American Institute of CPAs
1455 Pennsylvania Avenue, NW
Washington, DC 20004-1081

March 27, 2014

The Honorable Dave Camp
Chairman
House Committee on Ways & Means
328 Cannon House Office Building
Washington, DC 20515

The Honorable Sander M. Levin
Ranking Member
House Committee on Ways and Means
1236 Longworth House Office Building
Washington, DC 20515

The Honorable Diane Black
House Committee on Ways & Means
1531 Longworth House Office Building
Washington, DC 20515

The Honorable Danny K. Davis
House Committee on Ways and Means
2159 Rayburn House Office Building
Washington, DC 20515

RE: The Education Incentives Included in the Tax Reform Act of 2014 and the Student and Family Tax Simplification Act (H.R. 3393)

Dear Chairman Camp, Ranking Member Levin, and Representatives Black and Davis:

The American Institute of Certified Public Accountants (AICPA) has long been an advocate for tax reform and the promotion of simplicity and fairness of the Internal Revenue Code (IRC or "Code"). We have submitted testimony to the Senate Committee on Finance,[1] sent comment letters to both the U.S. House of Representatives and the U.S. Senate,[2] and most recently commented on the simplification of education incentives in response to the Senate Committee on Finance Chairman's Staff Discussion Draft on Tax Administration.[3]

The AICPA commends you for introducing the Student and Family Tax Simplification Act (H.R. 3393) to consolidate certain tax benefits for education expenses. We also commend the efforts of Chairman Camp for incorporating many of these same education proposals into the Tax Reform Act of 2014 discussion draft (hereinafter referred to as "the Tax Reform Act").[4] The Code currently contains over 13 different education-related incentives, and the requirements, eligibility rules, definitions and income phase-outs vary from incentive to incentive. The

[1] The AICPA submitted testimony to the House Committee on Ways and Means hearing dated April 13, 2011, How the Tax Code's Burdens on Individuals and Families Demonstrate the Need for Comprehensive Tax Reform.
[2] The AICPA submitted a comment letter dated July 25, 2013, HR 2253 and S.1090, Higher Education and Skills Obtainment Act: AICPA Recommendations for Further Simplification of Higher Education Tax Incentives.
[3] The AICPA submitted a comment letter dated January 16, 2014, Tax Reform Discussion Draft on Tax Administration.
[4] U.S. House Committee on Ways and Means "The Tax Reform Act of 2014: Discussion Draft," dated February, 2014.

complexity of these provisions prevents hundreds of thousands of taxpayers from claiming tax benefits to which they are entitled or which would be advantageous to them.[5]

We generally support the specific provisions in H.R. 3393 and the education proposals of the Tax Reform Act. However, in order to further simplify and encourage the use of the new combined American Opportunity Tax Credit (AOTC), we recommend that you clarify that the credit is available on a per-student basis (rather than per-family basis), provide that the credit is 100% refundable, and increase the availability of the credit to any six years of post-secondary education (including graduate-level and professional degree courses). We also note that continuous review and monitoring of credit limitations will ensure they remain consistent with the rate of rising tuition costs. Finally, we submit recommendations to support the additional education proposals included in the Tax Reform Act.

<u>The Tax Reform Act of 2014 Discussion Draft, Section 1, Title I, Subtitle C and H.R. 3393 (113th Congress)</u>

The education incentives included in the Tax Reform Act of 2014[6] along with the Student and Family Tax Simplification Act propose the consolidation of various credits including the Hope Credit, the existing American Opportunity Tax Credit, the Lifetime Learning Credit and the deduction for qualified tuition and related expenses into a new combined American Opportunity Tax Credit.

A few of the important features included in both H.R. 3393 and the Tax Reform Act are as follows:

- Makes the AOTC a permanent credit.
- Provides a 100% tax credit on the first $2,000 of eligible higher education expenses and a 25% credit for the next $2,000 of expenses. In addition, the first $1,500 tax credit is refundable.
- Makes the credit available for up to four years of post-secondary education.
- Allows the use of the AOTC to offset expenses for tuition, fees and course materials.
- Provides phase-out limitations of the new AOTC to between $86,000 and $126,000 (married filing joint). The phase-outs for single filers are half these amounts.
- Harmonizes the new AOTC with Pell Grants.

