

## Part III. Administrative, Procedural, and Miscellaneous

### Information Reporting for Qualified Tuition and Related Expenses

#### Notice 2006-72

This notice contains questions and answers that provide guidance on the information reporting requirements for qualified tuition and related expenses under section 6050S of the Internal Revenue Code (Code).

#### BACKGROUND

The Taxpayer Relief Act of 1997 (Public Law 105-34 (111 Stat. 788)) added section 6050S to the Code. In general, section 6050S requires any eligible educational institution (institution) to file information returns and to furnish information statements to assist taxpayers and the Service in determining the amount of qualified tuition and related expenses (qualified expenses) for which an education tax credit is allowable under section 25A (as well as other tax benefits for higher education expenses). Congress amended section 6050S in the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206 (112 Stat. 685)) and Public Law 107-131 (115 Stat. 2410) (simplification of reporting requirements relating to higher education tuition and related expenses). As amended for calendar years beginning after December 31, 2002, section 6050S requires institutions to report either the aggregate amount of payments received, or the aggregate amount billed, for qualified tuition and related expenses (qualified expenses) during the calendar year with respect to each individual enrolled (a student) for any academic period. See Rev. Proc. 2005-50, 2005-32 I.R.B. 272 (consent to change method of reporting payments received or amounts billed). Institutions must separately report adjustments (*i.e.*, refunds or reimbursements of payments if an institution elects to report payments received, or reductions in charges if an institution elects to report amounts billed) made during the calendar year with respect to a student that relate to payments received, or amounts billed, for qualified expenses that the institution reported for a prior calendar year. In

addition, institutions must report the aggregate amount of scholarships or grants for the payment of a student's costs of attendance that the institution administered and processed during the calendar year. Institutions must separately report reductions made during the calendar year to the amount of scholarships or grants that the institution reported for a prior calendar year.

On December 19, 2002, the Treasury Department and the Service issued final regulations under section 6050S describing the information reporting requirements for institutions. See T.D. 9029, 2003-1 C.B. 403 [67 FR 77678] (Dec. 19, 2002). The final regulations are applicable for information returns required to be filed with the Service, and information statements required to be furnished to students, after December 31, 2003. For prior years, institutions were not required to include dollar amounts relating to qualified expenses or scholarships and grants on information returns and information statements.

Section 1.6050S-1(b)(2)(iii) of the Income Tax Regulations (regulations) provides that the amount of payments received for qualified expenses is determined by netting the amount of payments received for qualified expenses during the calendar year against any reimbursements or refunds of qualified expenses made during the calendar year that relate to payments received for qualified expenses during the same calendar year. Section 1.6050S-1(b)(3)(iii) provides that the amount billed for qualified expenses is determined by netting the amount billed for qualified expenses during the calendar year against any reductions in charges for qualified expenses made during the calendar year that relate to amounts billed for qualified expenses during the same calendar year.

Institutions are required to report the following information on Form 1098-T, "Tuition Statement," for calendar years 2006 and after:

(1) The name, address, and taxpayer identification number (TIN) of the institution;

(2) The name, address, and TIN of the student;

(3) The amount of payments received (Box 1), or the amount billed (Box 2), for qualified expenses during the calendar year;

(4) An indication whether an institution has changed its method of reporting (Box 3);

(5) The amount of any reimbursements or refunds of qualified expenses made during the calendar year that relate to payments received for qualified expenses that the institution reported for a prior calendar year, or the amount of any reductions in charges made during the calendar year that relate to amounts billed for qualified expenses that the institution reported for a prior calendar year (Box 4);

(6) The amount of any scholarships or grants that the institution administered and processed during the calendar year (Box 5);

(7) The amount of any reductions to scholarships or grants that the institution reported for a prior calendar year (Box 6);

(8) An indication whether any amounts billed, or payments received, for qualified expenses reported for the calendar year relate to an academic period that begins during the first three months of the following calendar year (Box 7);

(9) An indication whether the student was enrolled at least half-time for at least one academic period that began during the calendar year (Box 8); and

(10) An indication whether the student was enrolled in a graduate-level degree program during the calendar year (Box 9).

