

Calendar No. 365

112TH CONGRESS
2^D SESSION

S. 2343

To amend the Higher Education Act of 1965 to extend the reduced interest rate for Federal Direct Stafford Loans, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 24 (legislative day, APRIL 23), 2012

Mr. REID introduced the following bill; which was read twice and ordered placed on the calendar

A BILL

To amend the Higher Education Act of 1965 to extend the reduced interest rate for Federal Direct Stafford Loans, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Stop the Student Loan
5 Interest Rate Hike Act of 2012”.

6 **SEC. 2. INTEREST RATE EXTENSION.**

7 Section 455(b)(7)(D) of the Higher Education Act of
8 1965 (20 U.S.C. 1087e(b)(7)(D)) is amended—

1 (1) in the matter preceding clause (i), by strik-
2 ing “and before July 1, 2012,” and inserting “and
3 before July 1, 2013,”; and

4 (2) in clause (v), by striking “and before July
5 1, 2012,” and inserting “and before July 1, 2013,”.

6 **SEC. 3. EMPLOYMENT TAX TREATMENT OF PROFESSIONAL**
7 **SERVICE BUSINESSES.**

8 (a) IN GENERAL.—Section 1402 of the Internal Rev-
9 enue Code of 1986 is amended by adding at the end the
10 following new subsection:

11 “(m) SPECIAL RULES FOR PROFESSIONAL SERVICE
12 BUSINESSES.—

13 “(1) SHAREHOLDERS PROVIDING SERVICES TO
14 SPECIFIED S CORPORATIONS.—

15 “(A) IN GENERAL.—In the case of an ap-
16 plicable shareholder who provides substantial
17 services with respect to a professional service
18 business referred to in subparagraph (C) of a
19 specified S corporation—

20 “(i) such shareholder shall be treated
21 as engaged in the trade or business of such
22 professional service business with respect
23 to items of income or loss described in sec-
24 tion 1366 which are attributable to such
25 business, and

1 “(ii) such shareholder’s net earnings
2 from self-employment shall include such
3 shareholder’s pro rata share of such items
4 of income or loss, except that in computing
5 such pro rata share of such items the ex-
6 ceptions provided in subsection (a) shall
7 apply.

8 “(B) TREATMENT OF FAMILY MEMBERS.—
9 Except as otherwise provided by the Secretary,
10 the applicable shareholder’s pro rata share of
11 items referred to in subparagraph (A) shall be
12 increased by the pro rata share of such items
13 of each member of such applicable shareholder’s
14 family (within the meaning of section
15 318(a)(1)) who does not provide substantial
16 services with respect to such professional serv-
17 ice business.

18 “(C) SPECIFIED S CORPORATION.—For
19 purposes of this subsection, the term ‘specified
20 S corporation’ means—

21 “(i) any S corporation which is a
22 partner in a partnership which is engaged
23 in a professional service business if sub-
24 stantially all of the activities of such S cor-

1 poration are performed in connection with
2 such partnership, and

3 “(ii) any other S corporation which is
4 engaged in a professional service business
5 if 75 percent or more of the gross income
6 of such business is attributable to service
7 of 3 or fewer shareholders of such corpora-
8 tion.

9 “(D) APPLICABLE SHAREHOLDER.—For
10 purposes of this paragraph, the term ‘applicable
11 shareholder’ means any shareholder whose
12 modified adjusted gross income for the taxable
13 year exceeds—

14 “(i) in the case of a shareholder mak-
15 ing a joint return under section 6013 or a
16 surviving spouse (as defined in section
17 2(a)), \$250,000,

18 “(ii) in the case of a married share-
19 holder (as defined in section 7703) filing a
20 separate return, half of the dollar amount
21 determined under clause (i), and

22 “(iii) in any other case, \$200,000.

23 “(2) PARTNERS.—

24 “(A) IN GENERAL.—In the case of any
25 partnership which is engaged in a professional

1 service business, subsection (a)(13) shall not
2 apply to any applicable partner who provides
3 substantial services with respect to such profes-
4 sional service business.

5 “(B) APPLICABLE PARTNER.—For pur-
6 poses of this paragraph, the term ‘applicable
7 partner’ means any partner whose modified ad-
8 justed gross income for the taxable year ex-
9 ceeds—

10 “(i) in the case of a partner making
11 a joint return under section 6013 or a sur-
12 viving spouse (as defined in section 2(a)),
13 \$250,000,

14 “(ii) in the case of a married partner
15 (as defined in section 7703) filing a sepa-
16 rate return, half of the dollar amount de-
17 termined under clause (i), and

18 “(iii) in any other case, \$200,000.

19 “(3) PROFESSIONAL SERVICE BUSINESS.—For
20 purposes of this subsection, the term ‘professional
21 service business’ means any trade or business (or
22 portion thereof) providing services in the fields of
23 health, law, lobbying, engineering, architecture, ac-
24 counting, actuarial science, performing arts, con-

1 sulting, athletics, investment advice or management,
2 or brokerage services.

3 “(4) MODIFIED ADJUSTED GROSS INCOME.—
4 For purposes of this subsection, the term ‘modified
5 adjusted gross income’ means adjusted gross in-
6 come—

7 “(A) determined without regard to any de-
8 duction allowed under section 164(f), and

9 “(B) increased by the amount excluded
10 from gross income under section 911(a)(1).

11 “(5) REGULATIONS.—The Secretary shall pre-
12 scribe such regulations as may be necessary or ap-
13 propriate to carry out the purposes of this sub-
14 section, including regulations which prevent the
15 avoidance of the purposes of this subsection through
16 tiered entities or otherwise.

