



February 29, 2016

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Dear Ms. Dusenberry and Mr. Wilkins:

As a follow up to my January 20 letter, I am writing to reiterate our request for an immediate delay in implementation of changes to reporting requirements for IRS Form 1098-T. Please consider the following issues and questions raised by the elimination of the option for reporting amounts billed for qualified tuition and fees enacted as part of the Consolidated Appropriations Act of 2016 on December 18, 2015. The National Association of College and University Business Officer's (NACUBO) represents chief business officers and their staffs at more than 2,100 colleges and universities, all of whom issue Forms 1098-T annually to, collectively, millions of taxpayers.

#### **I. Urgent Need and Precedent for Delay**

##### **Most colleges and universities are impacted**

We estimate that more than 80 percent of institutions currently report using the Box 2 methodology rather than Box 1. The reason for this is that Box 1 methodology requires institutions to trace payments received from students to particular charges, while Box 2 methodology does not. Box 2 methodology is a more accurate description of the way accounts payable works in the real world—institutions send periodic invoices to students requesting payment for aggregate fees, and students send periodic payments for some or all of the fees billed. Box 2 methodology has enabled institutions to customize payment systems for their own unique circumstances and individual business processes. Forcing institutions to jettison their well-established systems in order to adopt the one-size-fits-all tracing methodology of Box 1 is no small undertaking, and it will take time.

The vast majority of these institutions, large and small, rely on student account software that is part of an enterprise-wide financial data management and administration system to calculate the totals reported on Form 1098-T. There are a variety of systems in use, provided by different developers.

Not all software systems have the capacity to perform payment tracing and it is unclear how difficult it will be for software providers to make the necessary modifications. Even institutions using software systems with the capacity to perform payment tracing do not have instructions on how to do so. Such instructions should be part of the forthcoming Priority Guidance Plan project.

We are unaware of any institutions that have received solutions from their software vendors yet, and schools do not have any reliable estimates of the timetable for implementation, staff training, and testing of new reporting requirements. Once updates are available, schools will need to customize them to match their own installation and unique data configurations.

## **Software upgrades and testing**

Changes to large complex software systems can take weeks or months to implement and test. Institutions must be confident that the modifications are well designed and executed. Concurrent with the changes in enterprise resource systems is the need to adequately train staff to understand the new requirements.

Once their systems are upgraded, schools will need to go back and reapply all payments received since January 1, 2016, to specific charges based on tax reporting requirements

Practically speaking, the majority of the regulated community (who, in turn, serve the majority of 1098-T recipients) currently has no knowledge of how or when they will be able to modify their systems, retroactively reapply all payments received since the beginning of 2016, and report data to comport with the new law. Colleges and universities have had no opportunity to plan, budget, or prepare for this effort. For example, one large state university system, which relies on a software service provider, currently reports in Box 2 for approximately 425,000 students at 22 separate campuses.

## **Precedent for delay**

In providing transition relief to section 529 plans, the IRS recently recognized (Notice 2016-13) the inability of those programs to accommodate retroactively the newly enacted methods of calculating distributions and still satisfy reporting requirements before the due date of Form 1099-Q. Precisely the same scenario exists for Form 1098-T reporting. At a minimum, the IRS needs to postpone implementation of the Box 1 reporting requirement for one year.

## **II. Transition Year Concerns**

A group of campus professionals responsible for 1098-T compliance at their institutions (volunteers from large and small, public and private colleges and universities) have identified the following issues and concerns for your consideration specific to the transition year. Regardless of when the transition takes place, it will be tremendously confusing to filers and recipients of Form 1098-T.

The following scenarios illustrate common academic business practices and tax reporting issues schools must face as they make the switch to Box 1 reporting. These examples assume a compliance date of 2016.

### **Calendar Year/Academic Year Mismatch**

Students begin to register for spring term in late October. Many schools post charges to the student accounts and bill for spring term in November or December, with payments due in December or January. Schools that currently opt for Box 2 reporting will report these charges as “amounts billed” for qualified charges on 2015 1098-Ts.

