

112TH CONGRESS
2D SESSION

H. R. 5129

To amend the Internal Revenue Code of 1986 to exclude from gross income amounts paid by an employer on an employee's student loans.

IN THE HOUSE OF REPRESENTATIVES

APRIL 27, 2012

Mr. ISRAEL introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to exclude from gross income amounts paid by an employer on an employee's student loans.

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. SHORT TITLE.**

4 This Act may be cited as the "Student Loan Employ-
5 ment Benefits Act of 2012".

6 **SEC. 2. STUDENT LOAN PAYMENT ASSISTANCE PROGRAMS.**

7 (a) IN GENERAL.—Part III of subchapter B of chap-
8 ter 1 of the Internal Revenue Code of 1986 is amended
9 by inserting after section 127 the following new section:

1 **“SEC. 127A. STUDENT LOAN PAYMENT ASSISTANCE PRO-**
2 **GRAMS.**

3 “(a) IN GENERAL.—Gross income of an employee
4 does not include amounts paid or incurred by the employer
5 for student loan payment assistance provided to such em-
6 ployee if the assistance is furnished pursuant to a program
7 which is described in subsection (d).

8 “(b) LIMITATION.—The amount taken into account
9 under paragraph (1) with respect to an individual for stu-
10 dent loan assistance with respect to student loan payments
11 during a taxable year shall not exceed \$5,000.

12 “(c) EARNED INCOME LIMITATION.—The amount ex-
13 cluded from the income of an employee under subsection
14 (a) for any taxable year shall not exceed the earned income
15 of such employee for such taxable year.

16 “(d) STUDENT LOAN PAYMENT ASSISTANCE PRO-
17 GRAM.—

18 “(1) IN GENERAL.—For purposes of this sec-
19 tion a student loan payment assistance program is
20 a separate written plan of an employer for the exclu-
21 sive benefit of his employees to provide such employ-
22 ees with student loan payment assistance which
23 meets the requirements of paragraphs (2) through
24 (9) of this subsection. If any plan would qualify as
25 a student loan payment assistance program but for
26 a failure to meet the requirements of this subsection,

1 then, notwithstanding such failure, such plan shall
2 be treated as a student loan payment assistance pro-
3 gram in the case of employees who are not highly
4 compensated employees.

5 “(2) DISCRIMINATION.—The contributions or
6 benefits provided under the plan shall not discrimi-
7 nate in favor of employees who are highly com-
8 pensated employees (within the meaning of section
9 414(q)).

10 “(3) ELIGIBILITY.—The program shall benefit
11 employees who qualify under a classification set up
12 by the employer and found by the Secretary not to
13 be discriminatory in favor of employees described in
14 paragraph (2).

15 “(4) PRINCIPAL SHAREHOLDERS OR OWNERS.—
16 Not more than 25 percent of the amounts paid or
17 incurred by the employer for student loan payment
18 assistance during the year may be provided for the
19 class of individuals who are shareholders or owners
20 (or their spouses or dependents), each of whom (on
21 any day of the year) owns more than 5 percent of
22 the stock or of the capital or profits interest in the
23 employer.

1 “(5) NO FUNDING REQUIRED.—A program re-
2 ferred to in paragraph (1) is not required to be
3 funded.

4 “(6) NOTIFICATION OF ELIGIBLE EMPLOY-
5 EES.—Reasonable notification of the availability and
6 terms of the program shall be provided to eligible
7 employees.

8 “(7) STATEMENT OF EXPENSES.—The plan
9 shall furnish to an employee, on or before January
10 31, a written statement showing the amounts paid
11 or expenses incurred by the employer in providing
12 student loan payment assistance to such employee
13 during the previous calendar year.

14 “(8) BENEFITS.—

15 “(A) IN GENERAL.—A plan meets the re-
16 quirements of this paragraph if the average
17 benefits provided to employees who are not
18 highly compensated employees under all plans
19 of the employer is at least 55 percent of the av-
20 erage benefits provided to highly compensated
21 employees under all plans of the employer.

22 “(B) SALARY REDUCTION AGREEMENTS.—
23 For purposes of subparagraph (A), in the case
24 of any benefits provided through a salary reduc-
25 tion agreement, a plan may disregard any em-

1 employees whose compensation is less than
2 \$25,000. For purposes of this subparagraph,
3 the term ‘compensation’ has the meaning given
4 such term by section 414(q)(4), except that,
5 under rules prescribed by the Secretary, an em-
6 ployer may elect to determine compensation on
7 any other basis which does not discriminate in
8 favor of highly compensated employees.