For rules on when a student may claim an education tax credit, see section 1.25A-5(e).

#### DISCUSSION

Q-1. Must an institution report amounts billed, or payments received, for a student who is not enrolled for an academic period during the calendar year when the institution bills the student, or receives payment, for qualified expenses, if the student will be enrolled for the first time for an academic period during the following calendar year?

A-1. No. Section 6050S(b)(2)(A) of the Code provides that institutions shall report only for students who are enrolled for an academic period beginning during

the calendar year (or enrolled for an academic period in a prior calendar year) and for whom a transaction which is required to be reported is made during the calendar year. This rule applies whether the institution elects to report amounts billed (*see* section 1.6050S-1(b)(3) of the regulations) or elects to report payments received (*see* section 1.6050S-1(b)(2)).

Section 1.6050S-1(d)(1) of the regulations permits an institution to determine the enrollment status of a student for each academic period under its own rules and policies, or as of any of the following dates:

(1) 30 days after the first day of the academic period;

(2) A date during the academic period on which enrollment data must be collected for purposes of the Integrated Post Secondary Education Data System administered by the Department of Education; or

(3) A date during the academic period on which the institution must report enrollment data to the State, the institution's governing body, or some other external governing body.

Q-2. Must an institution report for high school students attending classes at the institution prior to graduation from high school?

A-2. An institution must report for any student if the institution considers the student to be enrolled and a transaction for which reporting is required is made during the year with respect to the student.

Q-3. Must an institution report if a student is not enrolled for an academic period during the calendar year in which the institution makes an adjustment to amounts that the institution reported for a prior year in which the student was enrolled? For example, Student A was enrolled for an academic period during calendar year 2005. During 2005, Institution X bills Student A \$3,000 for qualified expenses and reports these amounts in Box 2. In 2005, after the tuition bill is sent, Student A reduces his courseload. During calendar year 2006, Institution X credits Student A's account with \$200, reflecting a \$200 reduction in charges for 2005. Student A is not enrolled for any academic period during calendar year 2006.

A-3. Yes. Section 6050S(b)(2)(A) of the Code and section 1.6050S-1(b)(2) and (b)(3) of the regulations provide that an institution must report for each stu-

dent enrolled for an academic period in a prior year (or enrolled for an academic period beginning during the calendar year) for whom an adjustment as described in sections 1.6050S-1(b)(2)(ii)(F) or (G) or 1.6050S-1(b)(3)(ii)(F) or (G) is made during the calendar year. Accordingly, for calendar year 2006, Institution X must report in Box 4 the \$200 adjustment made to amounts reported in Box 2 for calendar year 2005, even though Student A is not enrolled for an academic period during calendar year 2006.

Q-4. If an institution is not required to report because an exception to reporting under 1.6050S-1(a)(2) of the regulations applies to a category of students, may an institution nevertheless choose to report?

A-4. Yes. An institution that is not required to report because an exception to reporting applies to a category of students may nevertheless choose to report. Section 1.6050S-1(a)(1) of the regulations does not preclude optional reporting.

Q-5. Must an institution report if the regulations provide an exception to reporting for a category of students (other than non-resident alien individuals) and a student within that category requests the institution to report for a calendar year?

A-5. No. An institution is not required to report if an exception under section 1.6050S-1(a)(2)(ii)-(iv) of the regulations applies to a category of students and a student within that category requests that the institution report for a calendar year.

Q-6. In what circumstances must an institution report with respect to a student who is a non-resident alien individual?

A-6. Section 1.6050S-1(a)(2)(i) of the regulations provides that no reporting is required for non-resident alien individuals, unless the non-resident alien individual requests the institution to report for a calendar year. If a student who is a non-resident alien individual requests that the institution report for a calendar year, the institution must report with respect to that student, unless another exception under section 1.6050S-1(a)(2) applies. If a non-resident alien individual falls within a category of students covered by an exception under section 1.6050S-1(a)(2)(ii)-(iv) of the regulations for the calendar year, the institution is not required to report, even if the student requests the institution to report for the calendar year. *See* Q&A-5, above.