- a. Spring term charges were posted to the student account and billed in December 2015, and paid in January 2016. These amounts would be reported as paid on the 2016 1098-T even though they were already reported as billed 2015.
- b. Spring term charges were posted to the student account and billed in December 2015. Spring term grants and loans were applied to the account in December 2015. The charges were included in Box 2 and the grant aid was reported in Box 5 on the 2015 1098-T. The student paid the remaining balance on the account in January 2016. How should the school determine the amount of qualified charges paid in 2016?
- c. Spring term charges were posted to the student account and billed in December 2015. The student paid the charges in December 2015. The charges were reported in Box 2 on the 2015 1098-T. In January 2016 the student dropped two classes and the spring term charges were reduced. The student was refunded part of the money used to make payment in December 2015. What should be reported on the 2016 1098-T?

### **Payments on Balances Due from Previous Years**

Students are usually not permitted to register for classes for a new term until the current term's charges are paid in full, although some colleges and universities are more lenient than others and may allow students to continue attending with an outstanding balance from a previous term.

- a. A student makes a payment in January 2016 for charges left unpaid from fall term 2015. The student enrolls for spring term 2016 and makes payment for those charges in February 2016.
- b. A student makes a payment in 2016 for a balance left unpaid since 2012, but does not enroll for any classes in 2016.

In both of these circumstances, according to our reading of the rules under §6050S, payments of these amounts would both be reported in 2016. However, under §25A, taxpayers may not claim education tax credits for academic periods in past years. *Therefore, we strongly recommend that payments for academic terms in previous years be excluded from being reported in Box 1.*

### **Application of Student Aid**

The Department of Education's federal student aid regulations permit schools to apply Title IV aid to student accounts as early as 10 days before the first day of classes for any term. This is common practice at many institutions nationwide. Some institutions have a term that begins in early January, and Title IV funds for that term are applied to the student accounts in late December. At other schools, the spring term begins later in January so that aid is disbursed in January. The timing is important to students whose aid creates a credit balance when applied to their student accounts. Most schools will issue credit balance refunds to students soon after the aid applies so students can use those funds to buy books, pay rent and buy food.

The following three scenarios illustrate how the change in reporting will create confusion for taxpayers receiving the 2016 1098-T.

Spring term 2016 charges are posted to the account in December 2015 and are paid in full by scholarships, grants, and loans in late December 2015 for a term that begins in January 2016. All of the data will have been reported on the 2015 1098-T and no data from spring term 2016 will appear on the 2016 form.

- a. Spring term 2016 charges (which include both qualified and unqualified expenses) are posted to the account in December 2015. In late December, they are partially paid by scholarships, grants, and loans. The remaining account balance is paid by the student in January 2016.
  - The charges and grant amounts will appear in Box 2 and Box 5 on the taxpayer's 2015 form. If the 2016 payment is applied to qualified expenses, it will be reported in Box 1 on the 2016 form.
- b. Spring term 2016 charges are posted to the student's account in December 2015. The student makes a payment equaling the qualified portion of the amount due in December. In January, a state grant restricted to paying tuition is credited to the student's account.
  - In this situation, the taxpayer will receive a 2015 1098-T with the charges reported in Box 2. Then in 2016, only the amount of the state grant will appear in Box 1 as well as in Box 5. Note that if the school had reported payments in Box 1 for 2015, the student's 2016 1098-T would show an adjustment to amounts paid in Box 4.

As these typical student account transactions demonstrate, the misalignment between the academic year and the tax year, the disbursement of student aid, and institutional billing cycles inexorably linked to academic periods, make the Box 1 reporting method inevitably more complex for taxpayers and will create more, rather than fewer, taxpayer questions and confusion. The IRS needs to consider these scenarios in developing guidance both for institutions and taxpayers.

## **Payment Plans**

The vast majority of colleges and universities offer students and their families the option to spread out their payments. Some plans are operated internally as installment arrangements; others are operated by third parties. Typically, payment plans permit families to pay tuition for a term over four to six months. For schools where the spring term begins in January, spring term installment payments begin in November, so families will have paid two installments in 2015 for spring term 2016, and the remaining installments in 2016. How these payments should be reporting is another area of confusion for colleges and universities.

Institutions have different practices for posting installment plan payments to their student account systems. In one typical model, schools that use third-party servicers to collect and forward these installment payments receive a biweekly or monthly lump sum payment from the servicer along with information on the amount to credit to each participating student's account. The payments are posted to the students' accounts on the day the payment is received from the servicer. This means, that depending on when in the cycle a student makes a payment, it may not be posted by the school for several weeks. This could make a difference to the tax year for reporting. Some institutions have more integrated relationships with their service providers that allow same- or next-day receipt and posting of payments.

