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The Honorable Ron Wyden
Chairman
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Committee on Finance
United States Senate

Tax Policy: Differences in Definitions and Rules in the Tax Code

The federal tax system contains complex rules and multiple definitions for the same or similar terms. These rules and definitions may be necessary to target benefits to specific groups of taxpayers, among other reasons. For example, according to a 2010 report by the President's Economic Recovery Advisory Board, most families with children receive at least two and frequently three or more child-related tax benefits.[1] These benefits could be targeting lower income working families or families with child-care or adoption expenses. However, different rules and definitions can also impose a wide range of recordkeeping, planning, computational, and filing requirements upon individual taxpayers. Complying with these requirements costs taxpayers time and money.

For example, income definitions, which are often used to reduce or phase out certain tax benefits, may be intended to target benefits to particular groups or prevent abusive tax-sheltering. However, because tax provisions phase out over different income levels using different definitions of income, calculating income can complicate tax preparation and increase opportunities for errors. Also, administering complex tax rules can strain the Internal Revenue Service's (IRS) ability to serve taxpayers because of the resources needed to develop guidance, clarify instructions, or address misreporting.

You asked about definitional differences across tax code provisions and how they may lead to tax code complexity and taxpayer burden. This report identifies instances in the federal tax code where the same or similar term is defined differently or when taxpayers are subject to different rules under various tax provisions, particularly those aimed at similar objectives. To determine what is known about the differences in definitions and rules across provisions in the tax code, we conducted a literature review, consulted relevant laws and regulations, and interviewed representatives from the tax filing and preparation community and federal agencies involved in tax policy and administration. While we attempted to be thorough in our research methods, our findings are not generalizable or designed to be a complete catalog of differences in the federal tax code.[2] To determine which tax code definitions were within the scope of our engagement, we applied the following criteria: (1) based within federal tax code; (2) affected individual

[1]The President's Economic Recovery Advisory Board, *The Report on Tax Reform Options: Simplification, Compliance, and Corporate Taxation* (August 2010).

[2]Detailed description of scope and methodology can be found in enclosure I.

taxpayers (taxpayers that file Form 1040 and related schedules); and (3) compared distinct, separate terms or definitions. To determine which tax code rules were within the scope of our engagement, we applied the same criteria as for definitions but limited the scope to tax provisions that targeted similar taxpayer populations or policy objectives. Because the differences in these tax provisions were not always specified in statute but rather in Department of the Treasury regulations or IRS guidance, we reviewed these sources along with the federal tax code.

We conducted our work from September 2013 to July 2014 in accordance with all sections of GAO's Quality Assurance Framework that are relevant to our objective. The framework requires that we plan and perform the engagement to obtain sufficient and appropriate evidence to meet our stated objective and to discuss any limitations in our work. We believe that the information and data obtained, and the analysis conducted, provide a reasonable basis for any findings and conclusions in this product.

In summary, definitions for the same or similar terms can differ across tax provisions and policy objectives. These terms include (1) income, (2) small business, and (3) disabled. At least a dozen different tax code sections modify adjusted gross income (AGI) as part of determining the tax consequences of a particular provision. Depending on the code section, modified adjusted gross income (MAGI) is determined by incorporating as few as one and as many as nine modifications. The definition of small business can differ based on number of employees, amount of gross receipts, and other characteristics. The definition of disabled also varies across the tax code. Rules and definitions for the same or similar terms can also vary among tax provisions with similar policy objectives, such as (1) child-related tax benefits, (2) education tax benefits, and (3) retirement savings benefits. Many of the child-related tax benefits require multiple calculations, and each defines an eligible child using a different combination of age, residency, and relationship requirements. The tax code includes at least eleven different provisions benefiting taxpayers with educational expenses. All of these provisions encourage educational investment, and most help offset expenses for tuition and fees. However, rules determining eligibility for these benefits differ by income qualifications, eligible expenses, educational institution, and education level. The tax code offers at least half a dozen tax-favored retirement savings incentives. All these incentives encourage taxpayers to save money for retirement, but they also have different rules for contribution limits, contribution method, timing of distributions, taxation of withdrawals, and loan allowance. While simplification of definitions and rules can have benefits, some differences will always be required to appropriately target tax policy goals.

Background

The current tax system is widely viewed as complex, thereby reducing the ability of individuals to understand and comply with tax laws. Tax code complexity is partly the result of new provisions being added individually to achieve a particular policy goal, but with inadequate attention to how they interact with existing provisions. This process results in duplicative and overlapping provisions, multiple definitions of concepts like income, and differences in phase-out rules, among others.

The growing number of tax expenditures has also contributed to tax code complexity. Tax expenditures are reductions in a taxpayer's tax liability that are the result of special exemptions and exclusions from taxation, deductions, credits, deferrals of tax liability, or preferential tax rates. Between 1974 and 2010, tax expenditures reported by the Department of the Treasury more than doubled in overall number from 67 to 173. Despite these challenges, if well designed and implemented, tax expenditures can provide incentives for taxpayers to engage in particular activities or can provide tax relief for taxpayers in special circumstances. Tax expenditures are often aimed at policy goals similar to those of federal spending programs. Existing tax expenditures, for example, are intended to encourage economic development in disadvantaged areas, finance postsecondary education, and stimulate research and development.[3]

Various changes have been made or proposed to make rules and definitions more consistent across the tax code. As we have previously testified, one way to simplify the tax code would be for Congress to change the law to include more consistent definitions across tax provisions so that taxpayers could more easily understand and comply with their obligations.[4] For example, starting with tax year 2005, the Working Families Tax Relief Act of 2004 created a more uniform definition of a child for certain provisions.[5] The definition applies three tests for most child-related benefits—relationship, residence, and support—but qualifying age differs depending on the tax benefit. This act also implemented a consistent tiebreaker rule for cases where a child qualifies as a child for more than one person. In addition, the National Taxpayer Advocate, the President's Economic Recovery Advisory Board, the Joint Committee on Taxation, and numerous tax specialists have proposed various options to restructure tax benefits or unify definitions to simplify the tax code.[6]

Different Definitions for Terms across the Tax Code

Definitions for the same or similar terms can differ across tax provisions and policy objectives. These terms include (1) income, (2) small business, and (3) disabled. In enclosure II, tables 1 through 3 compare different definitions for income, small business, and disabled, respectively. Also, tables 4 through 6 compare differences in rules and definitions for tax benefits related to children, education, and retirement, respectively.

[3]GAO, *Tax Expenditures: Background and Criteria and Evaluation Questions*, GAO-13-167SP (Washington, D.C.: Nov. 29, 2012).

[4]GAO, *Tax Gap: Complexity and Taxpayer Compliance*, GAO-11-747T (Washington, D.C.: June 28, 2011).

[5]Pub. L. No. 108–311, §§ 201–208, 118 Stat. 1166, 1169–1178. The act provided greater uniformity to the definition of a child for purposes of the head of household filing status, the dependency care credit, the child tax credit, the earned income tax credit, and dependency exemption. *See*, 26 U.S.C. §§ 2(b)(1)(A), 21(b)(1)(A), 24(c)(1), 32(c)(3), 151–152.

[6]The National Taxpayer Advocate leads the Taxpayer Advocate Service, an independent organization within IRS, which helps taxpayers resolve problems with IRS and recommends changes to prevent these problems. National Taxpayer Advocate, *2008 Annual Report to Congress*, vol. 1, section 2 (Dec. 31, 2008). The President's Economic Recovery Advisory Board, *Tax Reform Options*. Joint Committee on Taxation, *Study of the Overall State of the Federal Tax System and Recommendations for Simplification, Pursuant to Section 8022(3)(B) of the Internal Revenue Code of 1986,Volume II: Recommendations of the Staff of the Joint Committee on Taxation to Simplify the Federal Tax System* (April 2001). Elaine Maag, "Simplicity: Considerations in Designing a Unified Child Credit," *National Tax Journal*, vol. 63, no. 4, Part 1 (2010).

