NACUBO

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November 13, 2017

The Honorable Paul Ryan
Speaker of the House
The Capitol, Room H-232
Washington, D.C. 20515

The Honorable Kevin McCarthy
Majority Leader, U.S. House of Representatives
2421 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Nancy Pelosi
Minority Leader, U.S. House of Representatives
233 Cannon House Office Building
Washington, D.C. 20515

Dear Speaker Ryan and Leaders McCarthy and Pelosi:

The National Association of College and University Business Officers (NACUBO) is writing to comment on H.R. 1, the Tax Cuts and Jobs Act. The legislation includes provisions that will have negative consequences for students and families and works squarely against college affordability. NACUBO represents college and university business officers at more than 1,900 public and private nonprofit colleges and universities. We are dedicated to sound fiscal and administrative practices at institutions of higher education.

The higher education sector—which includes colleges large and small and with a variety of missions including theological seminaries, music conservatories, religious institutions, liberal arts colleges, community colleges, and comprehensive research universities—stands to be uniquely and adversely impacted by several proposed tax changes in the Tax Cuts and Jobs Act.

NACUBO supports the overarching goals that tax writers have expressed for reform—simplifying the tax code, ensuring fairness, and promoting economic growth. However, the aftereffects of enacting many of the proposed changes to our nation's colleges and universities will leave our world-class system of postsecondary education with fewer resources to meet the needs of future generations of college students.

There are more than 3,300 public and private nonprofit colleges and universities in the U.S., educating nearly 19 million students, engaging in more than $67 billion in research and development, and contributing to a vast array of public service endeavors. College graduates contribute significantly to our economy in numerous ways—data shows that they earn significantly more than high school graduates, and many rewarding occupations require postsecondary education. Research also demonstrates that educational attainment is correlated with health, longevity, satisfaction with work, and civic engagement.

We urge lawmakers to closely examine the potential consequences of the Tax Cuts and Jobs Act proposals discussed below that could significantly alter both revenue streams and expenditures at institutions of higher education and put undesirable upward pressure on tuition and fees.

We have organized our most pressing areas of concern into these areas:

1. The proposed elimination of private activity bonds and advance refunding bonds.
2. The proposed 1.4 percent excise tax on the endowments of private colleges and universities.
3. Proposed changes to student and family education tax benefits, both individual and employer-provided.
4. The impact of changes to the standard deduction on charitable giving.
5. The impact of changes to state and local tax deductions on higher education.

Title III Business Tax Reform

Subtitle G-Bond Reforms

Sec. 3601. Termination of Private Activity Bonds

Sec. 3602. Repeal of Advance Refunding Bonds

Tax-exempt bond financing is available to nonprofit colleges and universities as *qualified 501(c)(3) private activity bonds*. H.R. 1 proposes to eliminate both private activity bonds as well as advance refunding bonds (which are available to both public and private colleges), despite the fact that these are essential tools for infrastructure and development.

Private nonprofit colleges and universities, just like their public counterparts, rely on the beneficial financial terms created by tax-exempt bonds to acquire, construct, renovate, and expand capital infrastructure such as academic buildings, residence halls, modern energy plants, and more. The interest rate spread between taxable and tax-exempt bonds typically ranges between 150 and 200 basis points, yielding significant savings on what are often multi-million-dollar construction projects. This lower financing cost allows colleges and universities to meet the needs of growing campuses while keeping tuition lower than would be the case if taxable financing was used.

For many institutions, revenue from tuition or gifts simply does not provide sufficient funds to build, expand, and renovate as is necessary to meet their missions. H.R. 1's proposal to eliminate private activity bonds will significantly increase borrowing costs and result in diminished investments in infrastructure, higher costs, fewer jobs, reduced services, and increased costs, charges, and fees for students.

NACUBO strongly urges House Members to protect and maintain qualified 501(c)(3) private-activity bonds and advance refunding bonds. Access to these bonds contributes significantly to the financial health of colleges and universities across the United States.

Title V Exempt Organizations

Subtitle B-Excise Taxes

Sec. 5103. Excise tax based on investment income of private colleges and universities

Endowed funds—at colleges, universities, private secondary schools, nonprofit hospitals, arts organizations, museums, churches, and many other private 501(c)3 organizations—represent the institution or organization's promise to donors to use income and investment gains generated by their gifts to support an aspect of its mission, usually in perpetuity. Nonprofits organizations, large and small, maintain endowments or other reserves that enable them to respond to unforeseen changes or seize new opportunities in pursuit of their respective missions.

At postsecondary institutions, endowments are critical for student financial aid (scholarships), but they also serve as funding sources for faculty, libraries, laboratories, campus housing, student services, and other components that are key to a student's education. Endowments also support research and public service missions, such as innovations in nanotechnology, medical research, or university-based youth and community development programs; all this spending combined serves to relieve pressure on tuition revenue and help keep college affordable for students and their families.

The proposed 1.4 percent endowment excise tax in H.R. 1 fundamentally alters the tax treatment of nonprofit entities and undermines both the purpose and nature of tax-exempt status itself.

This tax would result in fewer dollars available for scholarships, student services, research, and college and university operating expenses. Further, it represents a departure from the current federal commitment to philanthropic freedom—the right of Americans to choose how and where to spend their charitable assets.

While NACUBO appreciates modifications made to the proposed tax in an amendment to H.R. 1 offered by Congressman Kevin Brady, the tax itself sets a negative precedent in the treatment of tax-exempt organizations and directs money away from their missions.

