

104TH CONGRESS  
2D SESSION

# H. R. 3245

To amend the Internal Revenue Code of 1986 to provide a deduction for higher education expenses.

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IN THE HOUSE OF REPRESENTATIVES

APRIL 15, 1996

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

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## A BILL

To amend the Internal Revenue Code of 1986 to provide a deduction for higher education expenses.

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 “Education Afford-  
5 ability Act of 1996”.

6 **SEC. 2. DEDUCTION FOR HIGHER EDUCATION EXPENSES.**

7 (a) IN GENERAL.—Part VII of subchapter B of chap-  
8 ter I of the Internal Revenue Code of 1986 (relating to  
9 additional itemized deductions for individuals) is amended

1 by redesignating section 220 as section 221 and by insert-  
2 ing after section 219 the following new section:

3 **“SEC. 220. HIGHER EDUCATION TUITION AND FEES.**

4       “(a) ALLOWANCE OF DEDUCTION.—In the case of an  
5 individual, there shall be allowed as a deduction the  
6 amount of qualified higher education expenses paid by the  
7 taxpayer during the taxable year.

8       “(b) LIMITATIONS.—

9               “(1) DOLLAR LIMITATION.—The amount al-  
10 lowed as a deduction under subsection (a) for any  
11 taxable year shall not exceed \$5,000 (\$2,500 in the  
12 case of a married individual filing separately).

13               “(2) LIMITATION BASED ON MODIFIED AD-  
14 JUSTED GROSS INCOME.—

15                       “(A) IN GENERAL.—The dollar limitation  
16 which would (but for this paragraph) be taken  
17 into account under paragraph (1) shall be re-  
18 duced (but not below zero) by the amount de-  
19 termined under subparagraph (B).

20                       “(B) AMOUNT OF REDUCTION.—The  
21 amount determined under this subparagraph  
22 equals the amount which bears the same ratio  
23 to such dollar limitation as—

24                               “(i) the excess (if any) of—

1                   “(I) the taxpayer’s modified ad-  
2                   justed gross income for such taxable  
3                   year, over

4                   “(II) \$60,000 (\$80,000 in the  
5                   case of a joint return), bears to

6                   “(ii) \$15,000.

7                   “(C) MODIFIED ADJUSTED GROSS IN-  
8                   COME.—For purposes of subparagraph (B), the  
9                   term ‘modified adjusted gross income’ means  
10                  the adjusted gross income of the taxpayer for  
11                  the taxable year determined—

12                  “(i) without regard to this section and  
13                  sections 911, 931, and 933, and

14                  “(ii) after the application of sections  
15                  86, 135, 219, and 469.

16                  For purposes of sections 86, 135, 219, and  
17                  469, adjusted gross income shall be determined  
18                  without regard to the deduction allowed under  
19                  this section.

20                  “(c) QUALIFIED HIGHER EDUCATION EXPENSES.—  
21                  For purposes of this section—

22                  “(1) QUALIFIED HIGHER EDUCATION EX-  
23                  PENSES.—

24                  “(A) IN GENERAL.—The term ‘qualified  
25                  higher education expenses’ means tuition and

1 fees charged by an educational institution and  
2 required for the enrollment or attendance of—

3 “(i) the taxpayer,

4 “(ii) the taxpayer’s spouse, or

5 “(iii) any dependent of the taxpayer

6 with respect to whom the taxpayer is al-

7 lowed a deduction under section 151,

8 as an eligible student at an institution of higher

9 education.

10 “(B) EXCEPTION FOR EDUCATION INVOLV-

11 ING SPORTS, ETC.—Such term does not include

12 expenses with respect to any course or other

13 education involving sports, games, or hobbies,

14 unless such expenses—

15 “(i) are part of a degree program, or

16 “(ii) are deductible under this chapter

17 without regard to this section.

18 “(C) EXCEPTION FOR NONACADEMIC

19 FEES.—Such term does not include any student

20 activity fees, athletic fees, insurance expenses,

21 or other expenses unrelated to a student’s aca-

22 demic course of instruction.

23 “(D) ELIGIBLE STUDENT.—For purposes

24 of subparagraph (A), the term ‘eligible student’

25 means a student who—

1 “(i) meets the requirements of section  
2 484(a)(1) of the Higher Education Act of  
3 1965 (20 U.S.C. 1091(a)(1)), as in effect  
4 on the date of the enactment of this sec-  
5 tion, and

6 “(ii)(I) is carrying at least one-half  
7 the normal full-time work load for the  
8 course of study the student is pursuing, as  
9 determined by the institution of higher  
10 education, or

11 “(II) is enrolled in a course which en-  
12 ables the student to improve the student’s  
13 job skills or to acquire new job skills.

