



IRS Form 1098-T: Responding to Penalty Notices for Missing or Incorrect Taxpayer Information Numbers

October 2, 2013

Table of Contents

I.	Introduction	1
II.	What Is Information Reporting, and Why Is It Important?	2
	A. Background.....	2
	B. How the IRS Uses Information Reporting.....	3
	C. Other Mechanisms for Increasing Accuracy: Withholding and Backup Withholding	3
	D. The Role of the University in Tax Compliance: A Tax Form for Every Situation.....	3
	E. Penalties for Noncompliance	4
	1. Section 6721	4
	2. Notice 972CG	4
III.	How to Maintain Compliance with IRS Information Reporting Rules	4
	A. Form 1098-T	4
	1. For Whom Must Institutions File Forms 1098-T?	4
	B. Collecting Student TINs	5
	1. Methods of Collecting Student TINs	5
	2. Timing.....	6
	a. Initial Request.....	6
	b. Subsequent Requests	6
	3. Name and Number Must Match.....	6

C.	Establishing Best Practices, Policies and Procedures	7
1.	Coordination Between Offices.....	7
2.	Policy Decisions	7
a.	Voluntary Reporting	7
b.	Assignment of Duties	7
c.	Incenting Students	8
D.	Safeguarding Private Information.....	8
1.	Best Practices.....	8
2.	Practices to Avoid.....	8
E.	Quality Control Measures	9
1.	Conducting Effective Due Diligence.....	9
2.	IRS TIN Matching Services.....	9
3.	Third-Party Services	9
IV.	What to Do After Receiving Notice 972CG	9
A.	Requesting an Extension.....	9
B.	Waiver Procedure	10
C.	Reasonable Cause: What It Is, How to Establish It, and How to Document It.....	10
D.	Other Arguments to Consider in Penalty Waiver Request	12
1.	Unavailability of TIN Matching	12
2.	Abrupt Change in Enforcement	12
3.	No Adverse Impact on Tax Administration.....	12
4.	Lack of Leverage	13
E.	Demonstrating Future Compliance.....	13
F.	Correction of Prior Filings	13
G.	Whom to Contact for Help.....	13
V.	Templates and Sample Documents.....	14
A.	Request for Waiver/Reasonable Cause Letter	
B.	Request for Extension	
C.	Sample Notice 972CG	

I. Introduction

Many colleges and universities have recently received Internal Revenue Service (IRS) Notice 972CG proposing penalties for missing or incorrect taxpayer identification numbers (TIN) on Form 1098-T, the information return relating to higher education tuition and related expenses, for 2011.

Notice 972CG proposes penalties of \$100 for each information return document sent with a missing or incorrect TIN, up to a maximum penalty of \$1,500,000 per year (\$500,000 for organizations with average annual gross receipts of \$5 million or less).

The recipient has 45 days to respond to Notice 972CG, either by agreeing to pay the full amount of the proposed penalty or by disagreeing with the proposed penalty, in whole or in part, and providing a signed statement explaining the basis for the disagreement, including any supporting documentation. Colleges and universities may request additional time to prepare their responses. Any request for extension must be *received* by the IRS Submission Processing Center in Philadelphia within 45 days. The IRS will not provide notification that an extension has been granted but will automatically add 30 days to the deadline for response.

Although colleges and universities have been required to file Form 1098-T for more than a decade, this is the first year in which the IRS has proposed penalties for missing or incorrect TINs. NACUBO believes the IRS' use of financial penalties for missing or incorrect TINs on Form 1098-T is inappropriate for the following reasons:

- *No TIN Matching.* Unlike other information return filers such as banks or employers who may use an IRS-approved TIN matching service to verify the TINs reported on information returns, colleges and universities are not permitted to use TIN matching services for filing Form 1098-T. Yet the IRS *does* have its own internal TIN matching for purposes of verifying Form 1098-T. As a result of this asymmetry of information, colleges and universities are unfairly punished for filing Form 1098-T with missing or incorrect TINs.
- *Abrupt Change in Enforcement Policy.* Such a significant change in enforcement should have been accompanied by adequate advance notice.
- *No Adverse Impact on IRS Tax Administration.* The information reported on Form 1098-T is insufficient to enable the IRS to enforce student tax compliance because the information it includes cannot be routinely matched to amounts reported on a taxpayer's return. Consequently, TIN errors on Form 1098-T should not materially affect IRS compliance efforts.
- *No Leverage.* Colleges and universities cannot compel students to provide accurate TINs because students lack an economic incentive to provide such information. Few schools would find it appropriate to refuse to provide educational services simply because a student did not have or chose not to provide a TIN.

Those who have received Notice 972CG should respond to the Notice, either by delivering a written request for an extension to the IRS Philadelphia Service Center before the end of the 45-day period or by filing a reasonable cause letter asking for a waiver of the proposed fine, as discussed below. In addition, institutions should engage in a follow-up effort to obtain the TINs from the students identified on the Notice 972CG, and document such efforts for purposes of completing the reasonable cause letter. For example, institutions should issue Forms W-9S to the students identified in Notice 972CG and be sure to date the Forms W-9S after the date of the Notice.

This report was prepared to assist college and university officials in understanding:

- What information reporting is and why it is important
- How to maintain compliance with IRS information reporting rules
- What to do if their institution receives Notice 972CG

In addition, there are templates and sample documents for use in responding to Notice 972CG attached at the end of this document.

This report was jointly prepared by staff at NACUBO (Anne Gross, vice president, regulatory affairs and Mary Bachinger, director, tax policy) and attorneys at Morgan, Lewis & Bockius LLP (Celia Rody and Alexander Reid). It is not intended to substitute for advice from legal counsel.

II. What Is Information Reporting, and Why Is It Important?

A. Background

As part of the Taxpayer Relief Act of 1997, Congress enacted the Hope Tax Credit (later modified and renamed the American Opportunity Tax Credit (AOTC)) and the Lifetime Learning Tax Credit. The education tax credits are available for qualified tuition and related expenses paid by a taxpayer during the taxable year for education furnished to an eligible student, with certain limitations. In order to implement the education tax credits, Congress imposed an information reporting requirement on postsecondary educational institutions, requiring them to report, with some exceptions, on each student for whom a tuition transaction was made during the year. To meet this information reporting requirement, educational institutions file Form 1098-T with the IRS and each student on whom reporting is required. Form 1098-T requires the educational institution to provide the student's name, TIN, and address; the amount of payments made or billed to the student for qualified tuition and related expenses; and the amount of any grant aid or scholarships.

