imperative that larger numbers of employees will be requiring more and different educational offerings. For example:

Career shifts clearly demonstrate the need for recurring education, counseling and training, rather than a single dose of out-dated programming.

Women without children, or with fewer children will look to educational institutions as a passport to employment, or for "refresher" experiences enabling them to re-enter the labor market.

An older population, coupled with mandatory and earlier retirement age and prolonged life expectancy levels, will provide a new clientele with new educational and training requirements.

The shift in populations will be furthered, obviously, by the decline in the traditional pool of eligible post-secondary students.

In other words, students will not come in the customary four sizes: 18, 19, 20 and 21. They will come in all shapes and sizes, cutting across all income groups—and ages.

The proposed IRS changes would serve as a needless barrier at a time when encouragement and enabling legislation is desperately needed, such as that envisaged and enacted by the Senate in the Lifelong Learning Act, as an amendment to the Education Act of 1977.

I would like to quote from a recent paper I wrote under a grant issued by the Foundation for Post-Secondary Education which relates directly to the issue before you:

"The need for lifelong learning has been established and the Congress must take deserved credit for the foresight, imagination, and most of all, for its willingness to come to grips with a number of fundamental issues facing American society.

"Congress must go farther; I think they must consider legislation, similar to that which has been enacted in a number of Western European countries and which would enable more workers "to take a temporary leave of absence from their jobs in order to participate in activities which might facilitate career and life improvement." That particular wording is from the Best and Stern paper previously cited, but there are many other scholars and practitioners who have made similar statements. Recently, Harlan Cleveland made specific proposals along these lines and in so doing pointed out that if each employee took off one year out of seven, the

number of new jobs that would have to be filled would be twice as large as the number of unemployed.

"No one questions the expense of such programs. And, as I have stressed repeatedly throughout this report, it's not altogether certain our educational systems can make the appropriate accommodations for new and different clientele without losing, as many may fear, their academic purposes. There are many other obstacles aside from finance and the availability of appropriate delivery systems. But they are in no way insurmountable.

"At times, the suggestions for a national policy around this issue seems quixotic and basically out of touch with political realities. But when I think about the costs of unemployment, welfare, the widening gap between the haves and the have nots, the increasing loss of human resources and the lack of development of our native talents, I no longer wonder which is the higher price to pay."

It sounds to me that the goals of the Lifelong Learning Act will be, if not subverted, then seriously impaired unless your Sub-Committee can provide relief from taxing educational and training tuition payments by employees.

Most sincerely yours,

WARREN BENNIS.

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INTERNATIONAL CITY MANAGEMENT ASSOCIATION,  
Washington D.C., February 6, 1978.

Hon. HARRY S. BYRD, Jr.,  
Chairman,

Hon. ROBERT PACKWOOD,  
Ranking Minority Member, Subcommittee on Taxation and Debt Management Generally, Committee on Finance, U.S. Senate, Washington, D.C.

DEAR SIRs:

The purpose of this letter is to urge that your Subcommittee on Taxation and Debt Management Generally consider legislation reversing the effect of the Internal Revenue Service's ruling 76-62 and 76-230. The effect of these rulings now make certain educational and training tuition payments to local government employees treated as taxable income.

One of the outstanding features of federal/local relations over the last twenty years has been the joint emphasis on improving the quality of government employees at all levels. The effect of this effort without question has been in higher quality of public employee, both among the rank and file, as well as in top management. The federal government has participated in this effort through incentive programs and through setting an example through the federal service itself.

It is our feeling that the effect of these two IRS rulings would be to roll back the clock on improving public service. Upward mobility would be greatly reduced for all levels of employees, and not the least of which are those who are presently disadvantaged.

We strongly urge that your committee favorably report out legislation that reverses these rulings, and thereby remove this potential impediment to improving the quality of local and state government.

Sincerely yours,

MARK E. KEANE, *Executive Director.*

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INTERNATIONAL PERSONNEL MANAGEMENT ASSOCIATION,  
Washington, D.C., February 3, 1978.