14 “(E) IDENTIFICATION REQUIREMENT.—No  
15 deduction shall be allowed under subsection (a)  
16 to a taxpayer with respect to an eligible student  
17 unless the taxpayer includes the name, age, and  
18 taxpayer identification number of such eligible  
19 student on the return of tax for the taxable  
20 year.

21 “(2) INSTITUTION OF HIGHER EDUCATION.—  
22 The term ‘institution of higher education’ means an  
23 institution which—

24 “(A) is described in section 481 of the  
25 Higher Education Act of 1965 (20 U.S.C.

1           1088), as in effect on the date of the enactment  
2           of this section, and

3                   “(B) is eligible to participate in programs  
4           under title IV of such Act.

5           “(d) SPECIAL RULES.—

6                   “(1) NO DOUBLE BENEFIT.—

7                           “(A) IN GENERAL.—No deduction shall be  
8           allowed under subsection (a) for qualified high-  
9           er education expenses with respect to which a  
10          deduction is allowable to the taxpayer under  
11          any other provision of this chapter unless the  
12          taxpayer irrevocably waives his right to the de-  
13          duction of such expenses under such other pro-  
14          vision.

15                   “(B) DEPENDENTS.—No deduction shall  
16          be allowed under subsection (a) to any individ-  
17          ual with respect to whom a deduction under  
18          section 151 is allowable to another taxpayer for  
19          a taxable year beginning in the calendar year in  
20          which such individual’s taxable year begins.

21                   “(C) SAVINGS BOND EXCLUSION.—A de-  
22          duction shall be allowed under subsection (a)  
23          for qualified higher education expenses only to  
24          the extent the amount of such expenses exceeds

1 the amount excludable under section 135 for  
2 the taxable year.

3 “(2) LIMITATION ON TAXABLE YEAR OF DE-  
4 DUCTION.—

5 “(A) IN GENERAL.—A deduction shall be  
6 allowed under subsection (a) for any taxable  
7 year only to the extent the qualified higher edu-  
8 cation expenses are in connection with enroll-  
9 ment at an institution of higher education  
10 during the taxable year.

11 “(B) CERTAIN PREPAYMENTS ALLOWED.—  
12 Subparagraph (A) shall not apply to qualified  
13 higher education expenses paid during a taxable  
14 year if such expenses are in connection with an  
15 academic term beginning during such taxable  
16 year or during the first 3 months of the next  
17 taxable year.

18 “(3) ADJUSTMENT FOR CERTAIN SCHOLAR-  
19 SHIPS AND VETERANS BENEFITS.—The amount of  
20 qualified higher education expenses otherwise taken  
21 into account under subsection (a) with respect to the  
22 education of an individual shall be reduced (before  
23 the application of subsection (b)) by the sum of the  
24 amounts received with respect to such individual for  
25 the taxable year as—

1           “(A) a qualified scholarship (as defined in  
2 section 117) which under section 117 is not in-  
3 cludable in gross income,

4           “(B) an educational assistance allowance  
5 under chapter 30, 31, 32, 34, or 35 of title 38,  
6 United States Code, or

7           “(C) a payment (other than a gift, be-  
8 quest, devise, or inheritance within the meaning  
9 of section 102(a)) for educational expenses, or  
10 attributable to enrollment at an eligible edu-  
11 cational institution, which is exempt from in-  
12 come taxation by any law of the United States.

13           “(4) MARRIED INDIVIDUALS FILING SEPARATE  
14 RETURNS.—In the case of a married individual filing  
15 a separate return, subsection (b)(2)(B) shall be ap-  
16 plied by substituting ‘\$40,000’ for ‘\$60,000’ and  
17 ‘\$7,500’ for ‘\$15,000’. For purposes of this section,  
18 marital status shall be determined under section  
19 7703.

20           “(5) NONRESIDENT ALIENS.—If the taxpayer is  
21 a nonresident alien individual for any portion of the  
22 taxable year, this section shall apply only if such in-  
23 dividual is treated as a resident alien of the United  
24 States for purposes of this chapter by reason of an  
25 election under subsection (g) or (h) of section 6013.

1           “(6) REGULATIONS.—The Secretary may pre-  
2       scribe such regulations as may be necessary or ap-  
3       propriate to carry out this section, including regula-  
4       tions requiring recordkeeping and information re-  
5       porting.”

6       (b) DEDUCTION ALLOWED IN COMPUTING AD-  
7 JUSTED GROSS INCOME.—Section 62(a) of such Code is  
8 amended by inserting after paragraph (15) the following  
9 new paragraph:

10           “(16) HIGHER EDUCATION TUITION AND  
11       FEES.—The deduction allowed by section 220.”

12       (c) CONFORMING AMENDMENT.—The table of sec-  
13 tions for part VII of subchapter B of chapter 1 of such  
14 Code is amended by striking the item relating to section  
15 220 and inserting:

“Sec. 220. Higher education tuition and fees.

“Sec. 221. Cross reference.”

16       (d) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to payments made after December  
18 31, 1995.

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