NACUBO strongly urges House Members to respect the intent of individuals making charitable donations, recognize the needs filled by endowed funds, and oppose any excise tax on college and university endowments, which is contrary to the good of higher education.

Title I Tax Reform for Individuals

Subtitle C-Simplification and Reform of Education Initiatives

Sec. 1201. The American Opportunity Tax Credit (AOTC)

NACUBO supports simplifying and adjusting the incentives that help students and families pay for college and employers build a skilled workforce. However, H.R. 1's proposal to eliminate the Lifetime Learning Credit, while adding only one additional year of eligibility to the American Opportunity Tax Credit, which excludes part-time students, is detrimental to non-traditional students, graduate students, and the many working professionals who utilize the Lifetime Learning Credit to afford retraining needed to advance in the workplace. **NACUBO urges lawmakers to retain a higher education tax credit option for part-time students.**

Sec. 1204. Repeal of other provisions relating to education.

H.R. 1 also proposes to eliminate the Student Loan Interest Deduction (SLID). This deduction, which already includes a phase-out for high earning taxpayers, helps millions of Americans offset borrowing costs and promotes higher education affordability. Eliminating this provision would mean that, over the next decade, the cost of student loans for borrowers would increase by roughly $13 billion.

In addition to eliminating the Lifetime Learning Credit and SLID, H.R. 1 would eliminate two forms of employer-provided tax-exempt tuition assistance that help many middle- and low-income employees in all sectors afford a college education.

Section 117(d) provides a valuable education benefit to many individuals and is an important tool for colleges and universities in recruiting and retaining valued employees. If a higher education institution chooses to offer this tuition reduction benefit, then all employees must be able to receive it, but most employees benefitting from the provision are low- and middle-income. According to a 2017 survey of nearly 300 institutions by the College and University Professional Association for Human Resources, 50 percent of employees receiving tuition reductions for themselves or family members earned $50,000 or less, and 78 percent earned $75,000 or less.

Section 117(d)(5) reduces the cost of graduate education and mitigates the tax liability of graduate students engaged in teaching and/or research as part of their academic programs. Without this provision, thousands of graduate students would be subjected to either a major tax increase or a significant increase in tuition as universities would be forced to curtail tuition reductions. This would likely lead to increased student debt as many of these students would be forced to borrow to pay these taxes or their tuition bills.

Section 127, also proposed for elimination in H.R. 1, allows employers in all sectors to offer employees tuition assistance that is excluded from taxable income. Like 117(d), this benefit must be offered to all employees on a non-discriminatory basis to ensure that the benefit cannot favor the highly compensated.

The benefits offered by Section 127 enable employers to attract the best possible employees and build a skilled workforce. It is not a benefit largely used by traditional students, but rather students working to build their skills while also employed. Section 127 helps support U.S. competitiveness and its elimination will discourage private sector funding for financial aid, particularly for low- and middle-income individuals**. These education incentives should be retained.**

Title I Tax Reform for Individuals

Subtitle A-Simplification and Reform of Rates, Standard Deduction, and Exemptions

Sec. 1002. Enhancement of the standard deduction

H.R. 1's proposed changes to the standard deduction, without enactment of a universal charitable deduction, will have a chilling effect on private giving that is crucial for colleges and universities. The Joint Committee on Taxation has estimated that H.R. 1 would spur a dramatic drop in the amount of charitable giving in the U.S., with 32 million fewer people making charitable donations after its enactment compared to current law and potentially $100 billion less in giving to nonprofit institutions. Conversely, a study by Indiana University's Lilly Family School of Philanthropy and the Independent Sector found that the inclusion of a universal charitable deduction in tax reform would result in a $4.8 billion increase in charitable giving at a modest cost to the federal government.

It is unlikely that the government could find a better way to leverage private investment in postsecondary education than with the charitable deduction. With limited funding from federal and state governments and pressure to limit tuition increases, charitable giving helps colleges and universities provide an affordable, quality education.

NACUBO urges House Members to include a universal charitable deduction in H.R. 1 to provide a giving incentive to all American taxpayers in recognition of the public service provided by all nonprofit entities.

Title I Tax Reform for Individuals

Subtitle D-Simplification and Reform of Deductions

Sec. 1303. Repeal of deduction for certain taxes not paid or accrued in a trade or business

H.R. 1's elimination of the deduction for state and local income and sales tax, together with the proposed cap on the deduction for state and local property taxes, will result in downward pressure on state and local government spending.

Given the long-term decline in state support for higher education funding, it is likely that this downward pressure will result in even further funding cuts for public postsecondary institutions. Funding cuts at the state level often lead to increased pressure on tuition revenue that only raise college costs and limit access. NACUBO has serious concerns with this provision.

There are a number of other provisions in H.R. 1 that will also increase costs at colleges and universities. Combined, this legislation could significantly limit operating revenues and increase expenditures—which will only serve to create pressure to increase tuition and fees.

In conclusion, the aggregate impact of the Tax Cuts and Jobs Act proposals outlined above will have a disruptive impact on our nation's institutions of higher education. If enacted, they will cumulatively work against college affordability and access and increase cost and regulatory burden. For these reasons, NACUBO cannot support H.R. 1 and urges House Members to work with the higher education community to address these pressing concerns.

Sincerely,

John Walda
President and Chief Executive Officer