In 2009, the Treasury Inspector General for Tax Administration (TIGTA) issued a report based on its review of the 2006 and 2007 tax years which found that taxpayers had erroneously claimed over \$500 million in educational tax credits. The report further noted that the IRS did not use the 1098-T forms in its compliance program. TIGTA recommended legislation requiring institutions to report amounts paid rather than amounts billed in order to more closely align the information on the form with the information taxpayers use in claiming educational credits or otherwise to relieve institutions of the burden of producing the form. This change, however, was never implemented.

In 2010, TIGTA conducted a review to assess the effectiveness of IRS processes to identify erroneous AOTC claims. The TIGTA report, entitled "Billions of Dollars in Education Credits Appear to Be Erroneous," concluded that 1.7 million taxpayers had erroneously claimed the AOTC, receiving more than \$2.6 billion in tax benefits for students with no supporting documentation to show that they attended any educational institution. While the report did not find inaccurate information returns filed by educational institutions to be a major contributing factor, the IRS in its response to the report noted that it had found "significant issues in Form 1098-T reporting" requiring additional analysis into the relation between the inaccurate claims and Form 1098-T, and as a result it was "taking aggressive steps and working with educational institutions and outside stakeholders to address these issues and ensure that Form 1098-T reporting is accurate."

Until tax year 2011, the IRS had not been actively using the Forms 1098-T that colleges and universities were submitting. After the 2009 TIGTA report, the IRS began to integrate the Forms 1098-T into its computer system and automated processes. Since then, the IRS has stepped up audit activity focused on taxpayers claiming the education tax credits. Auditors frequently ask taxpayers to gather additional proof of qualifying payments, including information from the student account maintained by the college or university, because the Form 1098-T does not provide sufficient information to justify the claimed credit. In August 2013, the IRS began notifying many universities of proposed penalties for filing inaccurate or incomplete Forms 1098-T, generally for failing to accurately include a student's TIN.

B. How the IRS Uses Information Reporting

The IRS generally requires information reporting for wage and nonwage payments made in the course of a trade or business and uses this reporting regime as the primary cross-checking measure to verify the accuracy of individual tax returns. Information returns are often furnished to both the IRS and the taxpayer and are used by the taxpayer in preparing his or her tax return. The information reporting regime allows the IRS to verify the information contained on a tax return with a corresponding information return provided by a party with no incentive to falsify the information and face penalties for doing so. For example, an employer reports to the IRS all of the wages paid to an employee on Form W-2, allowing the IRS to verify the wages reported on that taxpayer's tax return.

Accurate reporting by educational institutions on Form 1098-T enables the IRS to identify returns that improperly claim education tax credits by allowing the IRS to match the Social Security number (SSN) or TIN provided on the Form 1098-T with the SSN or TIN provided on the tax return of the taxpayer claiming the credit. This is true even if the credit is claimed by a taxpayer on behalf of a dependent, as taxpayers are required to list the SSN of each dependent claimed.

C. Other Mechanisms for Increasing Accuracy: Withholding and Backup Withholding

Another measure that the IRS uses to ensure that individuals are accurately paying taxes is the withholding regime. The IRS imposes backup withholding requirements on payers in certain circumstances that act as a backstop to the information reporting regime. Under the information reporting and backup withholding regime, certain payers (e.g., banks and other businesses that pay interest or dividend income) are required to submit Form 1099 information returns which include information about the payment and the SSN or TIN of the taxpayer to whom the payment was made. However, if the payer does not have an SSN or TIN for the taxpayer, or the IRS notifies the payer that the TIN or SSN included on a Form 1099 is incorrect, the payer is required to withhold at a flat 28 percent on any future payments made to the payee.

D. The Role of the University in Tax Compliance: A Tax Form for Every Situation

Universities are required to participate in the information reporting regime for many of the transactions in which they regularly engage. Information returns commonly submitted by a university to the IRS include Form 1098-T tuition statement, Form W-2 to report wages and earnings of employees, and the Form 1099 series to report income other than wages, salaries, or tips received by an employee, depending on the nature of the income transaction.

E. Penalties for Noncompliance

1. Section 6721

Section 6721 of the Internal Revenue Code (the Code) provides for a penalty when an information return is not correctly filed by the due date of the return, including failure to include all of the information required to be reported or the inclusion of incorrect information. Each such return is generally subject to a \$100 penalty, with the total amount levied on an entity during any calendar year not to exceed \$1.5 million. The penalty may be abated by correction within a short time period or waived by a showing that the failure was due to reasonable cause and not to willful neglect.

2. Notice 972CG

Notice 972CG is issued by the IRS for failure to correctly file an information return and outlines the proposed penalty for the payer. The Notice includes the following information: a summary and explanation of the proposed penalty, an explanation of how to respond to the Notice, a record of each submission considered in the penalty, and a response page. The Notice must be answered within 45 days of the notice date, which may be extended for an additional 30 days by submitting a written request before the end of the 45-day period. Failure to respond to the Notice within 45 days results in a balance-due notice for the full amount of the proposed penalty and any accrued interest.

III. How to Maintain Compliance with IRS Information Reporting Rules

A. Form 1098-T

1. For Whom Must Institutions File Forms 1098-T?

In general, colleges and universities must file Form 1098-T for any individual enrolled for any academic period and for whom the institution bills, or receives payment of, qualified tuition and related expenses during the calendar year. Institutions also must file Forms 1098-T for students who are not currently enrolled but for whom there was a prior-year adjustment made in the current year.

However, Form 1098-T does *not* need to be filed for:

- Students whose entire qualified tuition and related expenses were waived or paid for with a scholarship
- Students whose entire qualified tuition and related expenses were paid under a “formal billing arrangement” where the institution:
 - bills only an employer or governmental entity, and
 - does not maintain a separate financial account for the student
- Nonresident aliens, except upon request
- The noncredit courses in which a student is enrolled, even if the student also is enrolled in credit courses

Institutions may choose to report either amounts paid for qualified tuition and related expenses (Box 1) or amounts billed (Box 2) on the Form 1098-T. Grant aid or scholarships received by a student for payment of costs of attendance and processed and administered by the institution need to be reported in Box 5. The following information must also appear on the form:

- The name, address, and TIN of the institution or the service provider who filed the form, along with contact information and telephone number.
- The name, address, and TIN of the student. The address must be the long-term or permanent address. The institution may use a short-term address if no permanent one is provided by the student.