17 “(6) CROSS REFERENCE.—For employment tax
18 treatment of wages paid to shareholders of S cor-
19 porations, see subtitle C.”.

20 (b) CONFORMING AMENDMENT.—Section 211 of the
21 Social Security Act is amended by adding at the end the
22 following new subsection:

23 “(1) SPECIAL RULES FOR PROFESSIONAL SERVICE
24 BUSINESSES.—

1 “(1) SHAREHOLDERS PROVIDING SERVICES TO
2 SPECIFIED S CORPORATIONS.—

3 “(A) IN GENERAL.—In the case of an ap-
4 plicable shareholder who provides substantial
5 services with respect to a professional service
6 business referred to in subparagraph (C) of a
7 specified S corporation—

8 “(i) such shareholder shall be treated
9 as engaged in the trade or business of such
10 professional service business with respect
11 to items of income or loss described in sec-
12 tion 1366 of the Internal Revenue Code of
13 1986 which are attributable to such busi-
14 ness, and

15 “(ii) such shareholder’s net earnings
16 from self-employment shall include such
17 shareholder’s pro rata share of such items
18 of income or loss, except that in computing
19 such pro rata share of such items the ex-
20 ceptions provided in subsection (a) shall
21 apply.

22 “(B) TREATMENT OF FAMILY MEMBERS.—
23 Except as otherwise provided by the Secretary
24 of the Treasury, the applicable shareholder’s
25 pro rata share of items referred to in subpara-

1 graph (A) shall be increased by the pro rata
2 share of such items of each member of such ap-
3 plicable shareholder's family (within the mean-
4 ing of section 318(a)(1) of the Internal Revenue
5 Code of 1986) who does not provide substantial
6 services with respect to such professional serv-
7 ice business.

8 “(C) SPECIFIED S CORPORATION.—For
9 purposes of this subsection, the term ‘specified
10 S corporation’ means—

11 “(i) any S corporation (as defined in
12 section 1361(a) of the Internal Revenue
13 Code of 1986) which is a partner in a
14 partnership which is engaged in a profes-
15 sional service business if substantially all
16 of the activities of such S corporation are
17 performed in connection with such partner-
18 ship, and

19 “(ii) any other S corporation (as so
20 defined) which is engaged in a professional
21 service business if 75 percent or more of
22 the gross income of such business is attrib-
23 utable to service of 3 or fewer shareholders
24 of such corporation.

1 “(D) APPLICABLE SHAREHOLDER.—For
2 purposes of this paragraph, the term ‘applicable
3 shareholder’ means any shareholder whose
4 modified adjusted gross income for the taxable
5 year exceeds—

6 “(i) in the case of a shareholder mak-
7 ing a joint return under section 6013 of
8 the Internal Revenue Code of 1986 or a
9 surviving spouse (as defined in section 2(a)
10 of such Code), \$250,000,

11 “(ii) in the case of a married share-
12 holder (as defined in section 7703 of such
13 Code) filing a separate return, half of the
14 dollar amount determined under clause (i),
15 and

16 “(iii) in any other case, \$200,000.

17 “(2) PARTNERS.—

18 “(A) IN GENERAL.—In the case of any
19 partnership which is engaged in a professional
20 service business, subsection (a)(12) shall not
21 apply to any applicable partner who provides
22 substantial services with respect to such profes-
23 sional service business.

24 “(B) APPLICABLE PARTNER.—For pur-
25 poses of this paragraph, the term ‘applicable

1 partner' means any partner whose modified ad-
2 justed gross income for the taxable year ex-
3 ceeds—

4 “(i) in the case of a partner making
5 a joint return under section 6013 of the
6 Internal Revenue Code of 1986 or a sur-
7 viving spouse (as defined in section 2(a) of
8 such Code), \$250,000,

9 “(ii) in the case of a married partner
10 (as defined in section 7703 of such Code)
11 filing a separate return, half of the dollar
12 amount determined under clause (i), and

13 “(iii) in any other case, \$200,000.

14 “(3) PROFESSIONAL SERVICE BUSINESS.—For
15 purposes of this subsection, the term ‘professional
16 service business’ means any trade or business (or
17 portion thereof) providing services in the fields of
18 health, law, lobbying, engineering, architecture, ac-
19 counting, actuarial science, performing arts, con-
20 sulting, athletics, investment advice or management,
21 or brokerage services.

22 “(4) MODIFIED ADJUSTED GROSS INCOME.—
23 For purposes of this subsection, the term ‘modified
24 adjusted gross income’ means adjusted gross income

1 as determined under section 62 of the Internal Rev-
2 enue Code of 1986—

3 “(A) determined without regard to any de-
4 duction allowed under section 164(f) of such
5 Code, and

6 “(B) increased by the amount excluded
7 from gross income under section 911(a)(1) of
8 such Code.”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to taxable years beginning after
11 December 31, 2012.

12 **SEC. 4. COMPLIANCE PROVISION.**

13 The budgetary effects of this Act, for the purpose of
14 complying with the Statutory Pay-As-You-Go-Act of 2010,
15 shall be determined by reference to the latest statement
16 titled “Budgetary Effects of PAYGO Legislation” for this
17 Act, submitted for printing in the Congressional Record
18 by the Chairman of the Senate Budget Committee, pro-
19 vided that such statement has been submitted prior to the
20 vote on passage.

Calendar No. 365

112TH CONGRESS
2^D SESSION
S. 2343

A BILL

To amend the Higher Education Act of 1965 to extend the reduced interest rate for Federal Direct Stafford Loans, and for other purposes.

APRIL 24, 2012

Read twice and ordered placed on the calendar