

Part IV – Items of General Interest

Limited Penalty Relief for Filers of Form 1098-T, *Tuition Statement*

Announcement 2016-42

This announcement provides notice that the IRS is extending relief from penalties under sections 6721 and 6722, as described in Announcement 2016-17, IRB 2016-20, to 2017 Forms 1098-T, *Tuition Statement*. Accordingly, the IRS will not impose penalties under section 6721 or 6722 on eligible educational institutions with respect to Forms 1098-T required to be filed and furnished for the 2017 calendar year under section 6050S if the eligible educational institution reports the aggregate amount billed for qualified tuition and related expenses on Form 1098-T instead of the aggregate amount of payments received as required by section 212 of the Protecting Americans from Tax Hikes Act of 2015 (Public Law 114-113 (129 Stat. 2242 (2015)))(PATH). Eligible educational institutions, therefore, will continue to have the option of reporting either the amount of payments of qualified tuition and related expenses received in Box 1 of Form 1098-T or the amount of qualified tuition and related expenses billed in Box 2 of Form 1098-T for the 2017 calendar year without being subject to penalties.

The penalty relief in this announcement is limited to 2017 Forms 1098-T required

to be filed by eligible educational institutions by February 28, 2018 (or April 2, 2018, if filed electronically), and furnished to recipients by January 31, 2018. This announcement does not provide penalty relief for any other failure that would cause a filer to be subject to penalties under section 6721 or 6722, or any other penalty under any provision of the Code.

Background

Sections 6050S(a)(1) and 6050S(d) generally require eligible educational institutions to file information returns with the IRS and to furnish written statements to individuals relating to qualified tuition and related expenses paid by, or on behalf of, students. Section 6050S(b)(2) specifies the contents of the information return and, effective for expenses paid after December 31, 2015, requires eligible educational institutions to report the aggregate amount of payments received for qualified tuition and related expenses during the calendar year from, or on behalf of, a student. Previously, section 6050S(b)(2) allowed eligible educational institutions to report either the aggregate amount of payments received for qualified tuition and related expenses or the aggregate amount billed for such tuition and expenses. Section 1.6050S-1(b)(5) provides that information returns required under section 6050S must be filed by February 28 (or March 31 if filed electronically) of the year following the calendar year to which such returns relate. Section 6050S(d) provides that written statements required under that section must be furnished to recipients by January 31 of the year following the calendar year for which such statements are furnished.

Section 212 of PATH amended section 6050S(b)(2) and eliminated the option for eligible educational institutions to report aggregate qualified tuition and related

expenses billed for the calendar year. This amendment is effective for qualified tuition and related expenses paid after December 31, 2015, for education furnished in academic periods beginning after such date.

Section 6721 imposes a penalty for failure to file correct or timely information returns with the IRS. Section 6722 imposes a penalty for failure to furnish a correct or timely written statement to the recipient. These penalties do not apply if it is shown under section 6724 that the failure is due to reasonable cause and not due to willful neglect.

Form 1098-T is the information return for purposes of satisfying the reporting obligations described in sections 6050S(a)(1) and 6050S(d). Prior to enactment of section 212 of PATH, eligible educational institutions reported qualified tuition and related expenses on Form 1098-T either as payments received for the calendar year in Box 1 of the form or as amounts billed during a calendar year in Box 2 of the form. In Announcement 2016-17 the IRS provided notice that no penalties under section 6721 or 6722 will be imposed on eligible educational institutions with respect to Forms 1098-T required to be filed and furnished to individuals for the 2016 calendar year if the institution reports the aggregate amount billed for qualified tuition and related expenses on Form 1098-T instead of the aggregate amount of payments received as required by section 212 of PATH.

Penalty Relief

Representatives of eligible educational institutions have informed the IRS that despite diligent efforts on the part of eligible educational institutions and their software providers, the changes to accounting systems, software, and business practices that

eligible educational institutions must make to implement section 212 of PATH cannot be accomplished in time to apply these changes for calendar year 2017. To report the amount of payments received for calendar year 2017, eligible educational institutions must adopt a new payment application methodology beginning January 1, 2017. However, software vendors and service providers in this field do not yet have a solution in place implementing this new methodology.

In light of this, the IRS will extend the relief from penalties under sections 6721 and 6722, as described in Announcement 2016-17, to 2017 Forms 1098-T. Eligible educational institutions, therefore, will continue to have the option of reporting either the amount of payments of qualified tuition and related expenses received in Box 1 of Form 1098-T or the amount of qualified tuition and related expenses billed in Box 2 of Form 1098-T for the 2017 calendar year without being subject to penalties. Institutions should refer to the instructions for the 2017 Form 1098-T for further guidance for reporting these amounts. This penalty relief does not apply to any other failure subject to a penalty under section 6721 or 6722.

The principal author of this announcement is Gerald Semasek of the Office of Associate Chief Counsel (Procedure & Administration). For further information regarding this announcement, contact Gerald Semasek at (202) 317-6845 (not a toll-free call).