B. Collecting Student TINs

If institutions do not already have a student's TIN on file, according to IRS rules at [§1.6050S-1\(e\)](#), they must annually request the student's TIN in writing and must clearly notify the student that the law requires the student to furnish a TIN so that it may be included on an information return filed by the institution. Students failing to furnish their TINs to institutions required to file information returns on their behalf may be subject to individual penalties by the IRS (although, to date, NACUBO has not heard of such fines being imposed). An institution must file a Form 1098-T, even if the student fails or refuses to provide a TIN.

The IRS designed Form W-9S, "Request for Student's or Borrower's Taxpayer Identification Number and Certification," specifically to assist colleges and universities in collecting student TINs.

1. Methods of Collecting Student TINs

There are a number of factors to consider about the various ways an institution can collect TINs from students.

- Using Paper Forms:
 - The institution can get an immediate response if a student is physically present.
 - If IRS Form W-9S is used, the required notification about the need for the information is included, and this process meets waiver requirements.
 - Students may need to hand deliver, mail, or fax back the completed forms to the appropriate campus office if they do not complete the forms in person.
 - Any paper forms submitted should be kept secure or destroyed.
 - Once received, information needs to be keyed into the student information system, providing an opportunity for error.
- Using a Student Portal:
 - Secure website allows for direct input by student.
 - Portal can be programmed to prompt student input or require completion before other required steps.

- Using Campus Email:
 - Email can include request, instructions, and link to student portal.
 - Official means of communication with students at many institutions.
 - Privacy and security may be issues if a student provides his or her TIN by return email.

2. Timing

If the institution does not already have a student's TIN on file, the initial and subsequent requests must be made before December 31 of any year in which reportable transactions were made. Institutions should not wait until January to determine which TINs are missing and seek to remedy the situation.

a. Initial Request

There are a number of natural opportunities in the beginning of a student's enrollment that can be used to collect TINs. These include:

- An application for admission
- An application for financial aid (SSN is required on the Free Application for Federal Student Aid (FAFSA))
- Orientation for new students
- Registration for classes

b. Subsequent Requests

IRS rules require institutions to solicit TINs in writing at least once a year from any student without a TIN in his or her records for whom 1098-T reporting is required. To meet this requirement, the solicitation must clearly notify the student that he or she is required by law to furnish his or her TIN so that it may be included on an information return filed by the institution. Using IRS Form W-9S will meet this requirement.

3. Name and Number Must Match

If the name by which a student is known in the college system does not match the name that is attached to the student's TIN, the IRS will flag the record. Thus, in addition to asking the student for his or her TIN, an institution should ask the student to provide his or her exact name as it appears on his or her Social Security card. The institution will need to decide whether to require that the student be known by his or her legal name in the institution's student information system or to allow use of a preferred name in the system while capturing the legal name for IRS reporting purposes.

It is also expected that some students will change their legal names through marriage or divorce during their tenure at the institution. A student may inform the institution that his or her name has changed but fail to file a corresponding change with the Social Security Administration or IRS. It would therefore be advantageous for institutions to periodically ask students to confirm that their legal names used by the SSA or IRS have not changed.

C. Establishing Best Practices, Policies and Procedures

There are many ways that institutions have organized the collection of personal data necessary to meet government reporting requirements, including personal data that is needed for filing Form 1098-T. As colleges and universities moved purposefully away from the once-common use of student SSNs as all-purpose identifiers, policies were often put in place to restrict the collection of SSN data unless required for a specific purpose. The creation of the education tax credits and the related information reporting requirements, however, reversed this course. Thereafter, not only were postsecondary institutions generally required to collect TINs from all enrolled students, but students were also required by law to provide their TINs to the institution.

Now that attention has been focused on these issues at colleges and universities, this is a useful time for institutions to reconsider policies and procedures to ensure that they meet current regulatory requirements.

1. Coordination Between Offices

At a minimum, the following offices should likely be part of the decision-making process:

- Student financial services, bursar, or student accounts
- Tax director or controller (whichever office is responsible for tax compliance)
- Registrar
- General counsel

Other offices that might be included are information technology, admissions, and student financial aid, as such offices are often the source of TIN information.

2. Policy Decisions

a. Voluntary Reporting

Many colleges and universities have found that the majority of the Forms 1098-T cited for missing TINs involve students for whom reporting was not required—nonresident aliens and those students taking noncredit courses. Many nonresident aliens do not have TINs, and institutions are less likely to collect TINs from students enrolled in noncredit classes. While reporting is not required for these students and several other categories of students, the IRS had advised schools that it was acceptable to file forms for such students anyway (see [Notice 2006-72](#), Q.4). Institutions have decided to include these students in their reporting for a number of reasons; for instance, it is easier administratively to prepare the Forms 1098-T all at once rather than “upon request” for nonresident aliens or for those students who do not get a form and want to know why. If the IRS persists in proposing fines for missing TINs, campuses may want to reconsider their voluntary inclusion of these types of students in their reporting population.

b. Assignment of Duties

At many institutions, only select personnel/offices are allowed to input or access student TINs in the student information system. Thought will need to be given to which office(s) will take on the responsibility of checking for missing TINs, sending solicitations, and inputting data.

c. Incenting Students

Some institutions have policies in place, or have been considering implementation of policies, to ensure that students provide TINs by placing holds on their accounts, restricting services, or imposing other penalties for failure to provide a TIN. This is an important policy decision for an institution and consideration should be given to possible unintended consequences, such as the impact on undocumented students and others.

IRS regulations anticipate that colleges and universities will have students who fail, for whatever reason, to give the institution their TINs and provide a safe harbor for institutions that allows them to avoid imposition of penalties. In order to benefit from this safe harbor, however, an institution has to request a waiver after being assessed a penalty and be able to demonstrate that it met the requirements for the safe harbor. The waiver process, however, can be burdensome, and some institutions may wish to avoid it. On the other hand, jeopardizing a student's ability to continue his or her education because he or she refuses or neglects to provide his or her TIN may seem too heavy handed (and beyond what IRS regulations require).

D. Safeguarding Private Information

As part of complying with the Form 1098-T reporting requirements, an institution will necessarily obtain personal information from its students. It is important to take steps to protect this information once obtained.

1. Best Practices

To safeguard students' personal information, institutions should refer to the following best practices:

- Data encryption, so that only authorized users may access it.
- Employee disclosure statements signed by employees that acknowledge that the employees may be subject to disciplinary action by the employer, civil penalties, or criminal prosecution for improperly disclosing such information.
- Staff training on properly handling personal information, including the importance of password protection on computers and locks on cabinets where such information is stored.

2. Practices to Avoid

In handling TINs and other personal information, institutions should avoid the following practices:

- Posting personal information on a public website.
- Sending TINs via electronic format.
- Including TINs on postcards.
- Storing TINs on unprotected computer systems.