Some schools treat the payment plan as a loan to the student and credit the student's account with the total payment agreed to when the student signs up for the plan. In this case, since loans used to pay qualified charges are generally treated as payments, would the entire amount be included in Box 1 at the time the student agreed to the plan, even though only a portion of that amount has actually been paid?

### **Prior Year Adjustments (reported in Box 4)**

It will be important for the IRS and taxpayers to understand that there may be reporting anomalies in the amounts reported as prior year adjustments until a few years of Box 1 are underway. It is unclear how Box 4 should be used for institutions that will be transitioning from Box 2 reporting in 2015 to Box 1 reporting in 2016.

For example, Spring term charges are posted to the student account in November 2015. The student's Pell Grant is disbursed and applied to the account in late December. Therefore, all data for Spring term 2016 is reported in boxes 2 and 5 on the 2015 1098-T. The student drops a course during Spring term, and makes payment for the remaining balance in January. The reduction in enrollment status causes the Pell Grant to be reduced in January. On the 2016 1098-T, the reduction in grant aid for spring 2016 will be reported in Box 6. But should the reduction in tuition charges reported be reported in Box 4 even though the school is reporting amounts paid in 2016 rather than amounts billed? The payment for Spring 2016 qualified charges will be reported in Box 1.

## **III. Communications and Resources**

In 2002, IRS finalized the regulations at §1.6050S-1 governing the reporting requirements imposed on institutions of higher education in connection with the introduction of the Hope and Lifetime Learning tax credits authorized by the Taxpayer Relief Act of 1997. With little additional IRS guidance since that time, NACUBO has used a collaborative process to develop [voluntary guidelines](#) for institutions in an attempt to provide greater conformity and promote compliance across the regulated community.

NACUBO agrees with the Administration's position that more should be done to make it easier for students to claim education benefits. Part of these efforts must include better communication from the Treasury Department and IRS to students and families as well as to institutions of higher education.

Further, NACUBO firmly believes that in order to truly simplify the American Opportunity and Lifetime Learning tax credits, Congress needs to revisit the definition of qualified educational expenses among other terms used in calculating the credit.

Since the inception of the education tax credits, there has been widespread taxpayer confusion, misapplication of the rules by IRS agents carrying out individual audits, and misinterpretation of amounts reported on the form by professional tax preparers and tax preparation software programs.

Much of the confusion and misinterpretation stems from the misperception that *only* numbers reported in Box 1 constitute qualified tuition and related expenses (QTRE). Because of the way the education tax credits are defined, even a 100 percent accurate number reported in Box 1 of amounts paid for QTRE does not necessarily translate into the correct amount an individual is entitled to claim for an education tax benefit. Form 1098-T will only ever serve as a momentary snapshot of a student's account, rather than a "plug and play" number that accurately reflects what amounts the taxpayer may claim for a credit.<sup>1</sup>

#### **IV. Conclusion**

We believe that moving forward with Box 1 reporting, without consideration of the issues set forth above is at odds with the Administration's objectives of greater taxpayer understanding and a straightforward information reporting regime to bolster compliance. We strongly urge the Service to

- delay the implementation of mandatory reporting in Box 1 and allow filing institutions time to feasibly implement and test their systems in accordance with that guidance.
- develop guidance that acknowledges and accommodates the realities of tax year reporting of information that is tied to academic periods,
- develop plain-language, web-based resources to help taxpayers with the transition and going forward. We would be happy to work with the IRS in developing useful tools along these lines.

We welcome communication between our organizations as you continue to work on the Form 1098-T guidance. Please contact Anne Gross, vice president for regulatory affairs, at 202-861-2544, [anne.gross@nacubo.org](mailto:anne.gross@nacubo.org) or Mary Bachinger, director of tax policy, at 202-861-2581, [mary.bachinger@nacubo.org](mailto:mary.bachinger@nacubo.org).

We appreciate your consideration of this request.

Sincerely yours,



John D. Walda  
President and Chief Executive Officer

cc: John Koskinen, Commissioner, IRS  
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<sup>1</sup> Students frequently purchase books and other required course-related equipment from unrelated vendors that are QTRE. We recently discovered that the 2015 version of TurboTax does not allow taxpayers to enter amounts they paid for QTRE and/or valid 529 plan expenditures that are not reported by an institution on Form 1098-T.