Income

As shown in table 1, at least a dozen different tax code sections modify AGI as part of determining the tax consequences of a particular provision.[7] Depending on the Internal Revenue Code (IRC) section, MAGI is determined by incorporating as few as one and as many as nine modifications.[8] For example, for purposes of the adoption credit, among others, MAGI is computed by adding back the following income excluded from AGI: foreign earned income; income from American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; and income from Puerto Rico.[9]

Small Business

As shown in table 2, the definition of a small business can differ based on number of employees, amount of gross receipts, and other characteristics. For example, under the Patient Protection and Affordable Care Act, a small business must have 25 or fewer full-time equivalent employees, among other requirements, to claim a certain tax credit, but to be eligible for a Savings Incentive Match Plan for Employees (SIMPLE) Individual Retirement Arrangement (IRA), a business must have 100 or fewer employees, among other requirements. Small business is also defined differently depending on whether a taxpayer is claiming a gain or a loss for a small business stock. If the taxpayer is claiming a gain, the qualified small business is defined by gross assets. If a taxpayer is claiming a loss, the small business is defined by amount of equity capital.[10]

Disabled

As shown in table 3, the definition of disabled also varies across the tax code. All definitions include the inability to engage in some activity, but definitions differ by duration of impairment, whether proof of disability is required, what type of activity is limited, and whether income replacement benefits are received.[11]

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[7] AGI is a taxpayer's gross income minus certain deductions, like expenses related to work as an educator, health savings accounts, and student loan interest. To determine eligibility for other tax benefits, AGI is modified by adding back certain deductions that were excluded in the calculation of adjusted gross income. Gross income is defined in Internal Revenue Code (IRC) section 61, and AGI is defined in IRC section 62. Differing definitions we identified are modifications to AGI.

[8] IRS administers the IRC—the federal tax laws enacted by Congress in Title 26 of the United States Code (26 U.S.C.). The United States Code is a consolidation and codification or classification by subject matter of the general and permanent laws of the United States.

[9] 26 U.S.C. § 23(b)(2)(B). Income from these sources is excluded from AGI by IRC sections 911, 931, and 933.

[10] Equity capital is money raised by a business by selling shares of ownership, or potential ownership, of the business.

[11] The term disability has also been defined differently among various federal programs and household surveys. See GAO, *VA Disability Compensation: Actions Needed to Address Hurdles Facing Program Modernization*, GAO-12-846 (Washington, D.C.: Sept. 10, 2012); *Modernizing SSA Disability Programs: Progress Made, but Key Efforts Warrant More Management Focus*, GAO-12-420 (Washington, D.C.: June 19, 2012); *Federal Information Collection: A Reexamination of the Portfolio of Major Federal Household Surveys Is Needed,* GAO-07-62 (Washington, D.C.: Nov. 15, 2006).

Differences in Definitions and Rules among Tax Provisions with Similar Objectives

Rules and definitions for the same or similar terms can also vary among tax provisions with similar policy objectives. Generally, to claim certain tax benefits, taxpayers must determine their eligibility based on rules involving age, income, and other qualifying factors. These rules are designed to target benefits to certain taxpayer groups. However, they can also be confusing, particularly when rules differ among tax provisions that provide similar benefits, such as (1) child-related tax benefits, (2) education tax benefits, and (3) retirement savings benefits.

Child-Related Benefits

Table 4 describes selected child-related benefits and compares rules and related definitions that govern each one. These benefits reduce taxes for families with children and for child-related expenses like day care. For example, IRS estimated that the child care credit was claimed on about 6 million tax returns in tax year 2011.[12] However, rules and definitions determining eligibility for these benefits differ across provisions.[13] Such differences include

- child age requirements,
- residency requirements,
- income limits,
- support limits,
- citizenship requirements, and
- Social Security number requirements.

As the table suggests, navigating the number of child-related tax credits and deductions can make it challenging and time-consuming for taxpayers to determine how to claim each benefit, especially since families can receive multiple benefits in a single year. This is burdensome because each credit or deduction is governed by slightly different eligibility definitions, rules, and benefit calculations. For example, each benefit is phased out in a different range and at a different rate. Many of the benefits require multiple calculations, and each defines an eligible child using a different combination of age, residency, and relationship requirements.

Education Benefits

Similarly, the tax system includes at least eleven different provisions benefiting taxpayers with educational expenses, which are listed in table 5. All of these provisions encourage educational investment, and most help offset expenses for tuition and fees. According to IRS, an education

[12] 2011 IRS Statistics of Income (SOI) data. Estimate has a margin of error at the 95 percent confidence level of (+/-) 144,000 returns.

[13] Other differences exist among provisions with similar objectives, such as the maximum amount of benefit, type of benefit (e.g., credit, exemption), and whether the benefit is indexed to inflation. These differences may complicate tax planning and confuse taxpayers, but we are not considering them as rules or definitions for the purposes of this report.

tax credit was claimed on an estimated 12 million tax returns in tax year 2011.[14] However, rules determining eligibility for these benefits differ among provisions. Such differences include

- income qualifications,
- eligible expenses,
- eligible educational institution, and
- eligible education level.

Concerns have been raised that these provisions are confusing and complex, making it difficult for taxpayers to properly claim the benefit. For example, in a 2008 testimony, we reported that among tax filers who appeared to be eligible for a tax credit or tuition deduction in tax year 2005, an estimated 19 percent (representing about 412,000 returns) did not claim any of them.[15] The amount by which these tax filers did not reduce their tax averaged about $220. In total, including both those who did not claim a tax credit or tuition deduction and those who chose a credit or a deduction that did not maximize their benefit, we estimated that 28 percent, or about 601,000 tax filers, did not maximize their potential tax benefit.[16]

Higher-education tax benefits also provide an example of how different definitions for the same term can create challenges for taxpayers. What tax filers are allowed to claim as a qualified higher-education expense varies between some of the various savings and credit provisions in the tax code. For example, while Coverdell education savings accounts and qualified tuition programs under IRC section 529 permit tax filers to include room and board as qualified expenses if the student is enrolled at least half time, the American Opportunity Credit and the Lifetime Learning Credit do not allow it.[17] These dissimilar definitions require that tax filers keep track of expenses separately, applying some expenses to some tax preferences, but not to others.

<u>Retirement Savings Benefits</u>

The tax code offers at least half a dozen tax-favored retirement savings incentives, as shown in table 6. All these incentives encourage taxpayers to save money for retirement and have age distribution requirements. However, they also have different rules, such as

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[14]2011 IRS SOI data. Estimate has a margin of error at the 95 percent confidence level of (+/-) 204,000 returns.

[15]Suboptimal choices were not limited to tax filers who prepared their own tax returns. We estimated that about 50 percent of the returns that appeared to not optimally reduce the tax filer's tax liability were prepared by paid tax preparers. See GAO, *Higher Education: Multiple Higher Education Tax Incentives Create Opportunities for Taxpayers to Make Costly Mistakes*, GAO-08-717T (Washington, D.C.: May 1, 2008).

[16]Estimates were based on GAO analysis of 2005 IRS SOI data. Percentage estimates have a margin of error at the 95 percent confidence level of less than (+/-) 4 percentage points. Estimates of the number of returns and dollar amounts have a relative margin of error of (+/-) 14 percent or less.