---

[5] U.S. Government Accountability Office, Testimony Before the Subcommittee on Select Revenue Measures, Committee on Ways and Means, House of Representatives, Higher Education – Multiple Higher Education Tax Incentives Create Opportunities for Taxpayers to Make Costly Mistakes, dated May 1, 2008, GAO-08-717T. A May 2012 report from GAO indicated that for 2009 returns, about 14% of eligible taxpayers failed to claim education incentives resulting in an average lost tax benefit of $466. GAO, Higher Education: Improved Tax Information Could Help Families Pay for College, GAO-12-560, May 2012.
[6] U.S. House Committee on Ways and Means "The Tax Reform Act of 2014: Discussion Draft, Section 1, Title I, Subtitle C, Simplification of Education Incentives," dated February, 2014.

AICPA Recommendations

The AICPA appreciates that these proposals promote the objective to consolidate and simplify education tax incentives for taxpayers. However, we would like to respectfully make comments and recommendations in regards to H.R. 3393 and to the Tax Reform Act as follows:

a) Provide further clarification on whether the new AOTC will have a limitation of one credit per family or if the credit is available on a per student basis. We recommend you offer the credit on a "per student" rather than a "per taxpayer" basis, providing a potentially larger tax benefit per family.
b) Make the new AOTC 100% refundable to minimize the complexity of compliance for taxpayers.
c) Make the new AOTC available for any six years of post-secondary education, including graduate-level and professional degree courses. We believe a credit for four years (that includes graduate-level and professional degree programs) is beneficial to many taxpayers, but urge you to consider increasing the limit to six years. According to most recent metrics for graduation rates, approximately 59% of full-time, first-time undergraduate students completed a bachelor's degree within six years (rather than four).[7] These statistics do not account for the additional two or more years required to complete graduate-level and professional degree programs.
d) Review and monitor credit limits continuously to ensure they remain consistent with the rate of rising tuition costs. Although the new AOTC is indexed for inflation, the rate of increase for tuition costs is often higher than the inflation index.[8]

Analysis

For many taxpayers, analysis and application of the education tax incentives are too cumbersome compared with the benefits received. In June of 2011, National Taxpayer Advocate, Nina E. Olson, testified in a hearing[9] on the Senate Committee on Finance stating: "taxpayers will only respond to incentives if they know they exist and understand them. Few, if any, taxpayers are aware of each of the education tax incentives and familiar enough with the particulars to make wise choices. Moreover, some who try to make informed choices will be overwhelmed by this complexity." Furthermore, the Government Accountability Office (GAO) analyzed 2009 data

---

[7] U.S. Department of Education, National Center for Education Statistics. The Condition of Education 2013 (NCES 2013-037), Institutional Retention and Graduation Rates for Undergraduate Students.

[8] U.S. Bureau of Labor Statistics, BLS Spotlight on Statistics: Back to College, dated September 2010, Table – The Price of Tuition.

[9] Written Statement of Nina E. Olson, National Taxpayer Advocate- Hearing on Complexity and the Tax Gap: Making Tax Compliance Easier and Collecting What's Due, before the Senate Committee on Finance, dated June 28, 2011.

for tax returns with information on education expenses and found that about 14% of filers (1.5 million of nearly 11 million eligible taxpayers) failed to claim a credit or deduction for which they were eligible. On average, these filers lost a tax benefit of $466 (GAO 12-560 Report to the Senate Finance Committee). According to GAO research, although the number of taxpayers using the educational tax credits is growing quickly, the complexity of the tax provisions prevents hundreds of thousands of taxpayers from claiming tax benefits to which they are entitled or which would be most advantageous to them. Finally, there is evidence that the structure of the provisions prevents low-income taxpayers from getting the tax benefit that Congress envisioned.

The AICPA's recommendations for further clarification regarding whether the new AOTC is available on a per-student basis (rather than per-family basis) and our suggestion to make the credit 100% refundable respond to a growing theme of increasing complexity and interaction among the various education-related tax provisions. At the Spring 2008 House Ways and Means hearing on higher education tax incentives, Karen Gilbreath Sowell, then Treasury's Deputy Assistant Secretary for Tax Policy, commented that "with more than ten million families claiming tax benefits to help finance higher education each year, Congress must ensure that these benefits work as intended" and that "the complexity of the education tax incentives increases record-keeping and reporting burden on taxpayers and makes it difficult for the IRS to monitor compliance."

We appreciate that H.R. 3393 and the Tax Reform Act provide a credit for up to four years of post-secondary education. However, we strongly suggest a modification to the proposals from four years to six years of post-secondary education, including graduate-level and professional degree courses. A recent report from the U.S. Department of Education stated that "about 59% of full-time, first-time students who began seeking a bachelor's degree at a 4-year institution in fall 2005 completed that degree within 6 years."[10] The statistics used in this report were released in November of 2012[11] and furthermore, it is a growing standard that more recent metrics for graduation rates and various performance metrics analyze higher education in six year completion intervals rather than four.