COMMITTEE ON FINANCE,  
SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT GENERALLY, U.S.  
SENATE.  
Washington, D.C.

HONORABLE CHAIRMAN AND MEMBERS: Recent actions by the Internal Revenue Service to make certain educational and training tuition payments to employees taxable are a cause for great concern among local and state government employers.

The International Personnel Management Association believes the implications of these rulings are clear: upward mobility scholarships, cooperative work-study training and education, and education provided as part of an employment agreement will be seriously hampered. We believe the following specific programs are likely to be curtailed as a result of these rulings:

1. Programs for hiring the disadvantaged, the unemployed, and the under employed;

2. Affirmative Action programs for minorities and women, under which many local and state governments have taken a leadership role in providing entry positions with career ladders attainable by training and educational opportunities;

3. Various city, county, and state programs which encourage public safety personnel (police, fire, corrections and court employees) to continue their education; and

4. Special training and development programs instituted locally to improve the responsiveness of state, county, and city organizations.

We believe it is clear from these examples that legislative relief from the IRS rulings is needed. IPMA, therefore, at its Executive Council meeting on February 1, 1978 voted to join the National Training and Development Service, the National Governor's Association, the National Association of Counties, the National League of Cities, and the International City Management Association in requesting that Congress enact legislation which exempts from taxation public employers' tuition payments for training and education and other public employer-sponsored training and development programs.

By doing so, Congress can preserve and encourage the present trend toward employer-sponsored human resource development programs which recognize work as enhancing the worth and dignity of each individual employee.

Sincerely,

WILLIAM F. DANIELSON, *President.*

MOTOBOLA INC.,  
SEMICONDUCTOR GROUP,  
*Phoenix, Ariz., February 6, 1978*

MICHAEL STERN,  
*Staff Director, Senate Committee on Finance,  
Senate Office Building, Washington, D.C.*

DEAR MR. STERN: Those of us who administer Employee Educational Assistance Programs are pleased that the Senate, in its wisdom, will attempt to exempt tuition aid from employee income tax in 1979.

We urge you to attack this project with enthusiasm and to listen with open minds to the representatives of the training and development profession, the leaders of the business community and employee groups.

As an administrator of these programs I urge you to consider the real purpose of Employee Educational Assistance Programs.

1. To assist employees to become more productive by increasing their knowledge of the various disciplines involved in the performance of their present jobs.

2. To assist employees to become more productive by assisting them to obtain the information needed to prepare for advancement to a better job, thus improving their self image. (We know now that employee self image plays a great part in his productiveness.)

3. To assist employees to remain abreast of the current state-of-the-art. In so doing, the rapid change in technology will not pass them by.

4. To assist employees to prepare for new jobs in skill shortage areas. This has a twofold payback.

a. The prevention of employee obsolescence (which may lead to unemployment).

b. The preparation of people in lower skilled jobs to take their place in skill shortage areas.

5. To make it known through action that the company is willing to assist those who wish to prepare for the opportunities which open in growth enterprises so that the employee may realize that he must give high performance so that the growth for which he is preparing will take place.

In order for a business enterprise to maintain effectiveness today and in the future, its employees must be given the opportunity to constantly upgrade their skills and level of understanding.

The dynamic posture of American business can only remain erect so long as those enterprises invest in the development of their human resources. The most universal method of human resource development is the concept of educational assistance.

It does not make sense to tax the monies awarded to those employees in American industry who are willing to prepare themselves for places in a growing economy.

Their preparation, their willingness to go to school, the company's willingness to support their efforts are all geared to a national effort to maintain our standard of living, improve the quality of our work life and increase the effectiveness of the free enterprise system.

For the Internal Revenue System to tax the educational assistance dollars awarded to defray the cost of the employee's program and to treat those dollars in the same manner as regular wages has a counterproductive effect on the employee and places the company in a poor light as the withholding agent.

Much of the good feelings created by the mutual agreement to undertake a joint venture in educational growth—the employee's efforts and the company's sponsorship in educational assistance dollars—wither away when the employee finds he has been taxed on this educational refund and the company is forced to defend an IRS position which it often does not comprehend and with which it does not agree.

