Proposed Internal Revenue Code §37 – Injured Military Personnel Higher Education Credit

Brief Summary:

The proposed code section provides assistance to military personnel injured in active duty in a combat zone so that they may purchase equipment necessary to attend a higher education institution.

Refundable credits are codified in IRC sections 31-36. We propose §37 Injured Military Personnel Higher Education Credit

Proposed New Internal Revenue Code Section

§37 Injured Military Personnel Higher Education Credit –

General - Under this provision a taxpayer may claim a yearly refundable credit, not to exceed $1,000, during the years that they are at least a part time student pursuing the completion of a degree from a *qualified institution* if they are a *qualified taxpayer* suffering from a *qualified injury*.

(a) Qualified Taxpayer –

The term qualified taxpayer shall be defined under this provision of the Internal Revenue Code as any member of the United States military that suffered a qualifying injury while serving in an active combat zone, as allowed by Internal Revenue Code §112(c)(2), beginning after September 11, 2001.

(b) Qualified Injury –

A qualified injury is any injury as defined under Internal Revenue Code §104(b)(3) that is detrimental to the pursuit or completion of a degree program from a qualified institution. Further, these injuries may be physical or mental in nature, and shall be diagnosed from a medical professional that

(1) is qualified to and currently is a practicing professional in their respective field, and,

(2) is not a related party to the taxpayer as so defined under Internal Revenue Code §267.

(c) Qualified Institution –

A qualified institution shall be defined as it is described under section 481 of the Higher Education Act of 1965 (20 U.S.C 1088) as in effect on October 3, 2007, and which is eligible to participate in a program under title IV of such Act. Such institutions generally are accredited post-secondary educational institutions offering credit toward a bachelor's degree, an associate's degree, a graduate level or professional degree, or another recognized post-secondary credential. Certain proprietary institutions and post-secondary vocational institutions also are eligible institutions. The institution must be eligible to participate in Department of Education student aid programs.

(d) Computation –

The Education Enhancement Credit shall be calculated as 50% of qualifying expenses (as defined by subsection (e) of this provision) not to exceed $2,000. Any credit amount in excess of $1,000 shall be carried forward so long as the qualified taxpayer remains at least a part-time student pursuing the completion of a degree program.

(1) Limitation –

The credit amount shall be reduced by 20% of amounts in excess of adjusted gross income beginning at $25,000 and ending at $30,000 for an individual ($50,000 and $55,000, respectively, for married filing jointly).

***(2)* Exception to Limitation –**

In the case where both spouses are qualified individuals filing married filing jointly and that have incurred qualifying expenses then the range of income $50,000 and $55,000 detailed under subsection (d)(1) of this provision shall be replaced by $50,000 and $60,000.

(e) Qualified Expenses –

The term qualified expense holds meaning as any expense incurred for the means of mitigating, curing, or otherwise lessening the impact of the taxpayers' injury in order to enhance or allow for the completion of a degree program. Further, the expense must be incurred after receiving a diagnosis and prescription for such remedy by a medical professional as outlined under paragraphs (b)(1) and (b)(2) of this provision for such injury as defined under subsection (b). The amount of expenses considered in the tax base shall be reduced by any expenses used for a medical deduction on schedule A of the taxpayer's tax return, but shall not be reduced by any use of funds that were received from a non-taxable distribution allowed from the G.I. Bill.