[17]Coverdell education savings accounts are tax-preferred accounts for the purpose of paying qualified education expenses. The American Opportunity Credit—an expanded Hope Scholarship Credit available in tax years beginning after 2008 and before 2018—is a tax credit available to offset expenses during the first 4 years of postsecondary education for students enrolled in a degree or certificate program at least half-time at eligible institutions. The Lifetime Learning Credit is a tax credit available to offset expenses for degree and nondegree postsecondary education at eligible institutions.

- contribution limits,
- contribution method,
- timing of distributions,
- taxation of withdrawals, and
- loan allowance.

Table 6 summarizes the different rules governing employer-sponsored retirement savings plans. For example, most plans penalize early withdrawals from retirement accounts, but some retirement plans allow early withdrawals without penalty for "hardship" (using different definitions of hardship) or allow for loans. Others allow early withdrawals for medical, home-buying, or educational expenses. Some accounts define "early" as before age 59½ and some as anytime before an employee leaves his or her place of employment. The rules for when an employee may roll over contributions from one account to another have been partially harmonized, but there are still certain accounts that cannot be rolled into others or can only be rolled over after a waiting period.

In addition, taxpayers can choose between traditional IRAs and Roth IRAs for retirement savings.[18] Although the tax rules for distributions diverge for traditional and Roth IRAs, taxpayers may not understand that a 10 percent early withdrawal penalty, with some exceptions, applies to both IRA types. Taxpayers can also become confused over which early withdrawals from IRAs are not subject to penalties, in part because the exceptions differ for employer pension plans. Additionally, both types of IRAs have rules governing eligibility to contribute, and contributions to each are subject to an annual limit. However, taxpayers may not understand that the annual contribution limit applies across traditional IRAs and Roth IRAs in combination, which may lead them to overcontribute. With regard to record-keeping burden, taxpayers with traditional or Roth IRAs must track the total amount of contributions in a given year and reasons for distributions to accurately report this information on their tax returns.[19] These complex rules can lead to taxpayer errors. For example, we previously reported that taxpayers underreported an estimated $6.3 billion in net income because of misreported IRA distributions in tax year 2001.[20]

Frequent changes to IRA rules (such as increasing contribution limits and allowing workers to tap IRA assets for certain nonretirement purposes without an early withdrawal penalty) have also made tax planning more difficult for taxpayers.

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[18]The traditional IRA allows tax deferral on investment earnings until retirement distribution with an up-front tax deduction from taxable income for contributions by eligible taxpayers, and retirement distributions are taxable. In contrast, the Roth IRA allows nondeductible, after-tax contributions for eligible taxpayers, and retirement distributions, including investment earnings, are generally tax-free.

[19]For both traditional and Roth IRAs, early distributions before age 59½ for reasons other than specific exceptions, such as unreimbursed medical expenses and purchase of a first home, result in 10 percent additional tax.

[20]GAO, *Individual Retirement Accounts: Additional IRS Actions Could Help Taxpayers Facing Challenges in Complying with Key Tax Rules*, GAO-08-654 (Washington, D.C.: Aug. 14, 2008). GAO analysis of 2008 IRS SOI data. Estimate has a margin of error at the 95 percent confidence level of less than or equal to (+/-) $2.2 billion.

Concluding Observations

While simplification of definitions and rules can have benefits, some differences will always be required to appropriately target tax policy goals. Tax expenditures exist to encourage certain behavior, like obtaining higher education, and differences in eligibility rules exist to promote equity among taxpayers with varying ability to pay their tax burdens. For example, harmonizing the definition of qualified educational expenses would help families understand which expenses are deductible and partly reduce administrative burden arising from hard-to-document expenses. However, harmonizing these rules and definitions would also treat taxpayers equally, even though they may have unequal expenses or ability to pay. Likewise, combining child-related tax benefits would reduce the number of credits and deductions and standardize eligibility rules, potentially eliminating much of the complexity, computational burden, taxpayer confusion, and difficulties with enforcement in the current system. However, this simplification could also increase revenue loss relative to current law or increase taxes for current beneficiaries, and it would reduce the ability to use the tax code to target benefits to specific groups of taxpayers, such as those with younger children or in certain living arrangements. Consolidating credits would result in these different groups facing more similar tax burdens. In summary, tradeoffs exist between simplifying tax provisions and achieving other goals of tax policy.

Agency Comments

We provided IRS and the Department of the Treasury a draft of this report. On July 3, 2014, the Program Manager of GAO/TIGTA audits at IRS and the Director of the Office of Tax Policy Analysis at the Department of the Treasury responded via email that they did not have comments on the draft.

We are sending copies of this report to the Secretary of the Treasury, Commissioner of Internal Revenue, and other interested parties. In addition, this report will be available at no charge on the GAO website at http://www.gao.gov.

If you or your staff has any questions about this report, please contact me at (202) 512-9110 or mctiguej@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report were Neil Pinney, Assistant Director; Elizabeth Fan; and Sherrice Kerns. Also contributing to this report were James Ashley, Lois Hanshaw, Cynthia Saunders, Stewart Small, and Andrew J. Stephens.

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Enclosures – 2

Enclosure I: Objective, Scope, and Methodology

The objective of this report is to identify instances in the federal tax code where the same or similar term is defined differently or when taxpayers are subject to different rules under various tax provisions, particularly those aimed at similar objectives. To address this objective, we conducted a literature review to identify reports related to differences in tax code definitions and rules. We identified these documents through a search of ProQuest, Nexis, Tax Notes, and Tax Law Review databases and a general Internet search. We generally limited our search to documents published in the past 5 years to help ensure that the material was still relevant. However, we included documents older than 5 years if they were seminal and provided relevant, key information. The focus of our literature review was on documents that addressed the benefits and burdens resulting from different definitions and rules in the tax code, rather than broader discussions of tax code complexity, simplification, or reform. We performed our searches from September 2013 to March 2014.

In addition, we consulted portions of federal laws and regulations, legislative histories, proposed legislation, and IRS guidance to verify tax code information obtained from other sources and to identify related differences. We also reviewed relevant reports from GAO, Congressional Research Service, National Taxpayer Advocate, Joint Committee on Taxation, and the President's Economic Recovery Advisory Board. While we attempted to be thorough in our search methods, the reports that we found may not reflect all published reports that identify tax code differences.

We conducted interviews with—and obtained documentation as applicable from—representatives of federal agencies involved with tax policy and administration including the Department of the Treasury, Internal Revenue Service (IRS), National Taxpayer Advocate, and Joint Committee on Taxation. In addition, we held group interviews with representatives from the tax filing and preparation community including the American Institute of Certified Public Accountants, American Bar Association, and Council for Electronic Revenue Communication Advancement. We requested interviews with other similar organizations, such as the National Association of Enrolled Agents, who either provided us written responses or declined to participate in our review. We selected these organizations based on their expertise in the tax code and experience with preparing individual tax returns. We also asked the organizations we interviewed for recommendations of other organizations to contact.

Findings from our interviews are qualitative and are not meant to be representative of the overall population of tax professionals nationwide. Instead, these interviews provide ideas of the varied tax differences that occur within the federal tax code.

To determine which tax code definitions were within the scope of our engagement, we applied the following criteria: (1) based within federal tax code; (2) affected individual taxpayers (taxpayers that file Form 1040 and related schedules); and (3) compared distinct, separate terms or definitions. To determine which tax code rules were within the scope of our engagement, we applied the same criteria as for definitions but limited the scope to tax provisions that targeted similar taxpayer populations or policy objectives. Because the differences in these tax provisions were not always specified in statute but rather in Department of the Treasury regulations or IRS guidance, we reviewed these sources along with the federal tax code.

