



April 24, 2024

**IRS and REG-131418-14**

Ms. Blaise Dusenberry  
Senior Technical Reviewer (Procedure and Administration)  
Office of Chief Counsel

Ms. Oluwafunmilayo A. Taylor,  
Section Chief, Publications and Regulations Section  
Associate Chief Counsel (Procedure and Administration).  
Internal Revenue Service  
PO Box 7604 Ben Franklin Station|  
Washington, DC 20044

Dear Ms. Dusenberry and Ms. Taylor:

We appreciate the opportunity to again submit comments on the August 2, 2016 Notice of Proposed Rulemaking (NPRM), which addresses changes to the reporting requirements related to information reporting on Form 1098-T as well as to the definitions of the education tax credits. The National Association of College and University Business Officers (NACUBO) represents chief business officers and their staff at more than 1,700 colleges and universities, which issue Forms 1098-T to millions of taxpayers each year. The higher education associations listed below join NACUBO in these comments.

We submitted extensive comments on October 16, 2016, and are grateful for the opportunity to highlight our priority concerns and recommendations as the Service prepares final rules at this time. In taking a fresh look at this issue, we have consulted with campus professionals responsible for 1098-T compliance at both private and public, large, and small colleges and universities. These recommendations represent their input and perspectives.

In summary, we support the continued exception for noncredit classes. We are also in agreement that the reporting exception for students whose qualified tuition and related expenses (QTRE) are paid entirely with scholarships and grants can be eliminated. We have strong concerns with some of the proposed reporting requirements, as they would not achieve the intended objective of simplifying claims for taxpayers and reducing erroneous claims but are only likely to result in burden and confusion.

## Proposed 1098-T Reporting Changes (§1.6050S)

### Exceptions to Reporting

Under current regulations, colleges and universities are not required to generate Forms 1098-T for certain categories of students, including those taking noncredit courses, nonresident aliens, students whose qualified tuition and related expenses (QTRE) are waived or paid with scholarships, and students who are covered under a formal billing arrangement where no student account exists.

**Noncredit Classes.** We are grateful that the proposed rules preserve the reporting exception for noncredit classes and strongly urge retention of this exception.

Colleges and universities in the United States offer hundreds of thousands of noncredit courses: anything from motorcycle safety courses to resume-writing classes to seminars on parenting skills to computer literacy or continuing medical education. While the students in such classes may have an ongoing relationship with the institution, they often do not and are choosing to take noncredit classes as one-time experiences to meet a unique educational need in their lives. As noted in the NPRM, these classes are not eligible for the AOTC and are only eligible for the Lifetime Learning credit (LLC) if they are related to the student's field of employment.

Participation in noncredit courses, for the most part, is carried out via a simple transaction (when payment is required for registration). Institutions often do not create a comprehensive student record or financial account as they would for students taking courses for academic credit, and do not solicit taxpayer identification numbers (TINs) from students. At some universities operating on a decentralized model, noncredit courses or programs may be offered by individual colleges or schools within the university, or at the departmental level requiring little to no interaction with the university's main administrative functions.

Even though we do not support providing Forms 1098-T for noncredit courses, we recognize the potential confusion created by Trade Preferences Extension Act of 2015 that requires taxpayers to have a Form 1098-T to claim an education tax credit. We stand ready to work with the IRS to develop plain language information for students and taxpayers to clarify that they will not need a Form 1098-T to substantiate amounts paid for noncredit coursework for which they might claim a tax credit.

**Nonresident Aliens.** Under current rules, institutions are only required to generate a Form 1098-T upon request for a nonresident alien (NRA) student. Most schools therefore do not generate 1098-Ts for nonresident aliens, unless requested to do so. The proposed rules would eliminate the exception for nonresident aliens.

Mandating 1098-T reporting for NRA students will increase the burden and processing costs for many schools, especially for those schools with large numbers of foreign students, while providing little discernible benefit.

- Most nonresident alien students are ineligible to receive education tax benefits. Under §1.25A-1(i), NRAs are only eligible for education tax credits if they are married to a U.S. citizen or resident and make an election under Internal Revenue Code (IRC) section

6013(g) or (h). This represents a very small portion of the NRAs studying in the U.S.