The Senate Finance Committee, in its wisdom, must take action to remove this retrogressive tax from dollars which are intended to stimulate economic growth. It really does not make much sense to offer tax incentives intended to stimulate industrial expansion and at the same time to tax the program which has the most to do with the growth of industries most valued commodity—its Human Resources.

Sincerely,

NEAL P. McLAUGHLIN,  
*Manager, Training and Development.*

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COMMENTS ON S. 2388 BY THE AMERICAN SOCIETY FOR TRAINING AND DEVELOPMENT

The American Society for Training and Development is especially pleased to make comment on S. 2388 since our Society represents the professional educators in the world of work who, generally, administer employer educational assistance programs. We have about 25,000 individual members in our national organization and in the 109 chapters across the country. Our members are responsible for educating and training all levels of employees in the nation's public and private sector workforce.

More than a year ago, we began to note wide variations in the income tax withholding practices for employer educational assistance among our membership. We learned that employers had contrasting understandings about when to withhold tax for educational assistance. Some employers were withholding tax on all kinds of education and some were withholding on none with a variety of differing policies in between.

The problem derives from the Internal Revenue Service regulations which say that employer-supported educational assistance which prepares people to qualify for a job or to advance into a new job is considered as taxable income while educational assistance which relates directly to the present job is not.

Because of this confusion, Richard Marcotte of American Airlines, who was our volunteer President in 1977, appointed a special Task Force to study the problem for our members. The Task Force was chaired by another Society member, Howard Shelton, of Sandia Laboratories. During 1978, the Task Force has been chaired by Robert Mell of the Bank of New York who was appointed by our current Society President, Bart Ludeman of Lloyd's Bank California.

The Task Force conducted several sample surveys of members on withholding practices and studied other surveys on the issue. The results of one of our own surveys, which was typical, showed that 41 percent of the employers *withheld on all* educational assistance, 47 percent did not withhold on any educational assistance, and 12 percent tried to make job-relatedness decisions for withholding purposes.

The first approach of the Task Force to solve the problem was to try and develop "guidelines" we might suggest to our members for determining the "job relatedness" of education and training. It quickly became apparent to this group of professional employee educators, who represent the best authority on the subject, that defining job relatedness was an impractical approach and not the real answer to the problem for several reasons:

1. Decision-making about job relatedness is necessarily a subjective and moot process. One or two of the cases reported to us may help illustrate the point. A course taken by a secretary to improve her oral communications skills was considered to be not job related and taxable by the IRS. A course in law taken by an engineer dealing with government specifications and regulations was considered as not job related and taxable. Even cursory contemplation of the difficulty in achieving consistency and equity in such decisions makes evident the potential of endless IRS challenges of employer's decisions about job relatedness of education.

And that is precisely what is happening with the IRS making increasingly strict interpretations of the regulations—and an increase in instances of retroactive tax liability for employers whose decisions are challenged. We are seeing more and more cases of IRS challenges as well as a growing number of instances of litigation in this area.

2. Not only is there a large element of subjectivity in these decisions but there are related problems such as the fact that jobs, per se, are continually changing because of technological, economic and societal change. Does the on-going acquisition of new job knowledge and skill to keep pace with the changing world qualify as taxable income educational expense? It seems improbable that consistent and equitable lines can ever be drawn in such matters.

3. Deciding, and defending, what kinds of employee education and training is or is not job related under the present regulations promise to demand a growing, massive investment of manpower and expense both for the nation's employers and for the IRS with the certainty that litigation on these issues would increase dramatically—unless employers simply take the position of withholding tax on all kinds of educational support (we are seeing more of this even now). This result would be an obvious deterrent to worker participation in employee educational assistance and brings us to our net point.

4. A recent study by the American Telephone and Telegraph Company shows, not surprisingly, that employee participation in educational assistance programs is three times greater when employers do not withhold tax. The present regulations are clearly a tax on education and self development. The inappropriateness of this kind of tax policy is especially significant in light of our national concerns for the competence and productivity of the American workforce in an increasingly competitive world market place and concerns by Congress and other interests for the lifelong learning needs of our citizens. It is apparent, too, that the present regulations are even counter-productive in building higher income levels in the workforce and, therefore, a larger tax base.