We generally excluded rules and definitions that applied to corporations and pass-through entities, unless they could affect individual taxpayers, and federal spending programs. We also excluded procedural or administrative processes not primarily affecting individual taxpayer filing, issues that were complex or confusing but not comparing different rules or definitions, differences in treatment of taxpayers under the same rule, inherent differences that could not be modified without changing the purpose of the provision, differences that were not related to definitions or rules, and definitions that were predominantly the same throughout the tax code but may differ occasionally.

The scope of our review was not generalizable or designed to be a complete catalog of differences in tax code definitions and rules. We did not attempt to quantify the costs and benefits of each difference.

To provide context about these differences, we included descriptive statistics on (1) the number of tax returns that claimed certain tax credits and (2) past GAO analysis of education and retirement benefits. We used IRS Statistics of Income data for the most recent, complete tax year available (2011) and determined the margin of error at the 95 percent confidence interval associated with these data. For statistics obtained from past GAO products, we confirmed that the statistics were reported accurately and modified the text where necessary. We determined that these data were sufficiently reliable for the purposes of this engagement.

We conducted our work from September 2013 to July 2014 in accordance with all sections of GAO's Quality Assurance Framework that are relevant to our objective. The framework requires that we plan and perform the engagement to obtain sufficient and appropriate evidence to meet our stated objective and to discuss any limitations in our work. We believe that the information and data obtained, and the analysis conducted, provide a reasonable basis for any findings and conclusions in this product.

Enclosure II: Tables Comparing Differences in Tax Code Definitions and Rules

Table 1: Differences in Modifications to Adjusted Gross Income, Tax Year 2013

<table>
<tr><th>Tax provision and code section</th><th>Relevance of income definition to provision</th><th>Income measure</th></tr>
<tr><td>Taxable Social Security and Tier 1 Railroad Retirement Benefits

Internal Revenue Code (IRC) § 86(b)(2)</td><td>Adjusted gross income (AGI) is used to determine if Social Security (SS) and Tier 1 Railroad Retirement (RR) benefits are taxable. If AGI, as modified for this provision, exceeds a base amount (for each filing status), a portion of the benefits (generally up to 50%, 85% in some instances) are taxable.</td><td>For the purpose of this provision, AGI is modified by adding back
excluded income from U.S. Savings Bonds used for education expenses (§ 135);
excluded adoption assistance (§ 137);
deducted domestic production activities (§ 199);
deducted student loan interest (§ 221);
deducted tuition and fees (§ 222);
excluded foreign earned income (§ 911);
excluded income by bona fide residents of Guam, the Commonwealth of the Northern Mariana Islands (CNMI), and American Samoa (§ 931);
excluded income by bona fide residents of Puerto Rico (§ 933); and
excluded interest (tax-exempt interest).
In addition, beneficiaries must add one-half of their benefits to the modified adjusted gross income (MAGI) calculation before they compare this income measure to the base amount.</td></tr>
</table>

Tax provision and code section	Relevance of income definition to provision	Income measure
Education Savings Bond Program IRC § 135(c)(4)	The amount of interest income from certain savings bonds that can be excluded from gross income is reduced if AGI, as defined for this provision, exceeds a base amount (which varies by filing status).	For the purpose of this provision, AGI is modified by adding back • excluded income from U.S. Savings Bonds used for education expenses (§ 135); • excluded adoption assistance (§ 137); • deducted domestic production activities (§ 199); • deducted student loan interest (§ 221); • deducted tuition and fees (§ 222); • excluded foreign earned income (§ 911); • excluded income by bona fide residents of Guam, CNMI, and American Samoa (§ 931); and • excluded income by bona fide residents of Puerto Rico (§ 933). The taxable portion of income from SS and Tier 1 RR benefits (§ 86) is included in the calculation. Workplace retirement contribution deductions (§ 219) are not added back to AGI for this calculation. The limits on passive activity losses and credits (§ 469) apply to the calculation.

Tax provision and code section	Relevance of income definition to provision	Income measure
Employer-Provided Adoption Assistance IRC § 137(b)(3)	The amount of employer-provided adoption assistance that can be excluded from gross income is reduced if AGI, as defined for this provision, exceeds a certain threshold.	For the purpose of this provision, AGI is modified by adding back • excluded adoption assistance (§ 137); • deducted domestic production activities (§ 199); • deducted student loan interest (§ 221); • deducted tuition and fees (§ 222); • excluded foreign earned income (§ 911); • excluded income by bona fide residents of Guam, CNMI, and American Samoa (§ 931); and • excluded income by bona fide residents of Puerto Rico (§ 933). The taxable portion of income from SS and Tier 1 RR benefits (§ 86) is included in the calculation. Workplace retirement contribution deductions (§ 219) and income from U.S. Savings Bonds used for education expenses (§ 135) are not added back to AGI for this calculation. The limits on passive activity losses and credits (§ 469) apply to the calculation.
Domestic Production Activity IRC § 199(d)(2)	The amount of expenses that may be deducted as a domestic production activity by an individual is calculated as 9% of AGI, as modified.	For the purpose of this provision, for individuals, AGI is modified by adding back deducted domestic production activities (§ 199). The taxable portion of income from SS and Tier 1 RR benefits (§ 86) is included in the calculation. Workplace retirement contribution deductions (§ 219), excluded income from U.S. Savings Bonds used for education expenses (§ 135), excluded adoption expenses (§ 137), student loan interest deductions (§ 221), and student loan tuition and fees deductions (§ 222) are not added back to AGI for this calculation. The limits on passive activity losses and credits (§ 469) apply to the calculation.

Tax provision and code section	Relevance of income definition to provision	Income measure
Workplace Retirement Contributions IRC § 219(g)(3)(A)	AGI, as defined for this provision, is used to determine the amount of retirement contributions that can be deducted from income, based on certain phase-out ranges.	For the purpose of this provision, AGI is modified by adding back • excluded income from U.S. Savings Bonds used for education expenses (§ 135); • excluded adoption assistance (§ 137); • deducted domestic production activities (§ 199); • deducted contribution to retirement savings plans (§ 219); • deducted student loan interest (§ 221); • deducted tuition and fees (§ 222); and • excluded foreign earned income (§ 911). The taxable portion of income from SS and Tier 1 RR benefits (§ 86) is included in the calculation. The limits on passive activity losses and credits (§ 469) apply to the calculation.
Student Loan Interest Deduction IRC § 221(b)(2)(C)	The amount of student loan interest that can be deducted from income is reduced if AGI, as defined for this provision, exceeds a certain threshold.	For the purpose of this provision, AGI is modified by adding back • deducted domestic production activities (§ 199); • deducted student loan interest (§ 221); • deducted tuition and fees (§ 222); • excluded foreign earned income (§ 911); • excluded income by bona fide residents of Guam, CNMI, and American Samoa (§ 931); and • excluded income by bona fide residents of Puerto Rico (§ 933). The taxable portion of income from SS and Tier 1 RR benefits (§ 86) is included in the calculation. U.S. Savings Bonds used for education (§ 135), employer provided adoption assistance (§ 137), and workplace retirement contribution deductions (§ 219), are not added back to AGI for this calculation. The limits on passive activity losses and credits (§ 469) apply to the calculation.