E. Quality Control Measures

1. Conducting Effective Due Diligence

Each institution should have a system in place as a check on the TINs received by students. Such a system would be designed to notify the institution of TINs reported that are likely to be false. TINs that are likely to be false are those that contain a series of repeating numbers (555-55-5555), a clear numerical pattern (123-45-6789), two zeros in the middle grouping or four zeros in the last grouping (XX-00-XXXX or XXX-XX-0000), or numbers with the first three digits of 000, 666 or 900-999 because the SSA does not issue numbers with these groupings.

Having such a system in place signifies to the IRS a serious effort on the part of the institution to report only correct TINs.

(Note: Some colleges and universities have chosen to populate the TIN field for nonresident aliens in their student information systems with made-up numbers. It is important to ensure that such numbers are not transmitted to the IRS. The instructions require the TIN field to be left blank if an institution does not have a TIN for the student.)

2. IRS TIN Matching Services

The IRS has a TIN Matching Program established under Revenue Procedure 2003-9. Under the Matching Program, a program participant may check the TIN furnished by the payee against the name/TIN combination contained in the IRS database maintained for the Matching Program.

This database, however, is *not* available for organizations filing Forms 1098-T. Its use is restricted, by statute, to those filing information returns involving backup withholding. SSA also has a matching service, but it is restricted to employers who file Forms W-2.

The IRS uses the database to determine when an institution has filed an incorrect TIN on Form 1098-T.

3. Third-Party Services

Several companies provide services to help colleges and universities meet their Form 1098-T reporting requirements. Various packages of services are available, with some including direct outreach to students to solicit missing TINs.

Using a third-party service does not discharge the liability of the university, and the university would still be responsible for the penalties. In order to show reasonable cause and have the penalties waived based on the malfeasance of the third party, the university would have to show that it dealt reasonably with the third-party service provider and that the third-party service provider had reasonable cause for filing Forms 1098-T with missing or incorrect information.

IV. What to Do After Receiving Notice 972CG

A. Requesting an Extension

The Notice must be answered within 45 days *from the date listed on the Notice*. If an institution requires more time to respond to the Notice, it must deliver a written request to the Philadelphia Campus Site address listed on the Notice before the end of the 45-day period. The request for an extension must be

received by the Philadelphia office by the end of the 45 day period. Institutions are strongly advised to keep a date-stamped copy of the letter and to use a delivery method that includes delivery confirmation of its correspondence. The institution will not receive a response but will be granted an additional 30 days to respond.

B. Waiver Procedure

The penalty may be waived by showing that the failures were due to reasonable cause and not to willful neglect.

C. Reasonable Cause: What It Is, How to Establish It, and How to Document It

To show that the failure was due to reasonable cause and not willful neglect, the filing institution must establish that it acted in a responsible manner both before and after the failure occurred and that:

1. There were significant mitigating factors; or
2. The failure was due to events beyond the filer's control.

Mitigating factors include the fact that prior to the failure, the filing institution was never required to file Form 1098-T and the filing institution has an established history of filing information returns with correct TINs. In determining whether the filing institution has such an established history, consideration is given to whether in prior years the filer has incurred any penalty for failure to file correct information returns, failure to furnish correct payee statements, or failure to comply with other information reporting requirements, and if the filing institution incurred any such penalty, the extent of the filer's success in lessening its error rate from year to year. The rules and requirements for establishing reasonable cause can be found in [IRS Publication 1586](#).

Events beyond the filing institution's control generally include, but are not limited to:

1. The unavailability of the relevant business records—ordinarily for at least a two-week period prior to the due date of the required return. The unavailability must have been caused by a supervening event, including, but not limited to, a fire or other casualty, a statutory or regulatory change that has a direct impact upon date processing such that the filer cannot comply by the due date of the return, or the unavoidable absence (e.g., due to death or serious illness) of the person with the sole responsibility for filing the return.
2. Certain actions of the IRS, which require reasonable reliance on erroneous written information from the IRS. Reliance is reasonable if the filer relied in good faith on the information and the IRS was aware of all the facts when it provided the information to the filer. The filer must provide a copy of the written information provided by the IRS and, if applicable, the filer's written request for the information.
3. Certain actions of an agent. The filer must show that the filer exercised reasonable business judgment in contracting with the agent to file timely correct returns with respect to which the failure occurred, including contracting and providing the proper information sufficiently in advance of the due date, and that the agent also had reasonable cause for failing to file the correct information returns.

4. Certain actions of the payee or any other person providing necessary information with respect to the return. The filer must show that the failure resulted from the failure of the person required to provide information necessary for the filer to comply with the information reporting requirements to provide information to the filer or that the failure resulted from incorrect information provided by the person upon which information the filer relied in good faith. The filer must provide documentary evidence upon request of the IRS showing that the failure was attributable to the payee.

Generally, acting in a responsible manner means that the filer exercises reasonable care and that the filer undertook significant steps to avoid or mitigate the failure, including, where applicable, requesting appropriate extensions of time to file, attempting to prevent an impediment if it was foreseeable, acting to remove an impediment of the cause of the failure once it occurred, and rectifying the failure as promptly as possible once discovered.

There are special rules for showing that the filer acted in a responsible manner with respect to missing and incorrect TINs when the filer is seeking a waiver based on the failure of the payee to provide the correct TIN. In that case, the filer will only be found to have acted in a responsible manner if the filer makes the initial and annual solicitations required of the filer.

1. *Initial solicitation.* An initial solicitation must be made at the time an account is opened or at some other initial point of contact with the student.
2. *Annual solicitation.* A filer must undertake an annual solicitation if a TIN is not received as a result of an initial solicitation. This first annual solicitation must be made on or before December 31 of the year in which the account is opened, or at some other initial point of contact with the student. If the TIN is not received as a result of the first annual solicitation, the filer must undertake a second annual solicitation.

Solicitations can be made by mail or electronically. The requirements for each type of solicitation are as follows:

1. *Mail solicitations.* The mailing should include:
 - A letter stating that the payee must provide an accurate TIN and that failure to do so may result in a penalty per incorrect document.
 - Form W-9 or a significantly similar substitute document.
 - A return envelope that may be (but is not required to be) prepaid.
2. *Electronic solicitations.* The electronic system must:
 - ensure that the information received is the information sent, and document all occasions of user access that result in submission;
 - Make it reasonably certain that the person accessing the system and submitting the form is the person identified on the Form W-9;
 - Provide the same information as the paper Form W-9; and

- Require as the final entry in the submission an electronic signature by the payee whose name is on the Form W-9 that authenticates and certifies the submission.

