

United States Senate

WASHINGTON, DC 20510

The Honorable Daniel Werfel
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, D.C. 20224

August 1, 2023

Dear Commissioner Werfel,

We write to urge the Internal Revenue Service (IRS) to take meaningful steps to effectively promote educational assistance benefits provided under section 127 of the Internal Revenue Code, specifically the temporary provision within the law that allows employers to contribute up to \$5,250 tax-free towards their employees' student loans annually.¹ This provision within section 127 is a win-win for employers and employees, as it provides a pathway towards student loan debt relief for borrowers and provides employers with another option to recruit and retain talent necessary to grow their businesses.

Nationwide, Americans owe more than \$1.7 trillion in student loan debt, outstripping credit cards and auto loans as the country's leading source of non-housing debt.² With increased college costs leading to students taking on more debt, the need for innovative solutions to ease the burden of student loan debt is greater than ever. That is why we were pleased to secure passage of our Employer Participation in Repayment Act (EPRR), which reformed educational assistance programs under section 127 to include student loans payments as a qualifying educational expense.

Prior to this change, employers with educational assistance programs could provide their employees with up to \$5,250 per year in tax-free benefits for ongoing education purposes (e.g., tuition and fees). The EPRR provision that we championed as part of the CARES Act amended section 127, expanding the \$5,250 tax-free, annual benefit to include student loan payments through 2020,³ with subsequent legislation extending this benefit through 2025.⁴ In other words, as a result of this change in the law, employers are provided with an important tool to help their employees pay down outstanding student loan debt.

The modernization of section 127 better meets the needs of today's workforce, as it not only helps individuals pay down their student loans, but also serves as a unique tool for employers to attract and retain talented employees. Additionally, employer-sponsored student loan repayment under section 127 helps employees get out of debt faster and put more of their hard-earned

¹ 26 U.S. Code § 127, <https://www.law.cornell.edu/uscode/text/26/127/>.

² Federal Reserve Bank of New York, "Household Debt and Credit Report," March 2023, <https://www.newyorkfed.org/microeconomics/hhdc>.

³ H.R. 748, Coronavirus Aid, Relief, and Economic Security Act, Title II, Subtitle B, Section 2206, <https://www.congress.gov/bill/116th-congress/house-bill/748/text>.

⁴ H.R. 133, Consolidated Appropriations Act, 2021, Title I, Subtitle B, Section 120, <https://www.congress.gov/bill/116th-congress/house-bill/133/text>.

paycheck towards other necessities. While we were proud to champion this necessary expansion of section 127, as its sunset date approaches we want to make sure that we are maximizing the reach of this important benefit.

According to a 2023 survey of over 4,000 participants representing independent organizations, 48% of respondents indicated that their organization provides undergraduate or graduate tuition assistance.⁵ However, only 8% of responding organizations shared that they offer student loan repayment as an educational assistance benefit.⁶ This underscores the need for the IRS to use all tools at the agency's disposal to increase awareness among employers about recent changes to section 127. Furthermore, the IRS should take steps to ensure that employers of all sizes have resources available to them to quickly form an educational assistance program for their workforce.

During your testimony before the Senate Finance Committee on April 19, 2023, you stated that outreach on section 127, including ensuring that taxpayers are aware of such benefits, is a top priority of the agency.⁷ However, we have found that resources on educational assistance programs are difficult to locate on the IRS website. Additionally, within these hard-to-find and limited resources, the expansion of the program to include student loan debt as a qualifying tax-free educational expense is not highlighted as new information and the eligibility window is deeply buried.⁸ Furthermore, online IRS webinars have failed to adequately promote employer-provided educational assistance programs and call attention to student loan debt payments as a qualifying expense.

To ensure that employers and employees are fully aware of the benefits afforded to them under section 127, we request that you take the following actions:

- 1) We request that the IRS host and publish webinars on employer-provided educational assistance programs. Webinars should provide details on student loan debt being a qualifying expense under section 127 and provide participants with the opportunity to engage in a meaningful Q&A session with IRS staff. Furthermore, webinars should be scheduled with adequate notice periods, promoted in conjunction with relevant stakeholders, including industry associations, and published prominently on the agency's website for future reference.
- 2) We request that the IRS publish new and robust resources to aide employers seeking to take advantage of section 127 benefits. These new resources should include a sample written plan for employers to utilize and the addition of a 'Frequently Asked Questions'

⁵ Society for Human Resource Management, "2023 Employee Benefits Survey: Executive Summary," June 2023, <https://shrm-res.cloudinary.com/image/upload/v1685728116/Employee%20Benefits/CPR-222434-Employee-Benefits-Executive-Summary-FINAL-for-PUBLICATION.pdf>.

⁶ *Ibid.*

⁷ "Under Questioning from Warner, IRS Commissioner Commits to Doubling Processing For Business Tax Credits," April 19, 2023, <https://www.warner.senate.gov/public/index.cfm/pressreleases?ID=844D73DD-54C1-4E4C-BEBA-D31A22943666>.

⁸ Internal Revenue Service, Publication 15-B (2023), Employer's Tax Guide to Fringe Benefits, https://www.irs.gov/publications/p15b#en_US_2023_publink1000193667;
Internal Revenue Service, Publication 970, Tax Benefits for Education, <https://www.irs.gov/pub/irs-pdf/p970.pdf>.

section on employer-provided educational assistance programs to the IRS webpage. These resources should be clearly visible and prominently displayed on the IRS webpage.

- 3) Finally, we ask that the IRS communicate expanded section 127 benefits and new resources to employers and employees, including, but not limited to, transmitting this information through IRS e-newsletters for business owners.⁹

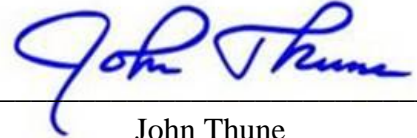
We are hopeful that by providing additional resources and informing employers and employees of section 127 benefits, we will address our shared goals of promoting workforce development, improving worker recruitment and retention, and providing much-needed student loan debt relief.

We appreciate your attention to this matter and look forward to your prompt response.

Sincerely,



Mark R. Warner
United States Senator



John Thune
United States Senator

⁹ Internal Revenue Service, e-News Subscriptions, <https://www.irs.gov/newsroom/e-news-subscriptions>.