Tax provision and code section	Relevance of income definition to provision	Income measure
Qualified Tuition and Expenses Deduction IRC § 222(b)(2)(C)	The amount of tuition and fees that can be deducted from income is reduced if AGI, as defined for this provision, exceeds a certain threshold.	For the purpose of this provision, AGI is modified by adding back • deducted domestic production activities (§ 199); • deducted tuition and fees (§ 222); • excluded foreign earned income (§ 911); • excluded income by bona fide residents of Guam, CNMI, and American Samoa (§ 931); and • excluded income by bona fide residents of Puerto Rico (§ 933). The taxable portion of income from SS and Tier 1 RR benefits (§ 86) is included in the calculation. Excluded U.S. Savings Bonds used for education (§ 135), excluded employer provided adoption assistance (§ 137), workplace retirement contribution deductions (§ 219), and student loan interest deductions (§ 221), are not added back to AGI for this calculation. The limits on passive activity losses and credits (§ 469) apply to the calculation.
Roth Individual Retirement Arrangement (IRA) Contribution Limit IRC § 408A(c)(3)(B)(i), citing IRC § 219(g)(3)	AGI is used to limit the total amount that can be contributed by a taxpayer to a Roth IRA. The amount that can be contributed is reduced as AGI, as defined for this provision, exceeds a certain threshold.	For the purpose of this provision, AGI is modified by adding back • excluded income from U.S. Savings Bonds used for education expenses (§ 135); • excluded adoption assistance (§ 137); • deducted domestic production activities (§ 199); • deducted retirement contributions (§ 219); • deducted student loan interest (§ 221); • deducted tuition and fees (§ 222); and • excluded foreign earned income (§ 911). The calculation does not include any income attributable to a rollover from an eligible retirement plan other than a Roth IRA (§ 408A(d)(3)). The taxable portion of income from SS and Tier 1 RR benefits (§ 86) is included in the calculation. The limits on passive activity losses and credits (§ 469) apply to the calculation.

Tax provision and code section	Relevance of income definition to provision	Income measure
Coverdell Education Savings Accounts IRC § 530(c)(2)	AGI is used to limit the total amount that can be contributed by a taxpayer to Coverdell Education Savings Accounts for a single beneficiary. As AGI exceeds a certain threshold, the amount that can be contributed is reduced.	For the purpose of this provision, AGI is modified by adding back • excluded foreign earned income (§ 911); • excluded income by bona fide residents of Guam, CNMI, and American Samoa (§ 931); and • excluded income by bona fide residents of Puerto Rico (§ 933).
Charitable Contribution Deductions IRC § 170(b)(1)(G)	The amount deducted for charitable contributions cannot be more than 50% of adjusted gross income. Deductions may be further limited to 30% or 20% of AGI, depending on the type of property donated and organization receiving the donation. A higher limit applies to certain qualified conservation contributions.	For the purpose of this provision, the contribution base is defined by AGI, excluding any net operating loss carrybacks (§ 172).
Adoption Expense Credit IRC § 23(b)(2)(B)	The amount of the credit is reduced if AGI as defined for the provision exceeds a certain threshold.	For the purpose of this provision, AGI is modified by adding back • excluded foreign earned income (§ 911); • excluded income by bona fide residents of Guam, CNMI, and American Samoa (§ 931); and • excluded income by bona fide residents of Puerto Rico (§ 933).
Child Tax Credit IRC § 24(b)(1)	AGI is used to determine the total benefit received when claiming this credit. The amount of the credit is reduced if AGI as defined for the provision exceeds a certain threshold.	For the purpose of this provision, AGI is modified by adding back • excluded foreign earned income (§ 911); • excluded income by bona fide residents of Guam, CNMI, and American Samoa (§ 931); and • excluded income by bona fide residents of Puerto Rico (§ 933).

Tax provision and code section	Relevance of income definition to provision	Income measure
American Opportunity Tax Credit and Lifetime Learning Credit IRC § 25A(d)(3)	AGI is used to determine the total benefit received when claiming this credit. The amount of the credit is reduced if AGI as defined for the provision exceeds a certain threshold.	For the purpose of this provision, AGI is modified by adding back • excluded foreign earned income (§ 911); • excluded income by bona fide residents of Guam, CNMI, and American Samoa (§ 931); and • excluded income by bona fide residents of Puerto Rico (§ 933).
Elective Deferrals and IRA Contributions IRC § 25B(e)	AGI is used to determine the total benefit received when claiming this credit. The amount of the credit is reduced if AGI as defined for the provision exceeds a certain threshold.	For the purpose of this provision, AGI is modified by adding back • excluded foreign earned income (§ 911); • excluded income by bona fide residents of Guam, CNMI, and American Samoa (§ 931); and • excluded income by bona fide residents of Puerto Rico (§ 933).
Refundable Credit for Coverage Under a Qualified Health Plan[a] IRC § 36B(d)(2)(B)	The premium assistance credit is generally equal to the difference between the premium for a benchmark plan and the taxpayer's expected contribution. The expected contribution is a specified percentage of the taxpayer's household income and increases with household income.	For the purpose of this provision, household income is defined as aggregate modified AGI with certain items added back: • non-taxable social security benefits (§ 86); • excluded foreign earned income (§ 911); and • tax-exempt interest.
Unearned Medicare Contribution IRC § 1411(d)	Taxpayers may be subject to a 3.8% tax on MAGI above certain threshold amounts. ($125,000-married/separate; $200,000-single; $250,000-married/joint)	For the purpose of this provision, AGI is modified by adding back excluded foreign earned income (§ 911), net disallowed exclusions/deductions with respect to foreign earned income.

Sources: GAO analysis of select IRC provisions and IRS publications. | GAO-14-652R

Notes: Adjusted gross income is defined in IRC section 62 as gross income minus specified deductions.

[a]This credit goes into effect in 2014.

Table 2: Differences in Definitions for Small Business, (Current as of April 29, 2014)

Term and tax code section	Relevance of definition to the provision	Definition
Based on number of employees		
Small business IRC § 41(b)(3)(D)(iii)	Provides an increased tax credit for eligible small businesses, among others, for certain contract research expenses.	Employer with average of 500 or fewer employees annually during either of the 2 preceding calendar years.
Small business refiner IRC § 45H(c)(1) (also referenced in IRC § 179B(a))	Provides small business refiners a tax credit for production of low sulfur diesel fuel.	Refiner of crude oil with not more than 1,500 individuals engaged in the refinery operations of the business on any day during such taxable year, and average daily domestic refinery run or average retained production of which for all facilities of the taxpayer for the 1-year period ending on December 31, 2002, did not exceed 205,000 barrels.
Eligible small employer IRC § 45R(d)	Defines the small employer health insurance credit for certain small employers that provide insured health coverage to employees made available by section 38(b)(36). Section 45R was added to the IRC by the Patient Protection and Affordable Care Act.	Employer with no more than 25 full-time equivalent employees in a taxable year whose average annual wages do not exceed an amount equal to twice a certain dollar amount and which has a health plan contribution arrangement.
Eligible employer[a] IRC § 125(j)(5)	Allows eligible employers meeting contribution, eligibility, and participation requirements to establish a simple cafeteria plan, which need not meet any nondiscrimination requirement otherwise applicable to such a cafeteria plan.	To be eligible, an employer must employ an average of 100 or fewer employees on business days during either of the 2 preceding years. If the employer was not in existence throughout those years, the number of employees is based on the average number of employees that the employer is reasonably expected to employ in the current year.
Eligible employer[a] IRC § 408(k)(6)(B)	Allows employees to elect to have the employer make salary reduction payments to a simplified employee pension plan. The plan must have been established prior to 1997.	Employer must not have more than 25 employees.

