Insight

Options for a New Federal Education Tax Credit

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Given the Administration's public record of support promoting the growth of educational choice options as a way to structurally reform public education, speculation is growing that federal policymakers are considering options to amend the federal tax code by offering a newly designed tax program that would offset the cost of school choice in elementary and secondary education. These costs generally include private school tuition and fees, online learning programs, private tutoring, dual enrollment programs, and other approved customized learning services and materials.[1]

The specifics of the program have yet to be revealed, but two options have been discussed amongst lawmakers, advocates, and pundits. The first, and by far most popular option, could be the creation of a tax credit for scholarship programs. The second could be a tax credit funded education savings account. For both options, there are existing state programs that federal policymakers could emulate as well as legislation that has been introduced in this and previous Congresses.

Tax Credit for Scholarships

Tax credits for scholarship programs allow individual or corporate taxpayers to receive full or partial tax credits when they donate to scholarship granting nonprofit organizations (SGOs). SGOs provide scholarships for private school choice, or may award grants to cover per-pupil expenditures to exercise public school choice and/or transportation assistance to students choosing alternative public schools.

Florida provides an example of a similarly structured tax credit program at the state level. That program provides state tax credits to encourage private, voluntary contributions from corporate donors to SGOs that award scholarships to eligible children of low-income families.

A student is eligible for a scholarship from a SGO, if the student qualifies for free or reduced-price school lunch provided by the National School Lunch Program or is on the direct certification list; or if the student is currently, or recently has been, in foster care.

For the 2015-16 school year, scholarships totaling $419 million were awarded to 79 thousand students enrolled in 1,602 participating schools. Since 2011-12, the programs initial year, the amount of scholarships awarded has increased 185 percent. The number of participating students has increased 95 percent, and the growth of participating schools has increased 32 percent.[2]

Another example lawmakers could look towards for program design is the Educational Opportunities Act (S.148) (H.R.895). As summarized by the Congressional Research Service, this legislation, first introduced in 2013 by Senator Marco Rubio and Representative Todd Rokita but never passed in either chamber, would create a federal tax credit of up to $4,500 for individuals and up to $100,000 for corporations that make donations to SGOs. Those organizations would award the funds to low-income families, who could use the money to attend private schools, including those run by religious groups. It also imposes a penalty on SGOs that fail to distribute at least 90% of their total receipts for elementary and secondary school expenses in a taxable year.[3]

There are currently 20 tax credit for scholarship programs enacted in 19 states (Pennsylvania has 2 separate programs).

Education Savings Accounts

Education savings account (ESA) programs create personal accounts for the purpose of depositing taxpayer funded education dollars. Parents can then access the ESA to pay for school tuition and fees, textbooks, tutoring and special therapies and other approved expenses, so that their child's education is truly customizable. ESA participants are able to choose the best individualized education options for their children through multiple providers.

Currently, five states have authorized the use of ESAs, though only Arizona and Florida have funded the programs. Federal policymakers could utilize any of these five models to design a federal program, however, to do so through the tax code would require a slightly different funding mechanism. While the Arizona and Florida programs receive direct appropriations, a federally designed ESA program could instead rely on individual or corporate donations to fund the savings accounts, and in return would offer a tax credit. Like the limits set forth in the Educational Opportunities Act, contributions to a federal ESA program could be limited to $4,500 for individuals and up to $100,000 for corporations.

As previously stated, the advantage of adopting an ESA program is customization. Unlike scholarship programs which generally provide funding for tuition and fees, ESAs can cover private school tuition and fees, online learning programs, private tutoring, community college costs, higher education expenses and other approved customized learning services and materials. ESAs could even allow students to use their funds to pay for a combination of public school courses and private services. This is truly an individualized approach to education.

Building Support

The Trump administration has steadily built momentum and expectation for enacting school choice policies at the federal level. During his campaign, Donald Trump outlined a plan to create a $20-billion-dollar block grant to entice states to adopt school choice programs; and then promised to use the bully pulpit to browbeat those states not motivated by federal funds into implementing school choice programs.

After the election, President Trump nominated Betsy DeVos – a well-known school choice advocate – as Secretary of Education, and stood by her through a bruising confirmation process that ended with a historic tie-breaking vote in the Senate cast by Vice President Pence.

In President Trump's first address to a joint Congress, he called on the legislature "to pass an education bill that funds school choice for disadvantaged youth." By doing so the President again signaled that he was acting to fulfill another campaign promise. He also sent a clear message, that he would sign such legislation into law.

President Trump recently used his budget blueprint to call for a $1.4 billion increased investment over 2017 funding, to support public and private school choice for fiscal year 2018. Included in this $59 billion top-line proposal for education is a $250 million (0.423 percent of $59 billion) pilot program for private school choice vouchers, $1 billion increase for Title I funding, with the caveat that the new money must follow the eligible child to their school of choice, and a $168 million increase for the Charter Schools program.

Managing Expectations

The actions taken by the Administration have built up anticipation for an impending tsunami ready to flood the educational choice marketplace with a wave of federal cash. However, as with all public policies, the details are important, and though President Trump's public record of support has grown, the details offered by his administration regarding how these programs get enacted, have not.

For instance, the administration's budget blueprint also insists on a $54 billion increase in defense-spending funded at the expense of non-defense, foreign aid, and domestic programs, which seems to be working at cross-purposes. This shift in funding priorities for discretionary spending would make money for a newly authorized domestic policy block-grant program, like the one described by the budget blueprint, difficult to find – though not impossible.

Another troubling factor is the absence of the Administration's plan for entitlement spending and or tax reform (i.e. reduce one and generate more revenue from the other). This void fails to provide the Congress with an inspired vision of how it might pay for new, federally funded, school choice programs. On the bright side, the lack of a tax reform plan leaves room for the President to include school choice tax-credits in the his budget details expected in May.

Meanwhile, dissention in the majority party in Congress and the inability to pass a bill that would repeal and replace the Affordable Care Act, which is the first step in the budget reconciliation process, calls into question the possibility of future reconciliation measures which would potentially include a new education tax credit.

Take away this legislative tool, which only requires a simple majority vote in the Senate, and the inclusion of a new school choice tax program relies on the adoption of a much broader tax measure that could meet a 60-vote threshold. While an education tax credit would be small fish in a big pond of overarching tax reform legislation, historically school choice measures lack the necessary support needed for passage.

Lastly, the history of stifling federal regulations and oversight that accompany federal funds should provide advocates of a new school choice tax credit program some discomfort, and perhaps even a measure of doubt. Proponents only need to look as far back as the Common Core debate to gauge whether federal funds are worth the cost of giving up the autonomy to use individualized, targeted, mission driven, secularly motivated, selectively populated, and otherwise alternative models and approaches to providing much needed options in public education.

Conclusion (and Caution)

Either tax credit option would provide a growing school choice market with an influx of federally collected, federally distributed, taxpayer dollars – which could provide the financing boost needed to alleviate the languishing hopes of millions of students currently on waitlists for better educational options. Many of these options have effectively demonstrated growth in education achievement. However, the road to enacting a new federal school choice tax credit is challenging and will require constant leadership, and assuming the Trump administration successfully navigates it – the perils of federal regulations will still lay ahead.

[1] https://www.edchoice.org/school-choice/types-of-school-choice/education-savings-account/

[2] http://www.fldoe.org/core/fileparse.php/15230/urlt/FTC_Sep_2016.pdf

[3] https://www.congress.gov/bill/115th-congress/house-bill/895?q=%7B%22search%22%3A%5B%22Educational+Opportunities+Act%22%5D%7D&r=1