

AN EXAMINATION OF TAX EXPENDITURES FOR EDUCATOR EXPENSES UNDER INTERNAL REVENUE CODE §62(a)(2)(D): A POLICY ANALYSIS

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ABSTRACT

In a society where emphasis is placed on student achievement and teachers are pressured to raise academic standards, data indicate that teachers spend a significant amount of their own money to ensure that students have the materials and supplies needed to learn and ultimately succeed while in the classroom. SASS (Schools and Staffing Survey/National Center for Education Statistics/nces.ed.gov) reported that in 2007-2008, approximately 92.4% teachers spent their own money for classroom supplies; the average amount used to purchase materials amounted to \$450. To further highlight the significance of monies spent by teachers on materials for students, NSSEA (National School Supply and Equipment Association) reported that in 2012-2013 teachers spent \$1.6 billion of their own money to purchase student supplies. In 2002, in response to such concerns, Congress enacted Internal Revenue Code (IRC) §62(a)(2)(D), otherwise known as the Educator Expenses Deduction, which allows teachers who instruct in K-12 to deduct up to \$250 (\$500 if married filing jointly and both spouses are educators) of any unreimbursed education expenses. Many of these expenses include books, supplies, computer equipment, and supplementary materials used in the classroom that would otherwise be deductible under §162 (Ordinary and Necessary Business Expenses), but subject to a 2 % Adjusted Gross Income Limitation. The Educator Expenses Deduction has been expended several times since 2004, and is set to expire after December 31, 2013. The purpose of this paper is to examine the extent taxpayers have benefited from this provision, summarizing the legislative history, and make the argument that §62(a)(2)(D) be made a permanent provision; in addition, the authors have evidence to support the claim that the provision should be expanded to allow parents of qualified dependents enrolled in K-12 schools to deduct similar ancillary non-instructional costs, which are currently non-deductible.

INTRODUCTION

In the United States, education, particularly at the K-12 (kindergarten to 12th grade), continues to be a national priority, insuring that the best resources and educational opportunities to our children, but that we also maintain a competitive edge among the leading nations. Yet, as a nation, the U.S. is falling behind in the global economic competition as we cut resources, lay off school teachers and stray away from educational priorities. As a result, several stakeholders are paying the price; mainly our teachers and our students. In order for our students to properly develop and succeed in the classroom, teachers often have to 'go the extra mile' to create a high quality educational experience. School districts across the country are confronting significant budget cuts, causing reductions in classroom resources and supplies. Therefore, many school

teachers have to reach into their own pockets to purchase necessary school supplies for their students. SASS (Schools and Staffing Survey/National Center for Education Statistics/nces.ed.gov) reported that in 2007-2008, approximately 92.4% teachers spent their own money for classroom supplies; the average amount used to purchase materials amounted to \$450 (www.nced.ed.gov/surveys/sass/tables/sass0708_004_tln.asp). Five years later in the 2012-2013 academic school year, in a survey conducted by Perry Research Professionals, in conjunction with the National School Supply and Equipment Association (NSSEA), teachers spent approximately \$1.6 billion dollars of their own money to ensure that children from K-12 received additional resources and materials needed to help equip them to succeed in the classroom for the school year (www.nssea.org/docs/2013%20Retail%20Awareness%20Study%20Press%20Release.pdf). It was found that, on average, teachers for 2012-2013 academic year spent approximately \$454 in school/classroom supplies and another \$491 on instructional materials, totaling an average of \$945 in out-of-pocket costs (www.nssea.org/docs/2013%20Retail%20Awareness%20Study%20Press%20Release.pdf).

