

Part III - Administrative, Procedural and Miscellaneous

Returns Relating to Higher Education Tuition and Related Expenses

Notice 97-73

PURPOSE

This notice describes the information reporting requirements for 1998 under § 6050S of the Internal Revenue Code (as enacted by the Taxpayer Relief Act of 1997, Pub. L. No. 105-34, § 201(c), 111 Stat. 804 (the Act)) that apply to certain educational institutions in connection with the Hope Scholarship Credit and the Lifetime Learning Credit. The Treasury Department intends to issue regulations on the information reporting required under § 6050S. Pending the issuance of those regulations, this notice describes who must report information, and the nature of the information that will be required to be reported under § 6050S for 1998.

BACKGROUND

A. The Hope Scholarship and Lifetime Learning Credits.

Section 201(a) of the Act, 111 Stat. 799, added § 25A to the Code. Section 25A allows certain taxpayers who pay qualified tuition and related expenses to an eligible educational institution to claim a Hope Scholarship Credit or a Lifetime Learning Credit against their federal income tax liability. The Hope Scholarship Credit is available for qualified tuition and

related expenses paid after December 31, 1997, in taxable years ending after that date for education furnished in academic periods beginning after December 31, 1997. The Lifetime Learning Credit is available for qualified tuition and related expenses paid after June 30, 1998, in taxable years ending after that date for education furnished in academic periods beginning after June 30, 1998. The term "academic period" includes a semester, trimester, quarter, or any other period designated as a period of instructional time by the educational institution. For this purpose, an academic period begins on the first day of classes, and does not include periods of student orientation, counseling, or vacation.

For a taxpayer to be eligible for the Hope Scholarship Credit or the Lifetime Learning Credit, qualified tuition and related expenses must be paid by the taxpayer to an eligible educational institution for the taxpayer, the taxpayer's spouse or any dependents. Payments by a taxpayer's dependents are to be treated as having been made by the taxpayer. The Hope Scholarship Credit is available only for the qualified tuition and related expenses of students enrolled at least half-time in the first two years of postsecondary education and can be claimed in no more than two years for each student.

Qualified tuition and related expenses are the tuition and fees an individual is required to pay in order to be enrolled at or attend an eligible educational institution. Amounts paid for any course or other education involving sports, games, or hobbies

are not eligible for the credit, unless the course or other education is part of the student's degree program. Charges and fees associated with room, board, student activities, athletics, insurance, books, equipment, transportation, and similar personal, living, or family expenses are not qualified tuition and related expenses.

An eligible educational institution is a college, university, vocational school, or other postsecondary educational institution that is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088) and, therefore, is eligible to participate in the student aid programs administered by the Department of Education. This category includes virtually all accredited public, nonprofit, and proprietary postsecondary institutions.

Notice 97-60, 1997-46 I.R.B. 8, provides additional information about the Hope Scholarship Credit and the Lifetime Learning Credit.

B. Information Reporting Relating to Qualified Tuition and Related Expenses.

Section 6050S(a) requires eligible educational institutions that receive payments of qualified tuition and related expenses or make reimbursements or refunds of qualified tuition and related expenses to submit an annual information report to the Service with respect to each student on whose behalf the payments are received or the reimbursements or refunds are made. Section 6050S(a) also requires each person engaged in a trade or business

who makes a reimbursement or refund of qualified tuition and related expenses to submit an annual information report to the Service with respect to each student on whose behalf the reimbursements or refunds are paid. The terms "eligible educational institution" and "qualified tuition and related expenses" have the same meanings for purposes of § 6050S as they do for purposes of the Hope Scholarship Credit and the Lifetime Learning Credit.

Section 6050S(b) provides that the return of information must be in the form prescribed by the Secretary and contain:

(1) the name, address, and taxpayer identification number (TIN) of the individual with respect to whom the qualified tuition and related expenses were received or the reimbursement or refund was paid,

(2) the name, address, and TIN of any individual certified by the individual named in the first item as the taxpayer who will claim that individual as a dependent for purposes of the deduction under § 151 for any taxable year ending with or within the year for which the information return is filed,

(3) the aggregate amount of payments of qualified tuition and related expenses received by the eligible educational institution or the aggregate amount of reimbursements or refunds (or similar amounts) paid during the calendar year with respect to the individual named in the first item, and

(4) such other information as the Secretary may prescribe.

Section 6050S(d) provides that every person required to make

an information return under § 6050S(a) shall furnish to each individual whose name is required to be included in the return a written statement showing the name, address, and phone number of the reporting person's information contact, and the aggregate amounts required to be included in the return.

DISCUSSION

A. Who Must File for 1998.

For 1998, an eligible educational institution that receives payments of qualified tuition and related expenses in 1998 must file an information return with the Service with respect to each student on whose behalf payments were received. An eligible educational institution that makes reimbursements or refunds of tuition or related expenses to a student during 1998, that equal or exceed payments of qualified tuition or related expenses received on behalf of that student during 1998, is not required to file an information return or furnish a statement with respect to that student for 1998.