5. The most significant impact of all, however, is that the present regulations have the greatest negative impact on that level of employee we espouse to help the most—lower-paid employees who need education and training which by definition will advance their career and prepare them for a new, better job. Such employees include women, minorities, apprentices, and youth. Not only are these people least able to pay tax on the "income" they never actually receive, but the jobs they hold have a considerably more narrow range of educational opportunities which could be considered directly related. The present regulations conflict directly with the affirmative action initiatives of the Equal Employment Opportunities Commission. This point was made quite eloquently by virtually every witness on the panel assembled by ASTD who testified at the January 20, 1978 hearing on this bill and therefore we will not expand it here.

6. The new law would have another important benefit through the increased incentive for employers to utilize more fully the educational resources of the nation for development of the workforce. This benefit could contribute greatly to building better linkages between the world of education and the world of work.

7. We have seen virtually universal support for the new law from all concerned sectors—education, labor, minority groups and public and private employers.

To summarize, we see a desperate need for a new law which encourages education for individual and national productivity and development. We even see concomitant benefits for the Internal Revenue Service in the form of simplified administration of the regulations and increased tax revenue from a higher income base.

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ALVERNO COLLEGE,  
OFFICE OF THE VICE PRESIDENT,  
Milwaukee, Wis., February 1, 1978.

MICHAEL STERN,  
Staff Director, Senate Committee on Finance,  
Washington, D.C.

DEAR MR. STERN: I am writing in strong support of Bill #2388 which was introduced by Senators Bob Packwood and Jacob Javits and co-sponsored by Senator Nelson—a bill to exempt tuition aid from employee income tax.

Because of inflation, the costs of education are increasing faster than real family income. The result: fewer families are able to send their children to college. Among those who still can, many cannot afford to send them to a small liberal arts college, since these colleges do not receive direct public funds and often do not have large endowment funds.

The future of private higher education is at stake now, and at the present rate, public higher education will soon follow. We need this legislation to save our institutions.

Sincerely,

D. C. CORRIGAN, *Vice President.*

W. C. McNUTT,  
*Friendswood, Tex., February 2, 1978.*

Mr. MICHAEL STERN,  
*Staff Director, Senate Committee on Finance,  
Washington, D.C.,*

DEAR MR. STERN: This letter is in reference to the special hearing by the subcommittee of the Senate Finance Committee on Employee Education Assistance Programs.

I have been the Training Director in one large chemical plant (over 2500 employees) and one smaller gas transmission company (600 employees) for the past 12 years. Previously, I managed a trade and industrial extension department in a community college for 9 years and was an industrial arts teacher in the public schools for 9 years. My degrees are in public and industrial education.

During my 12 years in industry I have been responsible for the administration of company employee education assistance programs. I have also had some problems with Internal Revenue Service rules and interpretations as applied to my own education.

The above personal information is presented purely to lend some authenticity to my personal position concerning pending Committee hearings and legislation pertaining to taxation on educational aid. However, I don't believe that this problem can be separated from the problem of personal deductions of certain educational expense incurred by individual's without company financial assistance.

My first position regarding taxation on educational assistance is: No educational assistance to an employee should be considered as taxable income for the employee. My premise here is based on my basic belief that any education is of benefit to any person. The more a person knows the more valuable he becomes—not only to an organization but to society in general. The more knowledgeable he becomes the more potential developed for higher personal taxable income. Studies have shown, for example, that additional income taxes paid far exceeded the cost of the GI Bill for World War II veterans. Many other studies have shown the correlation between education and earnings. Thus to me, the solution is relatively simple. Instead of taxing education, encourage people to gain more knowledge, encourage company sponsored training and education, encourage participation in all forms of education.