In 2002, as a remedy to educators (K-12) expending unreimbursed costs for educational expenses, Congress enacted as part of the *Job Creation and Worker Assistance Act*, (P.L. 107-147), Internal Revenue Code (IRC) section 62(a)(2)(D), which is known as the Educator Deduction. The deduction allows educators the ability to deduct up to \$250 in unreimbursed educational expenses (defined more fully later in the paper). While this above-the-line income tax deduction provides modest tax relief, in 2011 (the most recent year of reported IRS data), approximately 3.82 million taxpayers claimed up to \$962 million in educator expense deductions. This income tax deduction, IRC §62(a)(2)(D), is scheduled to expire after December 31, 2013 if Congress does not take action to extend this tax provision.

The purpose of this paper is to examine the extent taxpayers have benefited from this provision since 2002, summarizing the brief legislative history, and make the argument that IRC §62(a)(2)(D) be made a permanent provision; in addition, the authors have evidence to support the claim that the provision should be expanded to allow parents of qualified dependents enrolled in K-12 schools to deduct similar ancillary non-instructional costs, which are currently non-deductible.

THE IMPORTANCE OF INSTRUCTIONAL EXPENSES IN CLASSROOM LEARNING

While the goals and objectives of this paper are not to discuss teaching methods, styles and methodology, it is important to acknowledge scholars and educators who have identified and recognized the importance of having visual components and elements within the classroom to stimulate learning and educational development. According to Edgar Dale's *Cone of Experience*, students retain approximately 10% of what they read, 20% of what they hear, 30% of what they see, 50% of what they see and hear, 70% if what they say and 90% of what they say and do (Edgar, 1969, p. 108). Therefore, there are multiple ways to engage students in classroom activities to make certain they are effectively learning and absorbing valuable information. Such activities are inclusive of auditory, visual, tactile-kinesthetic, affective and technology options (Gargiulo, 2012). It is a culmination of these teaching strategies that require investments in construction paper for posters, markers for drawings, and additional supplies for diagrams and other illustrations.

Given that many students are in fact visual learners, it is imperative to supplement classroom lessons and assignments with visual components such as flip boards, photos, pictures, maps, charts and diagrams. The simple task of walking into an elementary school and seeing walls adorned with visual elements such as book club images and art projects reflective of the

techniques of famous artists, Jackson Pollock or Vincent Van Gogh, is enough to support the theory that children and educators alike, see the value in showcasing, displaying and portraying educational elements and components learned in the classroom. Once again, the above mentioned studies from the Schools and Staffing Survey (SASS) and the National School Supply and Equipment Association (NSSEA) confirm that teachers spend a significant amount of their *own* resources for school supplies. The following information from the United States government supports the notion that educators are indeed, most likely bearing the cost on school supplies as states and school districts are struggling to simply retain teachers due to budgetary cutbacks and restraints.

According to whitehouse.gov, initiatives have been put in place to make sure that states and school districts can maintain their teachers despite the plethora of budget cuts due to an economic recession. In 2009, President Obama signed *The American Recovery and Reinvestment Act* into law. As a result, roughly 300,000 educators' jobs were spared as a result (www.whitehouse.gov/issues/education). To highlight the sense of urgency around maintaining teachers, the president also signed into law the *Education Jobs Bill* in 2010 which also, provided states with \$10 billion in emergency funding, which allowed 130,000 teachers to remain in the classroom (www.whitehouse.gov/issues/education). Funds have thus been established to attempt to protect teachers and their jobs. However, when we look at supplemental supplies and materials needed to enhance a child's education, it is quite often the voluntary actions of an educator which determines whether or not a child or a classroom is enhanced with visually stimulating bulletin boards, displays and print-outs.

Companies such as Staples and OfficeMax recognize that teachers spend money on school supplies and as a result, Staples offers teachers a 5% discount as well as free shipping and OfficeMax hosts teacher appreciation days in which educators can receive up to 25% off. OfficeMax also provides 5% back in rewards as well as a recycling rewards program on ink and toner cartridges (www.officemaxperks.com). Gift Card Granny, an online website, provides a list of 77 stores which provide teacher discounts (www.giftcardgranny.com). On this list you will not only find Staples and OfficeMax but also companies such as FedEx Office, Michael's, A.C. Moore, and Barnes & Noble, many which offer 15% off entire purchases. Teachers are spending money on equipping their students with supplies and companies realize this, as well as the students' parents.