- Most NRAs do not have a TIN, and many are not eligible for one. It makes little sense for institutions to repeatedly solicit TINs from NRAs, or to file thousands of 1098-Ts without identification numbers that the IRS cannot use.

This mandate, if adopted, would result in the generation of tens of thousands of superfluous Forms 1098-T being filed with the IRS and furnished to students. Colleges and universities will face additional costs, the IRS will receive information it cannot use, and foreign students will have forms they don't understand and don't need. Both the IRS and institutions will experience unnecessary contact from foreign students trying to understand why they received the form and what they are supposed to do with it. The current system—allowing those NRAs who need a 1098-T to request one—works well. NACUBO strongly urges the preservation of the existing rules that only require institutions to provide a 1098-T to NRA students upon request.

Alternatively, the IRS might consider only requiring reporting 1098-Ts for nonresident aliens who have provided a TIN to their respective institution prior to the end of the calendar year.

**QTRE Paid Entirely by Scholarships.** We support the elimination of the reporting exception for students whose QTRE is paid entirely with scholarships and grants. Unlike the other categories of exceptions, it will not be difficult for institutions to provide forms for these students (although it will be costly for some). They already need to gather pertinent financial information to determine which students fall into the excepted category.

We recognize that many students in this situation are eligible for education tax benefits, if they have additional costs for books and supplies or choose to allocate some of their grant funds to nonqualified costs of attendance. Therefore, Form 1098-T will provide useful information and help these students claim tax benefits.

**QTRE Paid Under Formal Billing Arrangements.** The current exemption for students whose QTRE is paid under a formal billing arrangement where the institution does not maintain a financial account for the student should be retained. The third-party sponsor, rather than the school, often handles administrative duties vis-à-vis the students. In these arrangements, the employer or other paying organization remits payment to the college or university usually to cover costs for a group of students. No individual student accounts are maintained, nor are TINs solicited from these students. If the institution does not maintain a student financial account, it follows that it will not be able to provide the student-level financial information required to complete Form 1098-T.

In most states, high school students can enroll in courses that count for both high school and college credit. These are typically referred to as “dual enrollment” programs and most often involve a partnership with community colleges. Payment mechanisms vary across states and school systems. In some, the school system covers the cost of tuition or contracts with the college by the class. For others, tuition is the responsibility of the student/parent. Courses might be delivered at the high school, at a postsecondary institution, or online by faculty under the college's control and supervision. In some arrangements, the college may be compensated on a per student basis, on a per class basis, or some combination.

Contract education refers to circumstances whereby a college or university contracts with a public or private entity, corporation, association, person, or body, for the purposes of providing instruction, services, or both. The party contracting for the instruction or services typically signs an agreement that outlines the instruction to be provided and covers the costs necessary to provide the instruction/training. It is possible for students to earn academic credits and, when applicable, receive certificates and degrees for work completed through contract education.

## Proposed New Data Element

**Requiring Enrollment to be Reported by Month.** The IRS is also proposing to add a box to Form 1098-T for the school to provide the number of months that the student was enrolled on a full-time basis. The preamble explains that the purpose of this proposal is to aid the IRS in determining whether a parent properly claimed the student as a dependent and therefore properly claimed the credit for the student's qualified expenses. The definition in the NPRM specifies that enrollment for one day in any given month would constitute one month.

We strongly oppose adoption of this provision in the final regulations. Colleges and universities do not track student attendance or enrollment by month. Campus systems typically assess the enrollment status of a student by academic period (semester, quarter, or other term).

Schools already face difficulty meeting disparate rules on full-time status imposed by other federal agencies: The Department of Education uses terms based on status as of a census date. The Department of Veterans Affairs ignores terms and looks at the number of credits the student is taking on a week-by-week basis.

Most colleges and universities track enrollment status by term, not by month, and would have to do considerable reprogramming to be able to report in this manner accurately.