Term and tax code section	Relevance of definition to the provision	Definition
Eligible employer[a] IRC § 408(p)(2)(C)(i) (also referenced in IRC § 401(k)(11)(D)(i))	Provides employers with a simplified way to make contributions to retirement income using Savings Incentive Match Plan for Employees (SIMPLE) Individual Retirement Arrangements or SIMPLE 401(k) plans.	Employer with 100 or fewer employees who received at least $5,000 in compensation. A 2-year grace period applies to previously eligible employers who fail to meet the requirement in subsequent years.
Based on gross receipts or number of employees		
Eligible small business IRC § 44(b)	Allows certain small businesses a tax credit for the costs of complying with the Americans with Disabilities Act of 1990, such as removing barriers to improve accessibility to a building.	Any person who either has gross receipts in the preceding tax year of $1 million or less or who employed not more than 30 full-time employees in the preceding tax year and makes an election.
Small business IRC § 172(b)(1)(F)(iii) (related to IRC § 474 for eligible small business)	Allows eligible small businesses with a net operating loss to elect to offset this loss against income earned in up to 3 prior years.	Section 172 defines a small business as a corporation or partnership which meets the gross receipts test of section 448(c) or a sole proprietorship that would meet the gross receipts test had it been a corporation. In general, a corporation or partnership meets the gross receipts test under section 448(c) for a prior taxable year if the average annual gross receipts of the entity for the 3-taxable-year period ending with such year do not exceed $5 million. Related, section 474 states that a taxpayer is an eligible small business for a taxable year if the average annual gross receipts of the taxpayer for the preceding taxable years do not exceed $5 million and rules similar to the rules of section 448(c)(3) apply.
Based on other characteristics		
Qualified small business[b] IRC § 1202(d)	In general, allows taxpayers other than corporations to exclude from taxable income a portion of the gain from selling qualified small business stock held for more than 5 years.	A qualified small business is defined as a domestic C corporation with aggregate gross assets of less than $50 million at all times since 1993 and before issuance. The aggregate gross assets immediately after issuance cannot exceed $50 million, and the corporation agrees to submit report to the Secretary and its shareholders as may be required.

Term and tax code section	Relevance of definition to the provision	Definition
Small business corporation[b] IRC § 1244(c)(3) (referenced in IRC § 1274)	Allows individual taxpayers to deduct certain losses as ordinary losses when selling certain stock from domestic small business corporations.	A small business corporation is defined as a corporation with aggregate amount of money and other property received by the corporation for stock, as a contribution to capital, and as paid-in surplus, that does not exceed $1 million.
Small business corporation[b] IRC § 1361(b)(1)	Defines an S corporation as a small business corporation which elects to be treated as an S corporation. In general, an S corporation does not pay income tax, but its income, deductions, and credits are allocated to its shareholders.	A small business corporation is defined as a domestic corporation which does not have more than 100 shareholders, does not have a shareholder who is not an individual (with certain exceptions for certain estates and trusts), does not have a nonresident alien as a shareholder, and does not have more than one class of stock. Section 1361 also defines electing small business trust and this definition is referred to in section 641.

Source: GAO analysis of the IRC. | GAO-14-652R

Notes: In some instances, the IRC refers to definitions of small business or related terms outside the tax code. For example, at least nine IRC sections refer to the definition of a small business investment company operating under the Small Business Investment Act of 1958 (15 U.S.C. §§ 661–697g).

[a]We include the term “eligible employer” because it embodies the same concept as the term “small business,” even though “small business” is not statutorily defined in these IRC sections. We did not attempt to identify all such provisions.

[b]These terms refer to corporations. We include these terms because they could affect individual income tax reporting and were identified by tax specialists we interviewed or by our research on the IRC.

Table 3: Differences in Definitions of Disabled, (Current as of April 17, 2014)

Term and tax code section	Relevance of definition to provision	Definition
Permanent and total disability IRC § 22(e)(3) (referenced in 3 other IRC sections)	Provides a tax credit for the elderly and permanently and totally disabled.	Permanent and total disability is defined as being unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. Proof of disability must be furnished, as required.
Disabled IRC § 72(m)(7) (referenced in more than 10 other IRC sections)	Defines disabled that is used to determine, for example, if a taxpayer is exempt from penalty on early withdrawals from retirement accounts.	A person is disabled if he or she is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration. Proof of disability must be furnished, as required.
Disabled IRC § 409A(a)(2)(C)	Allows disability to trigger payment for deferred compensation.	A person is considered disabled if he or she is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than 12 months, or is, by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than 12 months, receiving income replacement benefits for a period of not less than 3 months under an accident and health plan covering employees of the participant's employer.
Financially disabled IRC § 6511(h)(2)	Suspends the statute of limitations period for filing a claim for a tax credit or refund if a taxpayer is unable to manage financial affairs due to disability.	An individual is financially disabled if the individual is unable to manage financial affairs by reason of a medically determinable physical or mental impairment of the individual which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. Proof of disability must be furnished, as required. An individual shall not be treated as financially disabled during any period that such individual's spouse or any other person is authorized to act on behalf of such individual in financial matters.

Source: GAO analysis of the IRC. | GAO-14-652R

Note: In some instances, the IRC refers to definitions of disabled or disability outside the tax code, such as in the Americans With Disabilities Act of 1990 (42 U.S.C. §§ 12101–12213) and titles II and XVI of the Social Security Act (42 U.S.C. §§ 401–433 and §§ 1381–1383f).

Table 4: Differences in Rules and Definitions for Selected Child-Related Tax Benefits, Tax Year 2013

Tax provision and code section	Age[a]	Residency requirement[b]	Support[c]	Social Security number reporting requirement for child	Income limit[d] and benefit phase out (reduction)
Head of Household filing status IRC § 2	• Child must be under age 19; • child must be under age 24 if a full-time student; or • child can be any age if permanently and totally disabled.	No additional requirements beyond those mentioned in table note b.	Child must not provide over half of his own support for the year.	Not required.	Not applicable.
Child and Dependent Care Credit IRC § 21	Child must be under age 13.	No additional requirements beyond those mentioned in table note b.	Child must not provide over half of his own support for the year.	Required, unless the dependent is an alien or adoptee without a Social Security number, in which case an alternative taxpayer identification number must be provided.	In general, individuals are allowed the credit for expenses incurred to enable the taxpayer to be gainfully employed and for household services and care for a dependent. The amount of the credit is a percentage—which varies depending on the taxpayer's AGI—of the covered expenses. For taxpayers with an AGI of $15,000 or less, the applicable percentage is 35%. For each $2,000, or fraction thereof, the taxpayer's AGI is above $15,000, the applicable percentage decreases by 1 percentage point to a minimum of 20%.

Tax provision and code section	Age[a]	Residency requirement[b]	Support[c]	Social Security number reporting requirement for child	Income limit[d] and benefit phase out (reduction)
Child Tax Credit IRC § 24	Child must be under age 17.	If parents are divorced, separated, or live apart, and the child is treated as the qualifying child of the noncustodial parent, only the noncustodial parent can claim the tax credit.	Child must not provide over half of his own support for the year.	Not required.	Credit is reduced 5% for every $1,000, or fraction thereof, that modified AGI exceeds the following amounts: Joint: $110,000 Married-Separate: $55,000 Single, head of household, or qualifying widow(er): $75,000
Earned Income Tax Credit IRC § 32	• Child must be under age 19; • child must be under age 24 if a full-time student; or • child can be any age if permanently and totally disabled.	Allows military serving overseas to claim credit.	None.	Required. The Social Security number must be valid for employment.	The maximum amount of the credit is reduced at the following percentages for every dollar that AGI (or earned income, if greater) exceeds $22,870 for married joint filers or $17,530 for single, surviving spouse, or head of household filers: 2 or more qualifying children: 21.06% 1 qualifying child: 15.98%

Tax provision and code section	Age[a]	Residency requirement[b]	Support[c]	Social Security number reporting requirement for child	Income limit[d] and benefit phase out (reduction)
Dependency Exemption IRC §§ 151(c), 152	• Child must be under age 19; • child must be under age 24 if a full-time student; or • child can be any age if permanently and totally disabled.	If parents are divorced, separated, or live apart, and the child is treated as the qualifying child of the noncustodial parent, only the noncustodial parent can claim the exemption.	Child must not provide over half of his own support for the year.	Required, unless the dependent is an alien or adoptee without a Social Security number, in which case an alternative taxpayer identification number must be provided.	Exemption amount is reduced by 2% for each $2,500, or part thereof ($1,250 if married filing separately), that AGI exceeds the following amounts: Married filing joint/qualifying widow(er): $300,000 Married filing separately: $150,000 Head of household: $275,000 Single: $250,000

Sources: GAO analysis of IRS publications. | GAO-14-652R

Notes: This table outlines some basic eligibility rules for key child-related tax benefits. Other child-related tax benefits and related eligibility rules exist beyond those shown in the table. Also, other differences, such as reporting requirements, exist among the provisions cited beyond those discussed herein. Updated information for tax year 2014 may be available; however, we report tax year 2013 information because we could confirm the entire table for 2013.