Q-7. The regulations provide an exception to reporting if a student's qualified expenses are covered by a "formal billing arrangement." What is a formal billing arrangement, and who may be a payor under a formal billing arrangement?

A-7. Section 1.6050S-1(a)(2)(iv)(B) of the regulations provides that a formal billing arrangement is an arrangement in which the institution: (1) bills only an employer or a governmental entity for education that the institution furnishes to a student and (2) does not maintain a separate financial account for the student. Where an employer is billed for a student's qualified expenses, the student must be an employee of the employer. Similar agreements with other institutional third party payors will also qualify as formal billing arrangements if the Service so determines in further published guidance or in a ruling or determination issued to the participants.

Q-8. What amounts must an institution report in Box 5 as scholarships or grants?

A-8. Section 6050S(b)(2)(B)(ii) of the Code provides that an institution must report the amount of any grants that the institution administered and processed during the calendar year for the payment of the student's costs of attendance. A student's costs of attendance may include both qualified expenses (such as tuition and required fees) and non-qualified expenses (such as room and board). The institution should report these amounts in Box 5. A qualified tuition reduction described in section 117(d) of the Code is not a scholarship or grant, and accordingly, should not be reported in Box 5; but such a reduction is relevant in determining the net amount reported in Box 2 if the institution elects to report amounts billed.

Whether an institution reported scholarship or grant amounts in Box 5 is not considered in determining amounts to be reported as payments received (Box 1) or as amounts billed (Box 2) for qualified expenses. An institution that elects to report payments received for qualified expenses generally must include the amount of scholarships and grants in Box 1, except any scholarship or grant that by its terms must be applied to expenses other than qualified expenses, such as room and board (*see* section 1.6050S-1(b)(2)(v) of the regulations). An institution that elects to report amounts billed for qualified

expenses may not reduce the amount reported in Box 2 by scholarships or grants.

Q-9. The regulations require an institution to report separately any reimbursements or refunds of qualified expenses (if an institution reports payments received) or any reductions in charges (if the institution reports amounts billed), and any reductions to scholarships, made during the calendar year that relate to amounts the institution reported for a prior calendar year. Does "a prior calendar year" refer to any prior calendar year for which reporting was required, or only the immediately preceding calendar year for which reporting was required?

A-9. The separate reporting requirement in section 6050S(b)(2)(B)(iii) of the Code applies to any prior calendar year for which reporting was required, and not only to the immediately preceding calendar year.

Q-10. Must an institution that voluntarily reported dollar amounts for calendar years before 2003 report with respect to adjustments in a later calendar year that relate to qualified expenses and scholarships or grants reported for calendar years before 2003?

A-10. The reporting of adjustments in a later calendar year that relate to qualified expenses and scholarships or grants reported for calendar years before 2003 is voluntary, as was the original reporting.

Q-11. If an institution elects to report amounts billed, how must the institution report increases in certain charges and reductions in other charges for the calendar year if the increases and reductions relate to amounts reported for a prior calendar year? For example, in December 2005, an institution bills \$1,000 for tuition and \$50 for required fees for the 2006 Spring term that will begin in January 2006. In January 2006, the institution bills an additional \$200 for tuition for the 2006 Spring term and reduces the charges for the previously billed required fees by \$10 for the 2006 Spring term. In August 2006, the institution bills \$1,000 for tuition for the 2006 Fall term. How must the institution report for calendar year 2005 and calendar year 2006?

A-11. Section 6050S of the Code requires reporting based on transactions that occur during a calendar year. This includes transactions which may relate to an academic period in a prior calendar

year. Section 1.6050S-1(b)(3)(ii)(c) of the regulations provides that an institution that elects to report amounts billed for qualified expenses must report the amount billed for qualified expenses with respect to the student during the calendar year. Accordingly, for calendar year 2005, the institution must report \$1,050 in Box 2. For calendar year 2006, the institution must aggregate the \$200 billed for the 2006 Spring term and the \$1,000 billed for the 2006 Fall term and report \$1,200 in Box 2. In addition, as provided in section 1.6050S-1(b)(3)(iv), the institution must separately report in Box 3 the \$10 reduction in charges made during calendar year 2006 that relates to amounts previously reported in Box 2 for calendar year 2005.