- Schools cannot look at terms independently, count the months for each, and add them up over the course of the year because terms may overlap with calendar months. Summer session could end in August and the fall term might start in August, for instance.
- Student enrollment is fluid, even at institutions with traditional calendars. Students add and drop courses regularly. Students may even withdraw from classes retroactively, after the end of the term (and perhaps in a different year). Note that even if a student withdraws, their enrollment status as recognized by the Department of Education may or may not change. Mandating this reporting element may cause an increase in adjustments or amended forms, thus increasing workloads for the IRS and institutions, not to mention confusion to taxpayers.
- Class schedules have become much more wide-ranging as schools explore new ways to offer programs. Modular classes come in different lengths, and may overlap with other courses or run sequentially, making it challenging to determine enrollment status at any given point in time other than for the whole term.
- This reporting would result in “false negatives” for any freshmen who typically are full-time students in high school for the first five months of the year. If the fall term at the

college did not start until September, the 1098-T would only show four months of full-time enrollment rather than nine.

- Discerning full-time enrollment by month would be particularly challenging for students enrolled in practicums, internships, and master's degree projects and professional programs whose terms frequently do not line up with the more traditional term structure of the rest of the institution.

This provision significantly expands the Form 1098-T's intended purposes of helping taxpayers utilize education tax credits to that of verifying student enrollment in academic programs at eligible institutions and payment of QTRE so the IRS can validate dependency—information that is already provided on Form 1040. Requiring higher education institutions to further retool their information gathering and systems to do IRS enforcement work goes far beyond any of the mandated legislative changes to 1098-T. We strongly oppose adoption of this provision in the final regulations.

## Issues Not Addressed in the NPRM

**Eligible Students Not Enrolled in Current Tax Year.** Some students are not enrolled during a reporting year, but they may have reportable transactions. For example, a student may register and pay for the spring term in December but will enroll for the first time in the first three months of the next calendar year (and thus be eligible for the credit). Under current rules and further guidance issued in 2006, institutions are not required to provide 1098-Ts to such students. The students are, however, clearly entitled to education tax credits for the payment made in the year before they began enrollment. This creates a conflict with the requirement for the taxpayer to have a Form 1098-T to claim a credit. On the other hand, schools have been told that they do need to file a 1098-T for someone who is no longer a student during the tax year if there was a reportable transaction, such as a refund, during the year (that was an adjustment to a previously filed form). We believe the interests of students and taxpayers may be better served by institutions providing a Form 1098-T for any student (or soon-to-be student) with a reportable transaction. We note that Example 4 in proposed 1.6050S-1(b)(2)(vii) illustrates a student who will enroll in spring semester 2017 but pays in 2016 receiving a Form 1098-T for 2016.

**Books and Supplies.** We urge you to add to §6050S-1(c)(1)(iii) detailing the instructions to be included with the statement provided to students an explanation that “payments related to course materials (books, supplies, and equipment) required as a condition of attendance and purchased through the eligible educational institution are included in Box 1 but the student may also include amounts spent on course materials for a course of study, whether or not the materials are purchased from the educational institution as a condition of enrollment or attendance in determining expenses eligible for the American Opportunity Tax Credit.”

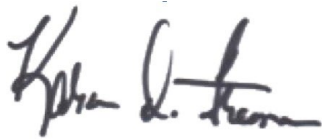
## Implementation Timeline and Conclusion

We ask that when you publish the final rule, you provide institutions with as much time as practical to implement the changes. As demonstrated throughout our letter, student information systems are complex and changes to these systems require significant financial and time investments. Additionally, schools will need adequate time to communicate the reporting

changes to students and families so they can fully understand their 1098-Ts and how they relate to their claiming of tax credits.

Thank you for your work to clarify and simplify 1098-T reporting, and for this opportunity to comment. If you have any questions, please contact Mary Bachinger, director of tax policy, [mbachinger@nacubo.org](mailto:mbachinger@nacubo.org) or Bryan Dickson, director of student financial services and educational programs, [bdickson@nacubo.org](mailto:bdickson@nacubo.org).

Sincerely,



Kara D. Freeman  
President and Chief Executive Officer  
National Association of College and University Business Officers

The following associations join NACUBO in this statement:

American Association of Community Colleges  
American Association of State Colleges and Universities  
American Council on Education  
Association of Catholic Colleges and Universities  
Association of Governing Boards of Universities and Colleges  
Association of Public and Land-Grant Universities  
Council for Christian Colleges and Universities  
Council of Graduate Schools  
National Association of College Stores  
National Association of Independent Colleges and Universities  
National Association of Student Financial Aid Administrators