[a]The child must be younger than the taxpayer or taxpayer’s spouse to qualify. Age is measured at the end of the year, except for the Child and Dependent Care Credit, which is measured at the time that care was provided.

[b]The child must have lived with the taxpayer for more than half the year, except in the case of (1) temporary absence; (2) birth or death of child; or (3) kidnapped child.

[c]IRS publication 5085 mentions other rules related to support.

[d]Income calculation may differ among provisions. See table 1 for modifications to AGI.

Table 5: Eligibility Rules for Selected Education Tax Benefits, Tax Year 2013

Tax provision and code section	Educational institution	Education level	Education expenses	Income limit and benefit phase out (reduction)
Tax benefits for tuition and related expenses				
American Opportunity Tax Credit[a] IRC § 25A	See table note b.	Must be enrolled at least half-time and have not finished the first 4 years of higher education and not claimed the credit for more than 4 years.[c]	• Tuition and required enrollment fees; • course-related books, supplies, and equipment.	Credit is reduced when modified adjusted gross income (MAGI) exceeds the lower limit, and eliminated when MAGI reaches or exceeds the upper limit, of the following income ranges.[d] Joint: $160,000-$180,000 Single/head of household/widow(er): $80,000-$90,000
Lifetime Learning Credit IRC § 25A	See table note b.	Must be a student enrolled in one or more courses at an eligible educational institution.	Tuition and required enrollment fees.	Credit is reduced when MAGI exceeds the lower limit, and eliminated when MAGI reaches or exceeds the upper limit, of the following income ranges.[d] Joint: $107,000-$127,000 Single/head of household/widow(er): $53,000-$63,000
Deduction for Tuition and Related Expenses IRC § 222	See table note b.	Undergraduate and graduate students enrolled in one or more courses at an eligible educational institution.	Tuition and required fees in connection with enrollment at an institution of higher learning.	Maximum deduction is reduced to $2,000 when MAGI exceeds the lower limit, and eliminated when MAGI exceeds the upper limit, of the following income ranges. Joint: $130,000-$160,000 Single/head of household/widow(er): $65,000-$80,000

Tax provision and code section	Educational institution	Education level	Education expenses	Income limit and benefit phase out (reduction)
Business Deduction for Work-Related Education Expenses IRC § 162; 26 C.F.R. § 1.162-5	For the purpose of this provision, there is no limit to the type of institution that can provide classes for continuing education.	Education must be required by employer or law to keep present job, salary, or status or to maintain or improve job skills. Expenses related to education that meets minimum educational requirements for the position or qualifies the taxpayer for a new trade or business are not deductible.	• Tuition and required enrollment fees; • transportation and travel; and • other necessary expenses.	Not applicable.
Employer-Provided Educational Assistance IRC § 127	This benefit provides an exclusion of up to $5,250 for employer-provided educational assistance. Education must be provided under a qualified educational assistance program. To be qualified, a plan must meet certain requirements.	Undergraduate and graduate students, or employees taking any form of instruction or training that improves capabilities.	• Tuition, and required enrollment fees; and • course-related books, supplies, and equipment. Does not include payment for or the provision of tools or supplies which may be retained by the employer after the completion of the course of instruction, or meals, lodging, or transportation.	Not applicable.
Tax benefits for student loans				

Tax provision and code section	Educational institution	Education level	Education expenses	Income limit and benefit phase out (reduction)
Student Loan Interest Deduction IRC § 221	See table note b. Also includes institutions conducting an internship or residency program leading to a degree or certificate from an institution of higher education, a hospital, or a health care facility that offers postgraduate training. An educational institution must meet the above criteria only during the academic period(s) for which the loan was incurred. Deductibility of interest on the loan is not affected by the institution's subsequent loss of eligibility.	Undergraduate and graduate students who were enrolled at least half-time in a program leading to a degree, certificate, or other recognized educational institution.	• Tuition and required enrollment fees; • course-related books, supplies, and equipment; • room and board; and • other necessary expenses (including transportation).	Deduction is reduced when MAGI exceeds the lower limit, and eliminated when MAGI reaches or exceeds the upper limit, of the following income ranges.[d] Joint: $125,000-$155,000 Single/head of household/widow(er): $60,000-$75,000
Exclusion of Qualifying Canceled Student Loans[e] IRC § 108(f)	An educational institution that maintains a regular faculty and curriculum and normally has a regularly enrolled body of students in attendance at the place where it carries on its educational activities.	Not applicable.	Not applicable.	Not applicable.
Tax benefits for education savings plans				
Qualified Tuition Programs IRC § 529	See table note b.	Undergraduate and graduate students enrolled at least half-time for the course of study the student is pursuing, as determined under the standards of the school where the student is enrolled.	• Tuition and required enrollment fees; • books, supplies, and equipment; • expenses for special needs services; and • room and board if at least half-time student.	Not applicable.

Tax provision and code section	Educational institution	Education level	Education expenses	Income limit and benefit phase out (reduction)
Coverdell Education Savings Accounts (ESA) IRC § 530	An eligible postsecondary school or an eligible elementary or secondary school. Eligible Postsecondary School: defined in table note b. Eligible elementary/secondary school: any public, private, or religious school that provides elementary or secondary education (kindergarten through grade12), as determined under state law.	Undergraduate and graduate students enrolled at least half-time for the course of study the student is pursuing, as determined under the standards of the school where the student is enrolled; and students enrolled in eligible elementary and secondary schools.	Higher education expenses: • Tuition and required enrollment fees; • books, supplies, and equipment; • expenses for special needs services; • payments to a Qualified Tuition Program (QTP); and • room and board if at least half-time student. K-12 expenses: • Tuition and fees; • books, supplies, and equipment; • academic tutoring; • special needs services; • room and board; • uniforms; • transportation; • required supplementary items and services; • purchase of a computer if it is used by the beneficiary or their family; and • payments to a QTP.	Maximum contribution is reduced when MAGI exceeds the lower limit, and eliminated when MAGI reaches or exceeds the upper limit, of the following income ranges.[d] Joint: $190,000-$220,000[f] All others: $95,000-$110,000

Tax provision and code section	Educational institution	Education level	Education expenses	Income limit and benefit phase out (reduction)
Exception to Additional Tax for Early Withdrawals from IRAs IRC § 72(t)(2)(E)	See table note b.	Undergraduate and graduate students enrolled at least half-time for the course of study the student is pursuing, as determined under the standards of the school where the student is enrolled.	• Tuition and required enrollment fees; • books, supplies, and equipment; • expenses for special needs services; and • room and board if at least half-time student.	Not applicable.
Education Savings Bonds Program IRC § 135	See table note b.	Enrollment or attendance at an institution of higher education.	• Tuition and required enrollment fees; • contributions to Coverdell ESA; and • contributions to a QTP. Qualified education expenses must be reduced by certain tax-free benefits.	Interest exclusion is reduced when MAGI exceeds the lower limit, and eliminated when MAGI reaches or exceeds the upper limit, of the following income ranges.[d] Joint/widow(er): $112,050-$142,050 Single/head of household: $74,700-$89,700

Sources: GAO analysis of IRS and Joint Committee on Taxation reports. | GAO-14-652R

Notes: Certain provisions require modifications to adjusted gross income to determine credit amounts and phase-out ranges. See table 1 for income adjustments related to education tax benefits. Updated information for tax year 2014 may be available; however, we report tax year 2013 information because we could confirm the entire table for 2013.