Q-12. If an institution elects to report payments received for qualified expenses, must an institution report payments for qualified expenses that it receives with respect to a student during the calendar year if the payment relates to an academic period that began during a prior calendar year?

A-12. Yes. Under section 1.6050S-1(b)(2) of the regulations, the institution must report all payments of qualified expenses received during the calendar year, even if one or more of the payments relate to an academic period that began during a prior calendar year.

Q-13. If an institution elects to report amounts billed for qualified expenses, how must the institution report amounts billed for qualified expenses during one calendar year if the institution administers and processes a scholarship or grant in the following calendar year for the same qualified expenses? For example, an institution bills \$1,000 for qualified expenses for the 2006 Spring term in December 2005. In January 2006, the institution administers and processes a scholarship for the same qualified expenses for the 2006 Spring term.

A-13. Section 6050S of the Code requires reporting based on transactions that occur during a calendar year. For calendar year 2005, under section 1.6050S-1(b)(3)(i) of the regulations, the institution must report in Box 2 the \$1,000 billed during the calendar year in Box 2. For calendar year 2006, under section 1.6050S-1(b)(3)(ii)(E), the institution must report in Box 5 the scholarship it administered and processed during 2006 for the 2006 Spring term, even though

the scholarship relates to amounts billed during calendar year 2005 for the same academic period. In addition, because scholarships or grants are not reductions in charges, they are not included in the amount reported in Box 4 as adjustments to amounts reported in Box 2 for calendar year 2005.

Q-14. Should an institution include any negative numbers on Form 1098-T?

A-14. No. Section 1.6050S-1(b)(1) of the regulations provides that, for purposes of section 1.6050S-1(b)(2), an adjustment to payments received means a reimbursement or refund. In addition, section 1.6050S-1(b)(1) provides that, for purposes of section 1.6050S-1(b)(3), an adjustment to amounts billed means a reduction in charges. Any adjustments to amounts billed or payments received (as applicable) reported for a prior year, and any reductions to scholarships or grants reported for a prior year, reflect downward adjustments. These adjustments are reported as positive numbers in Box 4 or Box 6, respectively.

Q-15. Must an institution report adjustments made during a calendar year if the adjustment relates to amounts not reported for a prior calendar year because an exception to reporting applied for the prior calendar year?

A-15. No. Under section 6050S(b)(2)(B)(iii) of the Code, an institution must report adjustments made during a calendar year that relate to amounts that were reported for a prior calendar year. If an amount was not reported for a prior calendar year because an exception to reporting applied for the prior calendar year, a related adjustment need not be reported under this section.

Q-16. Can an adjustment made during a calendar year exceed the amounts billed or payments received (as applicable) for qualified expenses that an institution reported for the immediately preceding calendar year?

A-16. Adjustments made during a calendar year may relate to amounts previously reported for multiple prior calendar years. In this situation, the adjustments may exceed the amount reported for the immediately preceding calendar year. For example, an institution reported \$5,000 billed for qualified expenses for calendar year 2004 and \$4,000 billed for calendar year 2005. In calendar year 2006, the in-

stitution reduces the charges for 2004 by \$2,000 and reduces the charges for 2005 by \$3,000. In this situation, for calendar year 2006, the institution must report \$5,000 in Box 4 as adjustments made during the calendar year that relate to amounts reported for prior calendar years, which exceeds the amount reported as billed in the preceding calendar year.

Q-17. Why does Form 1098-T include Box 8, the "half-time indicator?"

A-17. Section 25A of the Code provides, among other things, that the Hope Scholarship Credit is allowable for amounts paid for qualified expenses only for students enrolled at least half-time for one academic period that begins during the calendar year. Box 8 provides the Service with an indication that the Hope Scholarship Credit may be allowable for the student's qualified expenses.

Q-18. When should an institution check Box 8?