In addition to the complexities described above, there is evidence that erroneous application of education credits contributes to the "Tax Gap." A report issued by the Treasury Inspector General for Tax Administration (TIGTA) in 2011 states that education credits of approximately $3.2 billion ($1.6 billion in refundable credits and $1.6 billion in nonrefundable credits) appear

---

[10] U.S. Department of Education, National Center for Education Statistics, The Condition of Education 2013 (NCES 2013-037), Institutional Retention and Graduation Rates for Undergraduate Students.

[11] U.S. Department of Education, National Center for Education Statistics, Integrated Postsecondary Education Data System (IPEDS), Table 376, dated November 2012, Percentage of first-time full-time bachelor's degree-seeking students at 4-year institutions who completed a bachelor's degree, by race/ethnicity, time to completion, sex, and control of institution: Selected cohort entry years, 1996 through 2005.

to be erroneous.[12] Over four years, erroneous education credits could potentially reach $12.8 billion.[13]

Conclusion

The AICPA recommendations listed above are only a small portion of the comprehensive list of tax-related education proposals that we have developed. Our complete set of recommendations provides comments on incentives intended to help taxpayers meet current higher education expenses as well as the incentives that encourage taxpayers to save for future expenses. These additional AICPA recommendations were submitted to both the House Committee on Ways and Means[14] and the Senate Committee on Finance in July 2013[15] and many of these proposals are incorporated into Chairman Camp's Tax Reform Act of 2014 discussion draft. The proposals include, but are not limited to, the following items:

1. Repeal the student loan interest deduction (section 221) and the tuition and fees deduction (section 222) to relieve taxpayer confusion by reducing the number of provisions. The purpose of this recommendation is to simplify the Code without discussion of the total amount of education incentives for taxpayers.
2. Repeal educational savings bonds (section 135) and merge Coverdell Education Savings Accounts (section 530) into qualified tuition programs (section 529) by allowing the transfer of savings from Coverdell accounts into section 529 accounts. Education benefits will be further harmonized with the reduction and combination of these savings tools. Provisions should also allow owners of existing section 135 savings bonds to roll their accounts into a new combined section 529/530 savings plan. Since no more section 135 bonds would be issued, these provisions will help taxpayers to properly transition into the merge of the education savings accounts.

The AICPA strongly advocates for the simplification and harmonization of tax benefits for higher education so that taxpayers can more easily understand the incentives that are available to them and the rules they need to follow in order to take advantage of these incentives.

---

[12] Treasury Inspector General for Tax Administration Report 2011-41-083, dated September 16, 2011, Billions of Dollars in Education Credits Appear to Be Erroneous.
[13] *Id.*
[14] The AICPA submitted a comment letter to the House Committee on Ways and Means, dated July 25, 2013, HR 2253 and S.1090, Higher Education and Skills Obtainment Act: AICPA Recommendations for Further Simplification of Higher Education Tax Incentives.
[15] The AICPA submitted a comment letter to the Senate Committee on Finance, dated July 26, 2013, S.1090 and H.R. 2253, Higher Education and Skills Obtainment Act: AICPA Recommendations for Further Simplification of Higher Education Tax Incentives.

******

The AICPA is the world's largest member association representing the accounting profession, with more than 394,000 members in 128 countries and a 125-year heritage of serving the public interest. Our members advise clients on federal, state and international tax matters and prepare income and other tax returns for millions of Americans. Our members provide services to individuals, not-for-profit organizations, small and medium-sized businesses, as well as America's largest businesses.

These comments were developed by the AICPA Individual and Self-Employed Tax Technical Resource Panel, and approved by the AICPA Tax Executive Committee. We appreciate your consideration of our recommendations and welcome the opportunity to discuss these issues further. Please feel free to contact me at (304) 522-2553, or jporter@portercpa.com; Jonathan Horn, Chair, AICPA Individual & Self-Employed Tax Technical Resource Panel, at (212) 744-1447, or jmhcpa@verizon.net; or Amy Wang, AICPA Technical Manager – Taxation, at (202) 434-9264, or awang@aicpa.org.

Respectfully submitted,

Jeffrey A. Porter, CPA
Chair, AICPA Tax Executive Committee

cc: Members of the House Committee on Ways and Means
Members of the Senate Committee on Finance