My second position is: Internal Revenue Service rules and interpretations are so vague and disjointed that they are virtually impossible to understand. I have personally surveyed large companies in my area and find there is wide variance in interpretation by corporate lawyers. Even local IRS officials vary in the advice given to me. Most admit that interpretation will depend on which IRS agent audits records. With the present interpretation that some reimbursed educational expenses are taxable while others are not, depending on the relationship of the course to employment, I am put in the unenviable position of trying to outguess an unknown IRS agent.

My third position is: Necessary educational expenses incurred by a taxpayer on his behalf or on behalf of his dependents for all education should be deductible from gross income for taxation purposes. Qualifying expenses would be for such expenditures as tuition, registration fees, other required fees, room, supplies and materials, etc. Taxes paid to support school systems are deductible now, but these taxes certainly do not cover all educational expenses. Educating oneself and family is a very expensive undertaking today. Many more people would be able and encouraged to further their education if this tax relief was available.

There is much concern at the present time that continued interpretations by IRS as to the meaning and intent of the present laws will become so restrictive that industrial education in the future will no longer be adequate to meet the nation's need for skilled manpower. The implications are serious. Consider, for example, the effect on integrating more and more untrained minorities into busi-



ness organizations. Under present interpretations by the IRS, much of this training could be classified as taxable income to the employee. This is counter to the whole equal opportunity movement.

I urge the Committee to carefully consider data which will be presented by the American Society for Training and Development, of which I am a member. This large group of training directors and educators knows more about Education Assistance Programs, value to individuals and businesses, problems, etc. than any other group in existence.

Thank you for the opportunity to express my viewpoints.

Very truly yours,

W. C. McNUTT.

POINT PARK COLLEGE,  
Pittsburgh, Pa., February 2, 1978.

HON. WILLIAM S. MOOREHEAD,  
Rayburn House Office Building,  
Washington, D.C.

DEAR SIR: I urge you to support legislation that would exempt employer-paid tuition reimbursements for part-time study from employee income tax liability. Although my responsibility as a promoter of adult education colors my appeal with self-interest, I am principally speaking merely as a rational taxpayer.

I think it foolish that, for the sake of puny short-term revenue (the taxes collected on an employee's tuition benefit), the I.R.S. would discourage activity that would result in a substantial long-term gain (the greater taxes the same employee would pay in years to come due to the higher salary his studies would enable him to obtain).

In brief, your support of this reform would establish a procedure that is not only rational band just but financially beneficial and culturally productive as well.

Sincerely,

DR. PAUL C. PARLATO,  
Dean of Adult Education.

ROY W. WALTERS & ASSOCIATES,  
Glen Rock, N.J., February 9, 1978.

HON. HARRISON A. WILLIAMS,  
U.S. Senate, Senate Office Building,  
Washington, D.C.

DEAR SENATOR: Most of my business career has been devoted to enhancing the growth and development of individuals in work situations.

After 26 years in the Bell System where I was directly responsible for the development of human abilities, I formed my present consulting organization. We have worked with many, many institutions in business, industry, government and education, helping them to better develop their human resources.

Our nation, faced with huge productivity problems and the concomitant issue of inflation, will not get solutions through better utilization of our financial resources. We are very sophisticated in how to effectively use money. We examine all possibilities of investment and never leave a nickel idle. Of course there are many political and social issues about how government uses money, but in any contained operating organization we think solely of using money to further the interests of the organization and we're pretty good at that.

We also are very sophisticated about the use of capital equipment, be it typewriters, billing machines, catalytic crackers or computers. We know how to work these to ultimate capacity. Our efficient, mechanical minds keep these wheels, deals and gadgets whirring magnificently.

But our major problem, that of the gross under-utilization of our human resources continues to exist and is the main reason for our productivity slump. Most people in our society are capable of doing far more than their work requires or allows. We have huge, vast untapped human capacity.

So the question continues to be, what can we do about this?

Simply looking at the statistics that relate to our national education levels reveals an increasing level of education in our population. Automatically, this builds greater expectations in our people. It's a part of the education process.

Young people, whose value systems are significantly different from the older population, are seeking ways to continue to improve their lot in life. They see education, as an integral part of their working and growing experience, the way to accomplish this.