D. Other Arguments to Consider in Penalty Waiver Request

There are a number of other arguments that the institution may wish to include in a penalty waiver request, based not on the practices of the institution but rather on the information reporting process generally.

1. Unavailability of TIN Matching

Institutions do not have access to TIN matching and it is therefore inappropriate to impose penalties for providing an incorrect TIN. Because institutions filing Form 1098-T do not have access to the TIN Matching Program, they have no mechanism to verify TINs provided by students. Unless institutions are given access to TIN Matching through legislation, if the IRS expects institutions to include TINs on Form 1098-T, the IRS should stop imposing penalties for filing incorrect TINs or give notice of an incorrect TIN before a penalty can be imposed. It is not sufficient to waive the penalty after the fact because the institution is still forced to comply with the burdensome waiver process.

2. Abrupt Change in Enforcement

While the information reporting requirement has been in full effect since 2004, this is the first year that the IRS has issued notices of proposed penalties for missing or incorrect TINs on Forms 1098-T. While institutions had been making every effort to comply with the requirements, the IRS abruptly changed its enforcement policy this year without warning. Because colleges and universities had no such notice, and the time frame for responding is only 75 days (even with an extension), it is inappropriate to impose penalties.

3. No Adverse Impact on Tax Administration

It is inappropriate to impose penalties for errors in Form 1098-T reporting because such errors do not materially impact IRS tax administration. The information reported on Form 1098-T is insufficient to enable the IRS to enforce student tax compliance; consequently, TIN errors on Form 1098-T cannot materially affect such compliance efforts.

The purpose of Form 1098-T is to help the IRS verify tax returns claiming educational tax credits. The educational tax credits are calculated based on the amount of tuition payments made by a student or a taxpayer claiming the student as a dependent. Because it is difficult to ascertain the amount of tuition payments a student actually makes over the course of the academic year, IRS regulations allow colleges and universities to report the amount of tuition billed to students on Form 1098-T. Because the amount of tuition billed to students may not be the same as the amount of tuition the students in fact pay, Form 1098-T is not sufficient to ensure that students do not incorrectly claim education credits to which they are not entitled. As such, TIN errors on Form 1098-T do not materially interfere with the IRS's tax administration.

4. Lack of Leverage

Colleges and universities cannot compel students to provide accurate TINs, and there is no economic incentive for students to provide such information. Unlike backup withholding or other information reporting associated with a payment, the entity with the reporting obligation cannot require accurate TIN

information as a condition to receiving a payment. It would be inappropriate for the IRS to force colleges and universities to withhold education from individuals who fail to provide accurate TINs by imposing penalties up to \$1.5 million for noncompliance.

This fact, in combination with the absence of TIN matching, the abrupt change in enforcement policy, and the relative unimportance of Form 1098-T to tax administration, makes it inappropriate to assert penalties on colleges and universities for providing inaccurate TINs on Form 1098-T.

E. Demonstrating Future Compliance

An institution should be able to demonstrate to the IRS that it will act in a responsible manner in regard to collecting and including accurate TINs on future Forms 1098-T. In establishing this, the institution may wish to provide documents detailing its plan for conducting initial and annual solicitations or revamping its current solicitation system to increase compliance, including copies of any letters that will be sent to students or information detailing the electronic system that will be used.

The institution should also demonstrate to the IRS a follow-up effort to obtain the TINs from the students identified on the Notice, and should include evidence of this effort with the reasonable cause letter. For example, institutions should issue Forms W-9S to the students identified in Notice 972CG and be sure to date the Forms W-9S after the date of the Notice. Given that the notices stem from 2011, it would be reasonable to restrict this follow-up activity to currently enrolled students. Institutions that have not routinely followed the annual solicitation requirements should particularly emphasize the follow-up efforts to obtain missing TINs and the other procedures that have or will be put into place to comply with the annual solicitation requirement in the future.

F. Correction of Prior Filings

Once a correct TIN is received from the payee, the institution should include the correct TIN on any future information returns. A correction for a return with a missing or incorrect TIN is not required to be filed. A correction may be filed if the institution is still within the period where a correction would lead to an abatement of the penalty, as discussed above.

G. Whom to Contact for Help

The Notice 972CG lists the phone number for the IRS information reporting help desk: 866.455.7438. This is the best source of information from the IRS.

At NACUBO, questions may be directed to Anne Gross, vice president of regulatory affairs, at anne.gross@nacubo.org or 202.861.2544, or Mary Bachinger, director, tax policy, at mary.bachinger@nacubo.org or 202.861.2581.

- V. Templates and Sample Documents**
 - A. Request for Waiver/Reasonable Cause Letter**
 - B. Request for Extension**
 - C. Sample Notice 972CG**

October __, 2013

Internal Revenue Service
Submission Processing Center
Philadelphia, PA 19255-0633

[For hand or overnight delivery:
2970 Market Street
MS-4-G 08151
Philadelphia, PA 19104-5016]

Re:	Taxpayer:	[institution name]
	EIN:	xx-xxxxxxxx
	Notice Number:	972CG
	Tax Period:	201112
	Penalty Reference Code	502
	Amount of penalty being challenged:	[Amount]

To Whom It May Concern:

The purpose of this submission is to set forth the response of [Name of Institution] (the Institution) to the IRS's Notice of Proposed Penalty 972CG (the Notice) dated [Date]. The Notice proposes a penalty of [Amount] with respect to the Institution's filing of Form 1098-T with missing or incorrect taxpayer information number (TIN) information. As explained more fully below, this failure was due to reasonable cause and not willful neglect by the Institution. The Institution therefore respectfully requests a waiver of the penalty under Section 6724(a) of the Internal Revenue Code (Code).

Penalty Relief

Code Section 6724(a) provides that "[n]o penalty shall be imposed under this part with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect." Section 6724 reasonable cause relief applies to Forms 1098-T relating to payments for qualified tuition and related expenses.

Generally, Treasury Regulation §301.6724-1 states that reasonable cause may be established by:

1. Showing that the filer acted in a responsible manner both before and after the failure occurred; and
2. The filer establishes that the failure arose from events beyond the filer's control or that there were significant mitigating factors.

I. The Institution Acted in a Responsible Manner Both Before and After the Failure Occurred

The Institution has acted in a responsible manner by exercising reasonable care in obtaining students' TINs and identifying incorrect TINs provided by students.

When a student enrolls at the Institution, the Institution requests the student's TIN as a process of enrollment, which is the time that an account is opened for the student. This solicitation is to meet many requirements, including any IRS reporting which may be required, and serves as the initial solicitation required under Treasury Regulations section 301.6724-1.

