

## CAA Benefits Alert: Employers May Now Pay Employees Student Loan Assistance Benefits Until 2026

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The Consolidated Appropriations Act, 2021 (CAA) includes a provision allowing employers to make tax-free payments on their employees' student loans of up to \$5,250 per year through January 1, 2026. This is a five-year extension of a provision originally enacted in the CARES Act. With student loan debt estimated to be \$1.6 trillion, this extension allows employers to assist employees by repaying student loan debts on a tax-favored basis.

### BACKGROUND – STUDENT LOAN BENEFITS UNDER THE CARES ACT

Until the passage of the CARES Act, employers were mostly unable to provide tax-favored student loan benefits. The CARES Act, passed in March 2020, included a temporary provision permitting employers to adopt educational assistance programs that pay employees or their lenders up to \$5,250 per year on a tax-free basis to defray student loan debt expenses. Specifically, the CARES Act amended Section 127 of the Internal Revenue Code (Code) to provide that payments of up to \$5,250, made before January 1, 2021, by an employer either to the employee or to a lender of principal and/or interest on qualified education loans will not be taxable to the employee.

For the first time, employers were permitted to assist employees with already incurred student loan debt. However, as the CARES Act only allowed such student loan benefits until January 1, 2021, many employers did not have the opportunity to adopt a student loan educational assistance program.

### THE CAA'S EXTENSION OF STUDENT LOAN BENEFITS

Section 120 of the Taxpayer Certainty and Disaster Tax Relief Act of 2020, recently enacted as part of the CAA, extends the CARES Act's original January 1, 2021 deadline to January 1, 2026. This will allow employers the ability to provide educational assistance programs for an additional five years and will likely result in more employers adopting such programs for the benefit of employees.

### REQUIREMENTS FOR EDUCATIONAL ASSISTANCE PROGRAMS

Employer-provided educational assistance programs must meet certain requirements to provide tax-advantaged student loan benefits, such as having a written plan document. In addition, all educational assistance payments made by employers must be treated as additional employer contributions rather than in lieu of employee compensation. Participating employees may not receive both a loan payment and a deduction on interest paid on such debt.

**Winston Takeaway:** Due to the CAA's five-year extension of the Code Section 127 rule, employers will likely be more willing to adopt educational assistance programs allowing student loan principal and interest to count as employer-provided educational assistance. *To help alleviate student loan debt for their employees, interested employers must adopt a written program for direct payments to employees or lenders.*

This article is part of our “Unpacking the Employee Benefits Provisions in the Consolidated Appropriations Act, 2021” series. Click [here](#) for other CAA-related articles. Please contact a member of the Winston & Strawn Employee Benefits and Executive Compensation Practice Group or your Winston relationship attorney for further information.

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