While teachers are paying for supplies, many could argue that families and specifically, parents of school children are helping to provide classroom supplies. Yet, when looking once more at the National School Supply and Equipment Association (NSSEA) survey, it was revealed that only 25% of parents were required to either financially contribute or donate classroom materials (www.nssea.org/docs/2013%20Retail%20Awareness%20Study%20Press%20Release.pdf). Even a simple request of soliciting the assistance of parents is not necessarily an easy task; the survey found that this percentage was significantly down from 2010 when the above-mentioned statistic was at 47%. State legislatures and laws vary substantially, with some states banning parents from financially contributing to their children's free public education. For example, California state law AB1575, passed in 2012 which prohibits public school administrators or teachers from asking for support from parents (www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1551-1600/ab_1575_bill_20120831_enrolled.html). Additionally, in Michigan, a law enacted decades ago prohibits parents of public school children to either provide or pay or pay for school supplies (www.mackinac.org/18916).

With the country still recovering from an economic recession, with teachers unsure about their own job security, and parents unable to financially support schools/classrooms, a huge burden

falls on the educator who understands the importance and value of providing visual stimulation, aid and assistance to their pupils. To go into a kindergarten or first grade class with bare walls is not only unheard of but arguably unacceptable. An assumption that teachers are expected to provide such visual aids and, if the finances are not available, they will use their own resources to subsidize the resources needed for a visually stimulating experience as well as an educational one for their students. As indicated earlier, the Educator Expenses Deduction was created in 2002 to assist teacher-taxpayers with unreimbursed costs of purchasing school supplies.

THE EDUCATOR EXPENSES DEDUCTION

The Educator Expenses Deduction, IRC §62(a)(2)(D), was created in 2002 as part of the *Job Creation and Worker Assistance Act*, which was a stimulus tax bill aimed at using tax expenditures (revenue losses) to ignite positive economic outcomes. According to *IRS Publication 17: Your Federal Income Tax, Individual*, the educator deduction rules are as follows:

Educator Expenses

If you were an eligible educator in 2013, you can deduct on Form 1040, line 23, or Form 1040A, line 16, up to \$250 of qualified expenses you paid in 2013. If you and your spouse are filing jointly and both of you were eligible educators, the maximum deduction is \$500. However, neither spouse can deduct more than \$250 of his or her qualified expenses on Form 1040, line 23, or Form 1040A, line 16. You may be able to deduct expenses that are more than the \$250 (or \$500) limit on Schedule A (Form 1040), line 21.

Eligible educator. An eligible educator is a kindergarten through grade 12 teacher, instructor, counselor, principal, or aide who worked in a school for at least 900 hours during a school year.

Qualified expenses. Qualified expenses include ordinary and necessary expenses paid in connection with books, supplies, equipment (including computer equipment, software, and services), and other materials used in the classroom. An ordinary expense is one that is common and accepted in your educational field. A necessary expense is one that is helpful and appropriate for your profession as an educator. An expense does not have to be required to be considered necessary.

Qualified expenses do not include expenses for home schooling or for nonathletic supplies for courses in health or physical education.

Taxpayers must reduce qualified expenses by the following amounts:

Excludable U.S. series EE and I savings bond interest from Form 8815. See *Figuring the Tax-Free Amount* in chapter 10 of Publication 970.

Nontaxable qualified tuition program earnings or distributions. See *Figuring the Taxable Portion of a Distribution* in chapter 8 of Publication 970.

Nontaxable distribution of earnings from a Coverdell education savings account. See *Figuring the Taxable Portion of a Distribution* in chapter 7 of Publication 970.

Any reimbursements you received for these expenses that were not reported to you in box 1 of your Form W-2.