If a student has not provided a TIN to the Institution, the Institution issues the student a written solicitation request accompanied by IRS Form W-9S, "Request for Student's or Borrower's Taxpayer Identification Number and Certification" either by mail or email. [The Institution includes a return envelope in the mailing.] This Institution makes the solicitation in November of every year. This second solicitation meets the requirements for the first annual solicitation required by Treasury Regulation §301.6724-1.

Attached to this letter is a sample notification sent to students for whom the institution does not have a TIN on file.

If the Institution does not receive the TIN in response to the first annual solicitation, the Institution mails a second annual solicitation to the student.

[In addition to the notification sent to students, a hold is placed on the student's account. This hold informs the student that a valid TIN is missing from the Institution's records. The hold message on the student account is reproduced immediately below.

"[Institution name] requires your correct identifying number to file certain information returns with the IRS and to furnish a statement to you. For students, this will be your social security number (SSN) or, if you are not eligible to obtain an SSN, your individual taxpayer identification number (ITIN). Please note that if you are a non-resident alien and do not have income that is subject to tax, you are not required to supply this information to us.

To obtain an identifying number, please complete the W-9S found at [link to W-9S available from institution's student accounts web page].

Failure to provide your correct identifying number could result in a penalty from the IRS imposed on each incorrect document.

Please return completed forms, school ID, and your copy of the SSN/ITIN card to:

Hand Delivery:
Student Financial Services
[insert delivery address]

Mailing Address:
Student Financial Services
[insert mailing address]

Requested information may also be faxed to Student Account Services at xxx-xxx-xxxx, ATTN: Tax Processor. Please note this information SHOULD NOT be Emailed.”]

While the Institution follows strict data input and verification procedures, it also expects and has found that students will sometimes provide incorrect information. The Institution also has a system in place to determine when TINs submitted by students are likely to be incorrect. The system notifies the Institution of TINs reported that are likely to be false, including those that contain a series of repeating numbers (555-55-5555), a clear numerical pattern (123-45-6789), two zeros in the middle grouping or last grouping (XX-00-XXXX, or XXX-XX-0000), or numbers with the first three digits of 000, 666 or 900-999 as the Social Security Administration does not issue numbers with these groupings.

II. The Failure Arose From Events Beyond the Institution’s Control

Treasury Regulation section 301.6724-1 states that reasonable cause may be established by showing that the failure to correctly file an information return arose from events beyond the filer’s control. The regulations and IRS Publication 1586 state that an example of an event beyond the filer’s control is when a payee does not provide necessary information with respect to the return.

As described above, the Institution acted responsibly and with ordinary business care and prudence in its attempts to solicit TIN information from students upon enrollment and then annually for two consecutive years. However, some students still did not provide this information, and the Institution consequently did not have access to the students’ TINs to include in the Form 1098-T. The students’ compliance in reporting this information is necessary for the correct filing of Form 1098-T. The students’ failure to comply represents an event outside the Institution’s control.

Attached to this letter are examples of an initial solicitation and two annual solicitations the Institution sent to [five] of the students whose Forms 1098-T were filed with missing TINs. The Institution complied with this process for each Form 1098-T submitted with a missing TIN.

Further, despite operation of the Institution’s system to catch incorrect TINs, some incorrect TINs that students provided were reported on the Form 1098-T. Attached to this letter are [five] Forms W-9S that report an incorrect TIN which was then repeated on the Form 1098-T.

III. Significant Mitigating Factors Demonstrate the Institution’s Past Compliance

The Institution’s preceding tax years demonstrate that it has an established history of compliance with information reporting requirements, and that the Institution was not willfully neglectful in its failure to correctly file Form 1098-T.

The Institution places great importance in complying with IRS reporting requirements and regulations. Notice 972CG was the first instance in which the Institution was made aware of missing or incorrect TINs. The Institution will use this information to continue to review and improve its solicitation and reporting procedures to ensure the correct filing of Form 1098-T in the future. The Institution has also rarely incurred penalties related to information returns other than Forms 1098-T. To the extent that the Institution has incurred any such penalties, those penalties have been steadily reduced over time.

IV. Additional Arguments That a Penalty Is Inappropriate Under These Circumstances

1. Unavailability of TIN Matching

Unlike other third-party information reporters, colleges and universities do not have access to the TIN Matching Program. It is therefore inappropriate to impose penalties on the Institution for providing incorrect TINs on Form 1098-T. Without access to the TIN Matching Program, colleges and universities have no mechanism to verify TINs provided by students. Unless or until colleges and universities gain access to the TIN Matching Program, which may require federal legislation, it is inappropriate for the IRS to impose penalties for filing incorrect TINs. At a minimum, the IRS should give notice to colleges and universities that have filed Form 1098-T with incorrect TINs before imposing any penalties. Notice 972CG is not an appropriate mechanism for informing colleges and universities of incorrect TINs because Notice 972CG is a penalty notice. Although the IRS may waive such penalties on a case-by-case basis, such waiver is discretionary. Moreover, it is burdensome for the Institution to show reasonable cause and request such a waiver.

2. Abrupt Change in Enforcement

While the information reporting requirement has been in full effect since 2004, this is the first year that the IRS has issued notices of proposed penalties for missing or incorrect TINs on Forms 1098-T. Colleges and universities such as the Institution have made every effort to comply with the requirements. The IRS changed its enforcement policy without warning.

Further, the IRS issued these notices in August, 2013, just as students were returning to school. It is burdensome to respond to Notice 972CG, yet this is the busiest time of the year for employees at colleges and universities. Had the IRS indicated that a change in enforcement was imminent, institutions would have been better equipped to respond. Because the Institution had no prior notice of a change in enforcement, and the time frame for responding is only 75 days even with an extension, it is inappropriate to impose penalties.

3. No Adverse Impact on Tax Administration

It is inappropriate to impose penalties on the Institution for errors in Form 1098-T reporting because such errors did not materially impact IRS tax administration. The information reported on Form 1098-T is insufficient to enable the IRS to enforce student tax compliance; consequently, TIN errors on Form 1098-T cannot materially affect such compliance efforts.

4. Lack of Leverage

Penalties should be waived because the Institution cannot compel students to provide accurate TINs, and there is no economic incentive for students to provide such information. Unlike backup withholding or other information reporting associated with a payment, the entity with the reporting obligation cannot require accurate TIN information as a condition to receiving a payment.