A-18. An institution should check Box 8 if for at least one academic period that began during the calendar year the student was enrolled for at least one-half of the normal full-time work load for the course of study the student is pursuing. The standard for what is half of the normal full-time work load is determined by each institution, but the standard may not be lower than the standard established by the U.S. Department of Education. See section 1.25A-3(d)(1)(ii) of the regulations.

Q-19. Should an institution check Box 8 if a student is not enrolled at least half-time during the calendar year when the institution bills, or receives payments, for qualified expenses, but the student will be enrolled at least-half time in the following calendar year?

A-19. No. If a student is not enrolled at least half-time for at least one academic period that begins during the calendar year for which reporting is required, the institution should not check Box 8.

Q-20. Why does Form 1098-T include Box 9, the "graduate-level indicator?"

A-20. Section 25A of the Code provides, among other things, that the Hope Scholarship Credit is allowable only for qualified expenses of a student who has not completed the first two years of post-secondary education; however, the Lifetime Learning Credit is available beyond the first two years of post-secondary education. Box 9 assists the Service in mon-

itoring compliance with respect to a student's eligibility for the Hope Scholarship Credit or the Lifetime Learning Credit. If Box 9 is checked, the Service is alerted to the fact that the Hope Scholarship Credit is not allowable for the student's qualified expenses because the student is beyond the first two years of post-secondary education and that the Lifetime Learning Credit may be allowable.

Q-21. When should an institution check Box 9?

A-21. An institution should check Box 9 if the student was enrolled as a graduate student during the calendar year.

Q-22. Should an institution check Box 9 if a student is not a graduate student during the calendar year when the institution bills, or receives payment, for qualified expenses, but the student will be a graduate student during the following calendar year?

A-22. No. The institution should not check Box 9 unless the student is enrolled as a graduate student for at least one academic period during the calendar year for which reporting is required.

Q-23. What telephone number must an institution include on the information statement furnished to the student?

A-23. Section 1.6050S-1(c)(1)(iii)(G) of the regulations requires institutions to include the telephone number of the information contact of the institution (*i.e.*, not the institution's general telephone number). The institution information contact must be an individual, or a department, that can answer questions about the information statement. The institution may not list only the institution's general telephone number. In addition, an institution may include information of a third-party service provider who may also answer questions about the information statement.

#### DRAFTING INFORMATION

The principal author of this notice is Karen E. Briscoe of the Office of Associate Chief Counsel (Procedure & Administration). For further information regarding this notice, contact Mrs. Briscoe at (202) 622-4910 (not a toll-free call).

## Weighted Average Interest Rate Modification

### Notice 2006-75

This notice provides guidance as to the determination of the weighted average interest rate and the resulting permissible range of interest rates used to calculate current liability for the purpose of the additional funding requirements under § 412(l) of the Internal Revenue Code (Code) and the minimum full funding limitation of § 412(c)(7)(E), and the corresponding requirements and limitation under sections 302(c)(7)(E) and 302(d) of the Employee Retirement Income Security Act of 1974 (ERISA), as in effect for plan years beginning in 2006 and 2007. This notice implements changes to the rules regarding those interest rates that were enacted by § 301 of the Pension Protection Act of 2006, Pub. L. No. 109-280 (PPA '06).

#### BACKGROUND

Section 412 of the Code, and the corresponding requirements of section 302 of ERISA, set forth minimum funding standards that apply to certain plans. Title I of PPA '06, enacted on August 17, 2006, makes extensive changes to the rules of § 412 of the Code and section 302 of ERISA, generally applicable to plan years beginning on or after January 1, 2008. In addition, section 301 of PPA '06 makes certain changes to the minimum funding rules that apply to earlier plan years. For purposes of this notice, all references to § 412 refer to § 412 of the Code without regard to the amendments made by Title I of PPA '06.

#### PRIOR LAW

Under § 412(b)(5)(A), the funding standard account (and items therein) must be charged or credited with interest at the appropriate rate consistent with the rate or rates of interest used under the plan to determine costs.

Section 412(b)(5)(B) provides special rules for the interest rate that is used to determine a plan's current liability for purposes of § 412(l) and for purposes of the minimum full funding limitation under § 412(c)(7)(E). In general, that interest rate must fall within a specified corridor based on the weighted average of the rates