IRC §62(a)(2)(D) STRUCTURED AS A TAX DEDUCTION

Many tax provisions contained in the U.S. Tax Code are inserted for specific industries or special interests. In this case, this provision was targeted at K-12 teachers. Unlike federal spending (direct expenditures) through the annual appropriations process, tax expenditures are viewed by political actors as “a less intrusive, less bureaucratic alternative to government regulations or

direct expenditures” (Howard, 1997, p. 9). Passing a new direct spending program oftentimes can create new bureaucracies within the government, followed-up with new regulations. Tax expenditures, on the other hand, often are supported in a bipartisan manner. Moreover, tax expenditures have one distinct attribute: ambiguity. Howard (1997) argues ambiguity of the policy makes them more difficult to defeat:

Perhaps the most important attribute of tax expenditures is their *ambiguity*. Tax expenditures can be defended politically on at least four distinct grounds: as aid to some needy category of citizens; as a subsidy to third-party providers in the private sector, who furnish most of the goods and services underwritten by the tax code; as tax reductions and as alternatives to traditional government programs (i.e., direct expenditures and regulations) . . . [s]uch ambiguity helps proponents of new tax expenditures forge broader coalitions of support than proponents of direct expenditures are typically able to do” [insert] (Howard, 1997, p. 11).

According to Howard’s argument, it is easier to propose a *tax* expenditure (deduction or credit in the U.S. Tax Code) rather than a *direct* expenditure, which is subject to Congressional action in the annual appropriations process.

BENEFIT USE INDEXES OF EDUCATOR EXPENSES

Table 1 below indicates the benefit use indexes of the Educator Expenses deduction for ten (10) tax years, from 2002 to 2011 for all tax filers in the aggregate. The benefit use index is calculated by taking the dollar amount of the deduction claimed in each respective tax year divided by the number of taxpayers who claimed (claimants) the tax deduction. **Table 1** is reflected in thousands.

Table 1: Educator Deduction Claimants (Aggregate) 2002-2011

<i>Tax Year</i>	All Tax Filers		
	<i>Dollar Claims</i>	<i>Number of Claimants</i>	<i>Benefit Use Index</i>
2002	\$ 712,505	2,884,403	0.25
2003	\$ 805,734	3,240,673	0.25
2004	\$ 858,457	3,402,468	0.25
2005	\$ 877,796	3,503,719	0.25
2006	\$ 805,568	3,166,931	0.25
2007	\$ 925,997	3,654,214	0.25
2008	\$ 947,072	3,753,395	0.25
2009	\$ 970,392	3,841,466	0.25
2010	\$ 915,028	3,614,291	0.25
2011	\$ 962,429	3,824,221	0.25

Source: IRS, Statistics of Income (1998 to 2011)

In each of the tax years, the benefit use index was a constant 0.25. As the dollar amount of the deduction increased proportionately for most of the tax years, so did the number of claimants. Further, the maximum amount of the deduction has remained at \$250 since enactment. In 2002, the first year of the deduction, approximately \$712 million in deductions were claimed by approximately 2.88 million taxpayers. In 2011, the most recent year of IRS summarized data,

approximately \$962 million in deductions were claimed by approximately 3.82 million taxpayers. From 2002 to 2011, there was an increase in the dollar amount of deduction claims of approximately 35 percent; in addition, during this ten-year period, there was a 32.5 percent increase in the number of claimants. As the data reveal, the Educator Expenses deduction has become a popular tax expenditure with millions of K-12 teachers.

The benefit use index is extremely low overall for this tax deduction, largely given that the maximum deduction is \$250 (\$500 if both married taxpayers are educators). Compared to the home mortgage interest deduction under IRC §163(h)(A), in 2010, approximately 37.4 million taxpayers deducted mortgage interest of approximately \$414.7 billion (IRS, Statistics of Income, 2010), translating into a benefit use index of 11.06; the Educator Expenses deduction benefit use index is significantly smaller in comparison.