This fact, in combination with the absence of TIN matching, the abrupt change in enforcement policy, and the relative unimportance of Form 1098-T to tax administration, makes it inappropriate to assert penalties on colleges and universities such as the Institution for providing inaccurate TINs on Form 1098-T.

V. The Institution is Acting Responsibly in Response to this Notice

Upon receipt of Notice 972CG, the Institution acted responsibly in submitting a written request for extension to file within 45 days of the Notice to allow the Institution more time to adequately evaluate the penalty proposal. The Institution is now working to evaluate its procedures and possibly adopt new procedures to ensure its future compliance with information reporting requirements, including [placing a hold on student registrations that have not provided TIN information, developing an electronic system for collecting the relevant information, and enlisting third-party services to more closely monitor the accurate and timely filing of Form 1098-T.]

The Institution also plans to inform the students identified in the Notice that the Institution's records do not match the IRS's records for the student's TIN and name combination. This notification to the students will include a copy of IRS Form W-9S.

Conclusion

As established above, there is reasonable cause for the missing or incorrect TINs reported. In summary, the Institution meets the reasonable cause relief standards as follows:

1. The Institution acted in a responsible manner both before and after the failure occurred.

The Institution has established procedures which ensure TINs are solicited at the inception of any student relationship and annually if so required.

2. The Institution established that the failure arose from events beyond its control.

The Institution requests TIN information from all students. Occasionally, this TIN information is provided incorrectly at the source, which leads to errors in information reporting. In other situations, this TIN information is not provided at all despite multiple solicitations. Each of these failures are due to circumstances beyond the Institution's control.

The Institution takes its tax compliance requirements seriously and in no way was the Institution willfully neglecting or disregarding the tax laws. The Institution respectfully requests relief of the proposed penalties, for the reasons stated above.

Please contact me at [xxx.xxx-xxxx] if additional information is required. Thank you for your assistance with this matter.

I hereby certify, under penalties of perjury, to the best of my knowledge, the information provided in this document is true and correct. Should any information change, I will promptly notify the Internal Revenue Service immediately at the applicable address.

Very truly yours,
[Signature of person responsible for filing Forms 1098-T]

Enclosures

October __, 2013

Internal Revenue Service
Submission Processing Center
Philadelphia, PA 19255-0633

[For hand or overnight delivery:
2970 Market Street
MS-4-G 08151
Philadelphia, PA 19104-5016]

Re:	Taxpayer:	[Institution name]
	EIN:	xx-xxxxxxxx
	Notice Number:	972CG
	Tax Period:	201112
	Penalty Reference Code	502
	Amount of penalty:	[Amount]

To Whom It May Concern:

We are writing to request an extension of the current deadline for responding to the above Notice of Proposed Penalties regarding the incorrect filing of information return 1098-T.

Notice 972-CG was issued to [Institution name] (the "Institution") on [Date]. We are submitting this letter within 45 days of the issuance date of Notice 972-CG respectfully to request an extension. The Institution requires additional time adequately to review the proposal and collect the documentation required to respond. The Institution also desires to review its current procedures in place concerning the solicitation and reporting of student information in order to ensure the Institution's present and future compliance with the requirements of Form 1098-T.

Please contact me at [xxx.xxx.xxxx] if additional information is required. Thank you for your assistance with this matter.

Sincerely,

PHILADELPHIA, PA 19255-0633

IF YOU WRITE OR
CALL US, REFER TO
THIS INFORMATION:

NOTICE NUMBER: 972CG
BOD CODE:
DATE OF THIS NOTICE:

TAXPAYER IDENTIFICATION
NUMBER:
FORM: CVL PEN
TAX PERIOD: 201112
PENALTY REFERENCE
CODE:

FOR INFORMATION,
PLEASE CALL:
1-866-455-7438

000500

A PENALTY IS PROPOSED FOR YOUR 2011 INFORMATION RETURNS
ACTION REQUIRED

OUR RECORDS SHOW THAT YOU DIDN'T FILE CERTAIN INFORMATION RETURNS CORRECTLY AS REQUIRED BY INTERNAL REVENUE CODE (IRC) SECTION 6721 FOR THE TAX PERIOD SHOWN ABOVE. THE LAW ALLOWS FOR A PENALTY FOR FILING INFORMATION RETURNS INCORRECTLY. A PENALTY IS PROPOSED IN THE AMOUNT OF \$ 6,700.00. INTEREST ON THIS PENALTY WILL NOT BE CHARGED UNTIL AFTER YOU RECEIVE A BILL.

PLEASE READ THIS NOTICE CAREFULLY. IT EXPLAINS THE PROPOSED PENALTY AND WHAT YOU SHOULD DO IF YOU AGREE OR DISAGREE WITH THE PROPOSAL. THIS PENALTY WILL BE CHARGED IF YOU DON'T RESPOND TO THIS NOTICE. THE PROPOSED PENALTY AND RELATED EXPLANATION BEGINS ON PAGE 2 OF THIS NOTICE.

HOW YOU SHOULD RESPOND TO THIS NOTICE

PLEASE REVIEW YOUR RECORDS RELATED TO FILING THE RETURNS LISTED ON PAGE 2.

-- IF YOU AGREE TO THE FULL AMOUNT OF THE PROPOSED PENALTY, DO ALL OF THE FOLLOWING:

1. CHECK BOX (A) ON THE LAST PAGE OF THIS NOTICE.
2. SIGN AND DATE THE CONSENT OF PENALTY ASSESSMENT.
3. ENCLOSE YOUR PAYMENT IN FULL. MAKE YOUR CHECK OR MONEY ORDER PAYABLE TO THE UNITED STATES TREASURY.
4. ENCLOSE THE APPROPRIATE MAILING STUB TO INDICATE WHETHER A PAYMENT IS INCLUDED.
5. ENSURE THE ADDRESS ON THE STUB APPEARS IN THE ENVELOPE WINDOW.

-- IF YOU DON'T AGREE WITH ALL OR PART OF OUR FINDINGS OR BELIEVE YOU HAVE A REASON ALL OR PART OF THIS PENALTY SHOULD NOT BE CHARGED, DO ALL OF THE FOLLOWING:

1. CHECK BOX (B) OR (C) ON THE LAST PAGE OF THIS NOTICE.
2. ENCLOSE A SIGNED STATEMENT EXPLAINING WHY YOU DISAGREE.
3. INCLUDE ANY SUPPORTING DOCUMENTS YOU WISH TO HAVE CONSIDERED.
4. IF YOU AGREE TO PART OF THE PENALTY, ENCLOSE YOUR PAYMENT. MAKE YOUR CHECK OR MONEY ORDER PAYABLE TO THE UNITED STATES TREASURY.
5. ENCLOSE THE APPROPRIATE MAILING STUB TO INDICATE WHETHER A PAYMENT IS INCLUDED.
6. RETURN THE LAST PAGE OF THIS NOTICE WITH YOUR STATEMENT AND DOCUMENTS IN THE ENCLOSED ENVELOPE (ENSURE THE ADDRESS APPEARS IN THE ENVELOPE WINDOW). PLEASE INCLUDE A TELEPHONE NUMBER, INCLUDING THE AREA CODE, AND THE BEST TIME TO CALL YOU.