9 “(9) EXCLUDED EMPLOYEES.—For purposes of
10 paragraphs (3) and (8), there shall be excluded from
11 consideration—

12 “(A) subject to rules similar to the rules of
13 section 410(b)(4), employees who have not at-
14 tained the age of 21 and completed 1 year of
15 service (as defined in section 410(a)(3)), and

16 “(B) employees not included in a student
17 loan payment assistance program who are in-
18 cluded in a unit of employees covered by an
19 agreement which the Secretary finds to be a
20 collective bargaining agreement between em-
21 ployee representatives and 1 or more employees,
22 if there is evidence that student loan payment
23 benefits were the subject of good faith bar-
24 gaining between such employee representatives
25 and such employer or employers.

1 “(e) DEFINITIONS AND SPECIAL RULES.—For pur-
2 poses of this section—

3 “(1) STUDENT LOAN PAYMENT ASSISTANCE.—

4 “(A) IN GENERAL.—The term ‘student
5 loan payment assistance’ means the payment of
6 principal or interest on—

7 “(i) any indebtedness incurred by the
8 employee solely to pay qualified higher
9 education expenses (as defined in section
10 221) which—

11 “(I) are paid or incurred within a
12 reasonable period of time before or
13 after the indebtedness was incurred,
14 and

15 “(II) are attributable to edu-
16 cation furnished during a period dur-
17 ing which the employee was an eligible
18 student, or

19 “(ii) any indebtedness used to refi-
20 nance indebtedness described in clause (i).

21 Such term shall not include any payment of
22 principal or interest on indebtedness owed to a
23 person who is related (within the meaning of
24 section 267(b) or 707(b)(1)) to the taxpayer or
25 to any person by reason of a loan under any

1 qualified employer plan (as defined in section
2 72(p)(4)) or under any contract referred to in
3 section 72(p)(5).

4 “(B) ELIGIBLE STUDENT.—The term ‘eli-
5 gible student’ has the meaning given such term
6 by section 25A(b)(3).

7 “(C) DEPENDENT.—The term ‘dependent’
8 has the meaning given such term by section
9 152 (determined without regard to subsections
10 (b)(1), (b)(2), and (d)(1)(B) thereof).

11 “(2) EARNED INCOME.—The term ‘earned in-
12 come’ shall have the meaning given such term in
13 section 32(e)(2), but such term shall not include any
14 amounts paid or incurred by an employer for stu-
15 dent loan payment assistance to an employee.

16 “(3) EMPLOYEE.—The term ‘employee’ in-
17 cludes, for any year, an individual who is an em-
18 ployee within the meaning of section 401(c)(1) (re-
19 lating to self-employed individuals).

20 “(4) EMPLOYER.—An individual who owns the
21 entire interest in an unincorporated trade or busi-
22 ness shall be treated as his own employer. A part-
23 nership shall be treated as the employer of each
24 partner who is an employee within the meaning of
25 paragraph (3).

1 “(5) CONTRIBUTION RULES.—

2 “(A) OWNERSHIP OF STOCK.—Ownership
3 of stock in a corporation shall be determined in
4 accordance with the rules provided under sub-
5 sections (d) and (e) of section 1563 (without re-
6 gard to section 1563(e)(3)(C)).

7 “(B) INTEREST IN UNINCORPORATED
8 TRADE OR BUSINESS.—The interest of an em-
9 ployee in a trade or business which is not incor-
10 porated shall be determined in accordance with
11 regulations prescribed by the Secretary, which
12 shall be based on principles similar to the prin-
13 ciples which apply in the case of subparagraph
14 (A).

15 “(6) UTILIZATION TEST NOT APPLICABLE.—A
16 student loan payment assistance program shall not
17 be held or considered to fail to meet any require-
18 ments of subsection (d) (other than paragraphs (4)
19 and (8) thereof) merely because of utilization rates
20 for the different types of assistance made available
21 under the program.

22 “(7) DISALLOWANCE OF EXCLUDED AMOUNTS
23 AS CREDIT OR DEDUCTION.—No deduction or credit
24 shall be allowed to the employee under any other
25 section of this chapter for any amount excluded from

1 the gross income of the employee by reason of this
2 section.”.

3 (b) CONFORMING AMENDMENTS.—Sections
4 221(d)(2)(A), 414(n)(3)(C) and (t)(2), 3121(a)(18),
5 3306(b)(13), 3401(a)(18), and 6039D(d)(1) of such Code
6 are each amended by inserting “127A,” after “127,”.

7 (c) CLERICAL AMENDMENT.—The table of sections
8 for part III of subchapter B of chapter 1 of such Code
9 is amended by inserting after the item relating to section
10 127 the following new item:

“Sec. 127A. Student loan payment assistance programs.”.

11 (d) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to taxable years beginning after
13 the date of the enactment of this Act.

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