Very few organizations are capable of providing broad internal education for their people. The vast majority cannot. Therefore, in order to meet the needs and expectations of the working population another resource is required.

We have one in place in our present education system. Methods must be found to more effectively use this system to meet these human needs. The prime organization effort over the years has been through tuition aid support for all workers.

I would hope that you would support the intended Packwood-Javits legislation that would exempt tuition aid from employee income taxes. The subject of "Employee Education Assistance Programs" is to be considered soon by a subcommittee of the Senate Finance Committee at which time I would appreciate your making my views known.

We must do all we can to prevent any legislation that works against the human desire to continue to grow and develop. Our nation's future depends on all our people getting all the knowledge they can so that they can contribute more to our nation's growth.

Respectfully,

ROY W. WALTERS, *President.*

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AMERICAN COUNCIL ON EDUCATION,  
*Washington, D.C., February 10, 1978.*

Hon. RUSSELL B. LONG,  
*Chairman, Committee on Finance,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: On behalf of the American Council on Education, an organization representing over 1,500 colleges, universities, and associations involved in higher education, and the organizations listed below, we are pleased to present for the record our views on S. 2388, a bill which would clarify the federal tax rules applicable to employees who receive educational assistance from their employers by ensuring that employees would not be liable for federal income tax on the cost of tuition assistance provided by their employers.

In the past decade, colleges and universities have experienced a dramatic increase in the number of individuals who attend school on a part-time basis. In many instances, the influx of students is directly traceable to education policies fostered by the business community which have substantially aided in the process of lifelong learning in this country. Many institutions have entered in a partnership role with the business community enabling academic facilities to be utilized to aid employees of corporations in gaining necessary skills and knowledge so that they may advance themselves within their jobs.

Current regulations exempt from taxation employer-paid education only if the course of study relates to the employee's current job. If the education is to prepare the employee for the present job or to advance the employee to a new job, the employer's expense is considered taxable income to the employee. These regulations have a chilling impact on employer and employees' attempts to upgrade individuals who require additional education to advance themselves in their careers.

If the commitment to equal employment opportunity is to be realized, it is essential that a pool of trained personnel be present to fill jobs that become available. In many instances, the requisite labor pool for middle-level jobs do not have a proportionate share of minorities and women due to prior educational deprivation. In order to increase the labor pool with minorities and women, the business community should be encouraged to cover the educational expenses for courses taken by individuals who seek to advance in position. The opportunity for advancement should be made available without finding his or her take home pay reduced by the amount of tax withheld to cover the cost of training. At present, there is widespread divergence in corporate tax withholding practices which have confused employers and employees alike and have created a disincentive for participation in an education program.

In order to rectify this situation, legislation like S. 2388 should be enacted in order to ensure that employees would not be liable for federal income tax on the cost of tuition assistance provided by employers. The legislation would concur-

rently remove deterrents to the full utilization of employer funded education programs and facilitate the ultimate goal of an expanded and improved labor pool for the community.

We in the higher education community support S. 2388 as an effort to upgrade the educational level and skills of our citizenry; a process which inures to the benefit of our entire society.

Very truly yours,

SHELDON ELLIOT STEINBACH,  
*Staff Council.*

The following associations join in this statement: American Association of Community and Junior Colleges, American Association of State Colleges and Universities; Association of American Universities; Association of Jesuit Colleges and Universities; National Association of Colleges and University Business Officers; National Association of Independent Colleges and Universities; National Association of State Universities and Land-Grant Colleges; National Catholic Educational Association, College and University Department.

FEBRUARY 3, 1978.

To: Michael Stern, Staff Director, Committee on Finance.

From: Huey Long, President, AEA/USA.

Re Testimony on Employee Education Assistance.

The Adult Education Association of the United States of America serves as the voice and advocate for thousands of adult education providers and millions of adult learners in the country. Established in 1951, the AEA/USA is a representative body of a major segment of the population responded to and initiated action on legislative matters of concern to its constituency. It is this commitment that prompts me to communicate with you.