[a]The American Opportunity Tax Credit modifies the existing Hope Credit, increasing eligibility for the credit and making the credit available to taxpayers with higher incomes and those who owe no tax. It also adds required course materials to the list of qualifying expenses and allows the credit to be claimed for 4 years of post-secondary education instead of 2. The credit was extended through December 2017 by the American Taxpayer Relief Act of 2012.

[b]The definition for educational institution includes any college, university, vocational school, or other postsecondary educational institution eligible to participate in a student aid program administered by the U.S. Department of Education, including certain foreign education institutions outside of the United States. Includes accredited public, nonprofit, and privately owned for-profit postsecondary institutions.

[c]Individuals with felony drug convictions are disqualified from this credit.

[d]To determine the amount of reduced benefit, the tentative benefit amount is multiplied by a fraction. For the American Opportunity Tax Credit and Lifetime Learning Credit, the numerator of the fraction is the upper limit of the income range minus MAGI. For the student loan interest deduction, Coverdell ESAs, and education savings bonds, the numerator is MAGI minus the lower limit of the income range. The denominator is the range of incomes for the phase out (the difference between the upper and lower limit of range).

[e]The exclusion applies to undergraduate and graduate student loans, and eligibility depends on the borrower's post-graduation profession, place of employment, and length of time employed.

[f]Income phase outs for Coverdell accounts apply to all individuals who contribute to the account (including the beneficiary).

Table 6: Differences in Rules and Definitions for Selected Employer-Sponsored Retirement Savings Plans, Tax Year 2014

Tax provision and code section	Maximum annual contribution (per participant)	Catch-up contributions	Withdrawals, distributions, and loans	Rollovers/transfers
Simplified Employee Pension Plan (SEP) IRC § 408(k)	Up to 25% of compensation but no more than $52,000.	Not applicable.	Withdrawals: Permitted any time subject to federal income taxes and subject to a 10% additional tax if taken before age 59½. Distributions: Must begin receiving distributions by April 1 of the year following attainment of age 70½. Loans: Cannot take loans from SEP-IRA plans.	Rollovers are permitted from one IRA to another and to eligible retirement plans.
Savings Incentive Match Plan for Employees (SIMPLE) IRA Plan IRC § 408(p)	Employee: $12,000. Employer: Can match employee contributions 100% of first 3% of compensation (can be reduced to as low as 1% in any 2 of 5 years) or contribute 2% of each eligible employee's compensation.	Taxpayers age 50 and over can contribute an additional $2,500 per tax year.	Withdrawals: Permitted any time subject to federal income taxes and subject to 10% additional tax if taken before age 59½ (25% if less than 2 years of participation). Distributions: Must begin receiving distributions by April 1 of the year following attainment of age 70½. Loans: Cannot take loans from SIMPLE IRA plans.	Rollovers are permitted from one SIMPLE IRA to another SIMPLE IRA at any time. Rollovers from a SIMPLE IRA to a non-SIMPLE IRA or to an eligible retirement plan can be made tax-free only after participating in the SIMPLE IRA plan for 2 years.

Tax provision and code section	Maximum annual contribution (per participant)	Catch-up contributions	Withdrawals, distributions, and loans	Rollovers/transfers
401(k) – Traditional, SIMPLE, Safe Harbor IRC § 401(k)	Traditional and Safe Harbor: Employee elective deferrals: $17,500. Employer and employee: the lesser of $52,000 or 100% of compensation, subject to nondiscrimination testing. SIMPLE: Employee elective deferrals: $12,000. Employer: dollar-for-dollar match up to 3% of pay or a 2% non-elective contribution for each eligible employee.	Traditional and Safe Harbor: Taxpayers age 50 or over can elect to contribute an additional $5,500 per tax year. SIMPLE: Taxpayers age 50 or over can elect to contribute an additional $2,500 per tax year.	Withdrawals: Permitted after distributable event (e.g., retirement, death, disability, or severance from employment). Distributions: Must start receiving distributions by April 1 following the later of year of retirement or attainment of age 70½. Loans: Plan may permit loans and hardship withdrawals, and early withdrawals are subject to a 10% additional tax.	Rollovers are permitted to an eligible retirement plan or IRA.
403(b) – Tax Sheltered Annuity Offered by Public Schools and Certain 501(c)(3) Tax-Exempt Organizations IRC § 403(b)	Employee elective deferrals: $17,500. Employer and employee: the lesser of $52,000 or 100% of includible compensation.	Taxpayers age 50 or over can elect to contribute an additional $5,500 per tax year. Special 403(b) catch-up contribution: • available to select employers; • employee must have 15 years of service; and • contribution is limited to the least of (a) $3,000, (b) $15,000 less previously excluded special catch-ups, and (c) $5,000 multiplied by years of service minus previously excluded deferrals.	Withdrawals: Permitted after distributable event (e.g., retirement, death, disability, or severance from employment). Distributions: Must start receiving distributions by April 1 following the later of year of retirement or attainment of age 70½. Loans: Plan may permit loans and hardship withdrawals, and early withdrawals are subject to a 10% additional tax.	Rollovers permitted to an eligible retirement plan. Taxpayers are permitted to transfer from one 403(b) to another 403(b).

Tax provision and code section	Maximum annual contribution (per participant)	Catch-up contributions	Withdrawals, distributions, and loans	Rollovers/transfers
457(b) – Governmental, Tax-Exempt (Non-Church) Organizations IRC § 457(b)	Maximum contribution for governmental and tax-exempt plans: $17,500.	Governmental: Taxpayers age 50 and over can elect an additional salary reduction contribution of $5,500 per tax year. Tax-exempt: No catch-up contribution permitted for taxpayers age 50 and over. Special 457(b) catch-up contributions (governmental and tax-exempt): Contribution must be made 3 years prior to the year of normal retirement age, and special catch-up is limited to the lesser of: (a) $35,000 (twice the basic annual limit), or (b) the basic annual limit plus underutilized basic annual limit in prior years. Special contribution cannot be taken if employee is currently making age 50 and over contribution. Applicable only to governmental.	Withdrawals: Permitted after severance from employment. Distributions: Must start receiving distributions by April 1 following the later of year of retirement or attainment of age 70½. Loans: • Governmental: Plan may permit loans and distribution for unforeseen emergency or small inactive accounts. • Tax-exempt: Plan may not permit loans.	Governmental: Rollovers are permitted to an eligible retirement plan. Transfers permitted from one government 457(b) to another government 457(b). Tax-exempt: No rollovers permitted. Post-severance transfers are permitted from one tax-exempt 457(b) to another tax-exempt 457(b).

Sources: GAO analysis of IRS publications and IRC. | GAO-14-652R

Note: SEPs can be sponsored by any employer. SIMPLE IRAs can be sponsored by employers with 100 or fewer employees that do not currently maintain another plan. Traditional 401(k) and safe harbor 401(k) plans can be sponsored by any nongovernment employer or governments if the plan was established before May 1986. SIMPLE 401(k) plans can be sponsored by employers with 100 or fewer employees and no other qualified plan. 403(b) plans can be sponsored by public education employers and 501(c)(3) organizations. 457(b) plans can be sponsored by state and local governments and non-church tax-exempt organizations.

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