In examining the data further, **Table 2** below indicates the benefit use index for *joint tax filers*. The rate is a constant 0.26 is slightly higher, largely due to the ability to deduct up to \$500 if both taxpayers are educators. Also, the number of claimants increased approximately 24 percent between 2002 and 2011; the dollar amount of claims increased approximately 26.6 percent during this period.

Table 2: Educator Deduction Claimants (Joint) 2002-2011

<i>Tax Year</i>	Joint Tax Filers		
	<i>Dollar Claims</i>	<i>Number of Claimants</i>	<i>Benefit Use Index</i>
2002	\$ 502,183	1,960,650	0.26
2003	\$ 554,943	2,154,133	0.26
2004	\$ 584,623	2,228,444	0.26
2005	\$ 596,238	2,303,038	0.26
2006	\$ 559,872	2,127,200	0.26
2007	\$ 622,538	2,365,208	0.26
2008	\$ 629,484	2,403,567	0.26
2009	\$ 645,399	2,450,382	0.26
2010	\$ 611,494	2,318,975	0.26
2011	\$ 635,830	2,426,050	0.26

Source: IRS, Statistics of Income (1998 to 2011)

Table 3 below indicates the benefit use index for *single tax filers*. The rate is a constant 0.23 is slightly lower, largely due to the deduction limitation of \$250 per taxpayer. Also, the number of claimants increased approximately 51 percent between 2002 and 2011; the dollar amount of claims increased approximately 55 percent during this period. There is no discernable reason for this significant increase other than that teacher-claimants have had to assume more of the costs of educational materials since the deduction was enacted.

Table 3: Educator Deduction Claimants (Single) 2002-2011

<i>Tax Year</i>	Single Tax Filers		
	<i>Dollar Claims</i>	<i>Number of Claimants</i>	<i>Benefit Use Index</i>
2002	\$ 139,995	619,538	0.23
2003	\$ 165,316	720,756	0.23
2004	\$ 188,112	812,416	0.23
2005	\$ 189,215	810,678	0.23
2006	\$ 172,211	734,441	0.23
2007	\$ 204,817	878,646	0.23
2008	\$ 217,894	932,954	0.23
2009	\$ 221,728	956,484	0.23
2010	\$ 203,549	876,106	0.23
2011	\$ 216,910	932,701	0.23

Source: IRS, Statistics of Income (1998 to 2011)

Each of the tables above reflect that more taxpayers are benefiting from the Educator Expenses deduction. The fact that the number of claimants and dollar amount of the benefits have increased significantly since 2002 indicate, preliminarily, that teacher-claimants may be shifted more of the cost of classroom materials. While these descriptive statistics are in the aggregate and inferential tests cannot be made in this format, the ten-year window of data do reveal that there may be a behavior shift that has taken place.

PROPOSAL TO EXPAND EDUCATOR EXPENSES DEDUCTION

Since the benefit use indexes from 2002 to 2011 indicate that approximately 3.82 million teacher-claimants (in 2011) claimed a deduction for unreimbursed educator costs. As of this writing, Congress has not indicated any intention to extend IRC §62(a)(2)(D), which is scheduled to expire after December 31, 2013. However, these authors argue that not only should the deduction be extended, it should be reclassified from a temporary tax expenditure to a permanent tax expenditure; moreover, since the average unreimbursed cost of school supplies and classroom materials has increased to approximately \$945, the deduction cap of \$250 should be increased modestly to \$350, then indexed annually for inflation.

One of the important benefits to this deduction is that it is an above-the-line deduction, meaning that it can be offset as an adjustment to total income in tabulating adjusted gross income. Congress structured the deduction this way since many school teachers earn lower pay, on average, preventing some teachers from itemizing deductions.