An institution is not required to provide a report with respect to a student whose tuition and related expenses were waived in their entirety or paid entirely with scholarships because it will have received no payments of qualified tuition and related expenses on behalf of such a student.

Persons, other than eligible educational institutions, engaged in a trade or business and making reimbursements or refunds of qualified tuition and related expenses will not be required to file information returns or furnish statements of

reimbursements or refunds for 1998.

For purposes of providing these information reports, an eligible educational institution should provide reports on students who are enrolled in the institution for any academic term beginning in 1998. An institution should determine its enrollment for each term as of any of the following three dates:

- (a) 30 days after the first day of the academic term;
- (b) a date during the term on which enrollment data must be collected for purposes of the Integrated Postsecondary Education Data System administered by the Department of Education; or
- (c) a date during the term on which the institution must report enrollment data to the State, the institution's governing board or some other external governing body.

An institution should provide a single information report for each student on whose behalf qualified tuition and related expenses have been received in 1998 even if the institution receives more than one payment on that student's behalf during 1998.

B. Information Required for 1998.

Eligible educational institutions required under this notice to file information returns for 1998 must properly complete Form 1098-T, Tuition Payments, for each student with respect to whom information reporting is required. For 1998, a properly completed Form 1098-T filed with the Service must include:

(1) the name, address, and TIN of the eligible educational institution,

(2) the name, address, and TIN of the individual with respect to whom payments of qualified tuition and related expenses were received during 1998,

(3) an indication as to whether the individual named in the second item was enrolled for at least half the full-time academic workload during any academic period commencing in 1998, and

(4) an indication as to whether the individual named in the second item was enrolled exclusively in a program or programs leading to a graduate-level degree, graduate-level certificate, or other recognized graduate-level educational credential.

For purposes of section 25A and the reporting required under § 6050S, a student will be considered to be enrolled at least half-time if the student is enrolled for at least half the full-time academic workload for the course of study the student is pursuing as determined under the standards of the institution where the student is enrolled. The institution's standard for a full-time workload must equal or exceed the standards established by the Department of Education under the Higher Education Act and set forth in 34 C.F.R. § 674.2(b).

Although in the future institutions will be required to provide the additional information specified in § 6050S (e.g., the amount of qualified tuition and related expenses received and/or reimbursed), the IRS will not impose penalties on an

institution that does not provide this information for 1998.

C. When To File

The information returns required under § 6050S for 1998 must be sent to the Service by March 1, 1999.

D. Manner of Filing

Eligible educational institutions may file the information returns required by § 6050S for 1998 on paper or by magnetic media. Additional guidance will be issued providing further information on how to file returns by magnetic media. In addition, the Service is exploring electronic filing options and will issue further guidance when such options become available.

E. Statements To Be Provided to Students

Each eligible educational institution must provide each student with respect to whom an information return is filed a statement containing the same information that is provided to the Service on the information return required by § 6050S. In addition, the statement provided to the student must contain the phone number of the individual serving as information contact at the eligible educational institution that made the return. The statement with respect to qualified tuition and related expenses paid in 1998 must be provided to the student by February 1, 1999. The statement may be a copy of Form 1098-T or an acceptable substitute statement.

F. Collecting Information

The Service is developing an optional Form W-9S for use in

collecting information for the purpose of complying with § 6050S. Eligible educational institutions will be able to use the form to collect a student's name, address, and TIN. The form is being designed so that it can also be used to collect any information necessary to meet the information reporting requirements associated with the student loan interest deduction provided by new § 221. Eligible educational institutions will be able to collect information from students for 1998 information reporting purposes on a paper or an electronic version of Form W-9S (or an acceptable substitute). The eligible educational institution also may collect the necessary information by using its own forms and procedures.

Eligible educational institutions that are also federal, state or local government agencies are required to provide certain disclosures under the Privacy Act when collecting social security numbers from individuals. See 5 U.S.C. § 552a. The Form W-9S will contain a Privacy Act disclosure statement.

G. Waiver of Penalties.

The Treasury Department intends to issue regulations under § 6050S providing guidance on how institutions are to comply with the requirements of the statute. Until the regulations are adopted, no penalties will be imposed under §§ 6721 and 6722 for failure to file correct information returns with the Service or to furnish correct statements to the individuals with respect to whom information reporting is required under § 6050S. Furthermore, even after the regulations are adopted, no penalties

will be imposed under §§ 6721 and 6722 for failure to file correct information returns or furnish correct written statements for 1998 as required by § 6050S if the institution made a good faith effort to file information returns and furnish statements in accordance with this notice.

DRAFTING INFORMATION

The principal author of this notice is John McGreevy of the Office of the Assistant Chief Counsel (Income Tax & Accounting). For further information regarding this notice contact him on (202) 622-4910 (not a toll-free call).