AEA/USA supports the legislative proposals regarding educational assistance programs provided for workers by employers. Under these proposals, education assistance received by employees would not be regarded as taxable income to employees. Our reasons for supporting this legislation are as follows:

(a) Currently, employer tuition aid is nontaxable or deductible only if the course maintains or improves employees' skills in their present job. This is usually applied to graduate level courses which are considered job-related and, therefore, nontaxable. However, courses leading to an undergraduate degree are generally considered not job-related and therefore, taxable. This practice puts an unfair burden on minorities, returning women, and low income workers who want to improve themselves and qualify for new positions or advancement.

(b) It appears that practices between companies are not consistent. This, at best, creates confusion among workers; at worst, it leads to inequities.

(c) On occasion, the IRS has disputed some companies' decisions on the job-relatedness of courses taken by employees. These companies face substantial tuition aid tax liabilities. Such action serves as a deterrent for future company involvement in employee education. This is particularly serious since many adults rely on their employer for educational opportunities and development.

For these reasons, the AEA/USA would like to formally go on record in support of this legislation.

STATEMENT OF THE AMERICAN HOSPITAL ASSOCIATION, SENATE COMMITTEE ON  
FINANCE ON S. 2388

The American Hospital Association is a not-for-profit institutional membership organization representing over 6,400 health care institutions in the United States. Collectively, the health care industry provides in excess of 3 million jobs to Americans through a diversity of occupations from entry level service positions to professional and administrative positions. Because hospitals are a major employer, we appreciate this opportunity to express our Association's support of S. 2388, introduced by Senators Packwood, Javits, Nelson, and Magnuson, a bill to exclude from gross taxable income certain educational assistance employees receive from their employers. The American Hospital Association supports S. 2388 for principally three reasons.

First, it is obvious that, for all of our advanced medical capability, the miracle-like effect of modern technology, and the expediency with which these

advantages can be brought to bear in health care, still the most critical component of our health care system remains those health care workers who staff the nation's hospitals. In simple terms, human resources are clearly a hospital's most valuable asset. As any business concern that wishes to remain viable, hospitals must develop their human resources to their fullest potential. Current tax laws regarding the tax treatment of funds received by an employee from his employer in reimbursement for courses and seminars to maximize the employee's potential are simply counterproductive to this obvious goal. Under current law, health care workers who enter the hospital labor market in a lesser skilled position are discouraged from developing into a more skilled health care worker unless they are willing to absorb, in most cases, not only part of the cost of that development, but also the tax on that portion of employer-provided assistance. The inequity of the situation is clear. Those who give so much to others are required to pay an additional sum so that they can render even greater service.

Second, it is also obvious that enactment of this bill would benefit the national economy. The upgrading of skills generally means an upward career change and an increase in the earnings of a health care worker. The obvious advantage to the national economy is that higher earnings result in more tax dollars being generated, more disposable income being pumped into the private sector for goods and services and finally, a more stable and employable work force. This, in turn, lessens the burden on taxpayers of public assistance programs. It seems unreasonable that the employee who generates these benefits be taxed for the privilege of progressing to a higher earnings plateau.

Third, the American Hospital Association cites the considerable interest of the government and various sectors of the economy regarding the issue of health care costs. As you may know, a Voluntary Effort in Cost Containment in the health care industry is being spearheaded by the American Hospital Association, the American Medical Association, and the Federation of American Hospitals. This effort is in response to a Congressional challenge to the health care field to voluntarily deal with the issue of spiraling health care costs. An essential component of the Voluntary Effort is more effective utilization of the nation's health care labor force. If crucial health care occupations can be shored up through the upgrading and subsequent reassignment of currently employed health care personnel, productivity can be increased without an appreciable increase in total payroll and payroll-related expenses. Employees who are realizing their potential through career development generally possess greater self-esteem, are more productive, and are less likely to leave the industry—to "turn over" for more rewarding careers elsewhere. This in turn minimizes the expense on current investment. We feel it would be counterproductive to hinder this Voluntary Effort, the traditional American approach to economic problem solving, by perpetuating the inequities and disincentives to upward mobility that are inherent in the present law. Rather, we urge enactment of S. 2388 as a means of encouraging the Voluntary Effort by supplying support systems to help it achieve success.