In addition to the deduction cap being increased, Congress should consider allowing parents of K-12 children to deduct up to \$100 annually in school costs. While the Educator Expenses deduction was intended only for educators, parents are having to subsidize a significant portion of the costs for learning materials, school supplies, uniforms in public schools, software, etc. It is the belief of the authors that if Congress were to allow such a deduction for parents, costs expended by parents of both public and private school should be allowed this modest deduction.

CONCLUSION

The Educator Expenses deduction allows up to \$250 in deductibility for educators for unreimbursed school supply expenses under IRC §62(a)(2)(D). This paper outlined the importance of providing children with the necessary supplies and materials that will assist them in their learning, creating a vibrant and inviting space for learning with bulletin boards, and stimulating their thinking with these necessary learning materials. Some of our greatest assets in America are our school teachers, many who are underpaid and expected to deliver an ambitious curriculum in K-12 classrooms. This paper highlighted the benefit use indexes of the educator expenses deduction from 2002 to 2011 and the importance of extending this deduction (and raising the cap) in order to assist school teachers pay for unreimbursed educational supply costs.

REFERENCES

Edgar, Dale. (1969) *Audio-Visual Methods in Teaching*. 3rd ed., Holt, Rinehart & Winston, New York.

Gargiulo, R. M., & Metcalf, D. (2012). *Teaching in Today's Inclusive Classrooms: A Universal Design*

For Learning Approach. Retrieved September 1, 2013. www.cengagebrain.com

Gantert, Tom. 2013, July 24. School Districts Cannot Require Parents to Buy School Supplies. Retrieved September 1, 2013 from <https://www.mackinac.org/18916>

Howard, C. (1997). *The Hidden Welfare State: Tax Expenditures and Social Policy in the United States*. Princeton, NJ: Princeton Press.

Internal Revenue Service. (2013). Publication 17, *Your Federal Income Taxes for Individuals*. <http://www.irs.gov/pub/irs-pdf/p17.pdf>

Internal Revenue Service. (2011). Statistics of Income. www.irs.gov .

Internal Revenue Service. (2010). Statistics of Income. www.irs.gov .

Internal Revenue Service. (2009). Statistics of Income. www.irs.gov .

Internal Revenue Service. (2008). Statistics of Income. www.irs.gov .

Internal Revenue Service. (2007). Statistics of Income. www.irs.gov .

Internal Revenue Service. (2006). Statistics of Income. www.irs.gov .

Internal Revenue Service. (2005). Statistics of Income. www.irs.gov .

Internal Revenue Service. (2004). Statistics of Income. www.irs.gov .

Internal Revenue Service. (2003). Statistics of Income. www.irs.gov .

Internal Revenue Service. (2002). Statistics of Income. www.irs.gov .

Retrieved September 8, 2013 from www.whitehouse.gov/issues/education

Retrieved September 8, 2013 from http://nces.ed.gov/surveys/sass/tables/sass0708_004_t1n.asp

Retrieved September 8, 2013 from
<http://www.nssea.org/docs/2013%20Retail%20Awareness%20Study%20Press%20Release.pdf>

Retrieved September 8, 2013 from
<http://www.nssea.org/docs/2013%20Retail%20Awareness%20Study%20Press%20Release.pdf>

Retrieved October 11, 2013 from <http://www.whitehouse.gov/issues/education>

Retrieved October 11, 2013 from <http://www.whitehouse.gov/issues/education>

Retrieved October 11, 2013 from <http://www.officemaxperks.com>

Retrieved December 7, 2013 from <http://www.goiftcardgranny.com>

Retrieved September 8, 2013 from
<http://www.nssea.org/docs/2013%20Retail%20Awareness%20Study%20Press%20Release.pdf>

Retrieved September 8, 2013 from
<http://www.nssea.org/docs/2013%20Retail%20Awareness%20Study%20Press%20Release.pdf>

Retrieved September 8, 2013 from http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1551-1600/ab_1575_bill_20120831_enrolled.html