

## **TUITION ASSISTANCE PAID BY EMPLOYERS IN JEOPARDY**

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### **HOW THIS WILL AFFECT YOUR EMPLOYEES AND YOUR COMPANY**

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The fiscal cliff may impact your employees and a valuable fringe benefit you provide to them. The fiscal cliff includes some little-known provisions that are set to expire at the end of 2012. One of which is tuition assistance paid by employers or as the IRS calls it, “employer-provided educational assistance”, which is found in section 127 of the Internal Revenue Code.

This section of the code was created by Congress in 1978, whereby employees may receive up to \$5,250 in tax-free educational assistance per year from an employer for undergraduate or graduate-level courses. Section 127 was originally established as a five-year provision to give officials time to study it. When it first expired at the end of 1983, a series of extensions were passed. Section 127 has been extended nine times, most recently in 2001. It is currently set to expire at the end of 2012. And this will have an impact upon your company policies and your employees.

Assistance benefits are allowed to cover payments for tuition, fees and similar expenses, books, supplies, and equipment. Employers are not required to provide assistance to their employees. However, if an employer chooses to do so, the benefit must be offered to all employees on a nondiscriminatory basis that does not favor highly-compensated employees.

Prior to the inclusion of this section to the Internal Revenue Code, only specifically “job-related” educational assistance could be excluded from an employee’s gross taxable income. Now, Section 127 allows an employee to exclude from income up to \$5,250 per year in assistance for any type of educational course at the undergraduate and graduate level.

If this provision is not renewed employees may be adversely impacted. They are signing up for courses for the next semester, in 2013, already. Employers should be taking the initiative and communicating with their employees now about what would happen in the event the tuition assistance exclusion is not extended. If the educational assistance is continued to be provided by the employer the full amount will become subject to tax on the employee. This means at the end of the year, 2013, employees may have to report an additional 5,250 dollars in income upon which there has been no federal tax withheld. In other words, it could result in a sizable tax liability for the employee at the end of the year. It will also require your payroll department to include the amount of educational assistance as taxable income to your employees on their W-2 form at the end of 2013.

This is the information needs to be communicated to your employees. Of course, along with this, information should also be included that if the provision is extended by Congress as there will be virtually no change from the current method of tax-free educational assistance. However, your employees need to know this immediately to make plans for their future and not be financially impacted.

If this benefit is not extended organizations will need to review their policies quickly either to restate them or remove all educational assistance to employees. I suggest this communication must be more than simply posting any changes on a webpage or sending out an e-mail blast to your employees as both are rarely read by employees. You may need the involvement of your human resources department to craft this message to employees. It should be a topic of discussion in current employee meetings.

I support the renewal of the educational assistance benefit because it's an attractive fringe benefit that employers use to attract the best employees and build a skilled workforce. This benefit has widespread use as there are approximately 1,000,000 students receiving this benefit from employers, according to a study published by the Society for human resource management and the National Association of Independent colleges and universities in 2010. This same study also showed:

More than half of the recipients of educational assistance provided by employers were undergraduate students. While the majority of the recipients were undergraduates, 46 percent were graduate students.

The average age of a recipient of educational systems has barely changed since 1992. In 2007, the average age for undergraduate students was 37 years old, compared to 36 years old in 1992. The average age for graduate students has not changed over the years – 35 in both 1992 and 2007.

The average annual employment earnings of recipients of this benefit were \$42,711 for the 2007-08 academic years. This demonstrates the benefit was used by individuals that were not highly compensated.

The educational assistance benefit provided to employees helps the US remain competitive with almost 1/5 of recipients majoring in the STEM (science, Technology, Engineering and Mathematics) degrees.

The inaction of Congress to deal with this benefit immediately and to make it permanent causes a great deal of confusion for employees who are not sure they can rely on the benefit and for employers seeking to rework payroll systems or change training programs. It also causes a great deal of confusion for employers.

Employers need to take action now to prepare their employees and their internal controls and processes. In the event this benefit is not extended by Congress. Not only should those actions include communicating with your employees on the impact of this but also preparing your payroll departments for the number of phone calls this will surely generate.