In concluding, the American Hospital Association would point out that the current tax law regarding tuition reimbursement is confusing in its interpretation by various employers as to tax withholding requirements. Practices in this regard vary widely making for extremely inequitable employment conditions in differing localities not to mention the serious liability employers are exposed to as a result of misinterpretation.

For these reasons, both the American Society for Hospital Personnel Administration and the American Society for Health Manpower Education and Training, affiliates of the American Hospital Association representing a combined personal membership in excess of 3,000 individuals, join the American Hospital Association in urging enactment of S. 2388.

FROSTBURG STATE COLLEGE,  
CENTER FOR MANAGEMENT DEVELOPMENT,  
Frostburg, Md., February 9, 1978.

MR. MICHAEL STERN,  
Staff Director, Senate Committee on Finance, Dirksen Senate Office Building,  
Washington, D.C.

DEAR MR. STERN: I am writing in reference to hearings on, and Senate consideration of, Employee Education Assistance Programs.

As Director of the Center for Management Development—the Graduate Management School of Frostburg State College—I would strongly support legislation which would exempt tuition aid from employee income tax and retain it as an educational expense item on the income statement of the employee.

Our program serves all of Western Maryland and contiguous counties of Pennsylvania, Virginia and West Virginia. Evening courses leading to a Master of Science in Management Degree are offered at three locations in Western Maryland—Frostburg, Hagerstown, and Frederick. It is the only graduate management business program serving all of Western Maryland.

Approximately 400 students are enrolled in our program. Almost all of them are in lower or middle management positions in approximately 150 private and public organizations located in our market area. Approximately 85 percent of the organizations represented have tuition reimbursement plans of one kind or another. About 70 percent of our students are reimbursed, in part or in full, by their employers for the tuition of the courses taken in our program. Only a small percentage (10 percent) of the organizations in our market area include tuition reimbursement in the employee's income tax and withhold income tax and other taxes.

The average student in our Management Program takes five courses during a calendar year (we have three fourteen week semesters). At \$150 per course, that adds up to \$750 per year, assuming full tuition reimbursement. At an effective tax rate to the employee of 34 percent plus 6 percent Social Security Tax, that gives the employee a reimbursement of \$450, with the federal government receiving \$300. State income tax would reduce the employee's reimbursement another 5 percent, or \$37.50. Add matching Social Security of the employer of \$45 and you have the following:

	Employee	Employer
Total tuition paid.....	\$750	
Less:		
Income tax.....	255	
Social security.....	45	\$45
State tax.....	37	
Net to employee.....	413	

Note: Net to Federal Government: Internal Revenue, \$255; social security, \$90.

These figures are approximate and do not cover the full range of possibilities. It does, however, focus on the most likely case.

Tuition payments taxed as an educational expense for the employer do not require the employer to supply the matching social security amount. Consequently, by taxing the tuition reimbursement as employee income, the employer incurs any added cash outflow of \$45 in the case I have given.

The question, then, becomes: Will a law taxing tuition reimbursement as employee income be detrimental or beneficial to the long range general interest? Consider the following:

1. Organizations must believe that tuition reimbursement plans are beneficial to their performance as an organization. Otherwise, they wouldn't have them. You should look at the estimated increase in efficiency and effectiveness achieved by management training as reflected in higher profits—and therefore higher income taxes—for private employers and better utilization of financial resources in non-profit organizations.

2. Individuals who have the opportunity and stimulus to develop their management skills become more productive members of society, usually leading to higher income levels and therefore to higher taxes collected, both income and social security.

We, at CMD, believe that enactment of legislation taxing tuition reimbursement as employee income will have a detrimental impact on the number of lower and middle management individuals seeking management training in MSM and MBA programs where tuition is reimbursed by the employer. We urge that the Senate Committee on Finance reject any attempts to tax that tuition reimbursement.

Sincerely,

THOMAS F. HAWK,  
Director, CMD.