IT'S IMPORTANT THAT YOUR COMPLETED RESPONSE BE RECEIVED WITHIN 45 DAYS FROM THE DATE OF THIS NOTICE. YOU HAVE 60 DAYS TO RESPOND IF YOU LIVE OUTSIDE THE UNITED STATES. IF YOU DO NOT RESPOND WITHIN THIS PERIOD, YOU WILL RECEIVE A BILL CALLED "NOTICE OF PENALTY CHARGE" FOR THE AMOUNT OF THE PROPOSED PENALTY. INTEREST WILL BE CHARGED FROM THE DATE OF THE "NOTICE OF PENALTY CHARGE" TO THE DATE PAYMENT IS RECEIVED IN FULL.

IF YOU HAVE ANY QUESTIONS ABOUT THIS NOTICE, YOU MAY WRITE TO THE RETURN ADDRESS ON THIS NOTICE. IF YOU PREFER, YOU MAY CALL THE TELEPHONE NUMBER SHOWN ABOVE FOR GENERAL INFORMATION ABOUT THIS NOTICE. HOWEVER, THE OFFICE AT THE ADDRESS SHOWN ON THIS NOTICE IS MOST FAMILIAR WITH YOUR CASE.

IRS INFORMATION: PHILADELPHIA SERVICE CENTER

A PENALTY IS PROPOSED BASED ON HOW YOU FILED THE FOLLOWING INFORMATION RETURNS. THE EXPLANATION OF THE PENALTY FOLLOWS THE LIST OF INFORMATION RETURNS. THE PAGE TITLED "SUMMARY OF PROPOSED PENALTY" SHOWS YOU THE TOTAL NUMBER OF RETURNS FOR WHICH A PENALTY IS PROPOSED.

FORM 1099-MISC RECEIVED:
ORIGINAL RETURNS: 98
AMENDED RETURNS: 0
HOW RECEIVED: ELECTRONIC
TRANSMITTER CONTROL CODE:

PROPOSED PENALTY TYPE: MISSING OR INCORRECT TINS

FORM 1098-T RECEIVED:
ORIGINAL RETURNS: 3,761
AMENDED RETURNS: 0
HOW RECEIVED: ELECTRONIC
TRANSMITTER CONTROL CODE:

PROPOSED PENALTY TYPE: MISSING OR INCORRECT TINS

EXPLANATION OF PENALTY

502

A PENALTY IS PROPOSED FOR EACH INFORMATION RETURN YOU FILED THAT HAD A MISSING OR INCORRECT TAXPAYER IDENTIFICATION NUMBER (TIN). THE PENALTY IS \$100 FOR EACH INFORMATION RETURN DOCUMENT SENT WITH A MISSING OR INCORRECT TIN.

THE MAXIMUM PENALTY CHARGE IS \$100 PER INFORMATION RETURN, UP TO \$1,500,000 PER YEAR (\$500,000 FOR SMALL BUSINESSES AS DEFINED BELOW).

A LIST OF THE INFORMATION RETURNS YOU FILED THAT HAD MISSING OR INCORRECT TINS IS ENCLOSED. YOU SHOULD CHECK THIS LIST AGAINST YOUR RECORDS TO SEE IF YOU HAVE AN ACCEPTABLE REASON WHY THE PENALTY SHOULDN'T BE CHARGED.

THE ENCLOSED PUBLICATION 1586, REASONABLE CAUSE REGULATIONS AND REQUIREMENTS, AS THEY APPLY TO MISSING AND INCORRECT TINS, EXPLAINS WHAT ACTIONS YOU MUST HAVE TAKEN IN ORDER TO SHOW REASONABLE CAUSE FOR MISSING AND INCORRECT TINS. YOU SHOULD ALSO CHECK THE LIST AND FOLLOW THE GUIDELINES IN PUBLICATION 1586 TO MAKE ANY REQUIRED SOLICITATIONS (REQUEST FOR TINS) TO PAYEES. THIS MAY HELP YOU ESTABLISH REASONABLE CAUSE TO AVOID PENALTIES IN FUTURE YEARS.

IF YOU HAVE QUESTIONS ABOUT THE LISTING OF MISSING AND INCORRECT TINS, OR THE REQUIREMENTS OUTLINED IN PUBLICATION 1586, YOU MAY CALL THE INFORMATION REPORTING PROGRAM CENTRALIZED CALL SITE AT 1-866-455-7438 FROM 8:30 A.M. TO 4:30 P.M. EASTERN STANDARD TIME.

ALSO, YOU MAY GET INFORMATION BY USING A PERSONAL COMPUTER TO ACCESS THE IRS WEBSITE AT [HTTP://WWW.IRS.GOV](http://www.irs.gov) WHICH IS AVAILABLE 24 HOURS A DAY.

LOWER PENALTY FOR SMALL BUSINESSES

THE LOWER MAXIMUM PENALTIES STATED ABOVE FOR SMALL BUSINESSES APPLY IF A BUSINESS HAD AVERAGE GROSS RECEIPTS OF \$5 MILLION OR LESS FOR THE THREE MOST RECENT TAX YEARS (OR TIME IN BUSINESS, IF SHORTER) ENDING BEFORE THE CALENDAR YEAR THE INFORMATION RETURNS WERE DUE. FOR EXAMPLE, IF YOU WERE CHARGED A PENALTY FOR 2011 INFORMATION RETURNS DUE IN 2012, THE THREE MOST RECENT TAX YEARS ARE 2009, 2010, AND 2011. IF THE PENALTY ON THE NOTICE YOU RECEIVED IS MORE THAN THE MAXIMUM PENALTY FOR SMALL BUSINESSES, THE PENALTY MAY BE REDUCED BASED ON EVIDENCE YOU GIVE THAT YOU'RE A SMALL BUSINESS.

SUMMARY OF PROPOSED PENALTY

THE SUMMARY ON THE FOLLOWING PAGE SHOWS THE INFORMATION RETURNS FOR WHICH A PENALTY IS PROPOSED AND THE AMOUNT OF PENALTY FOR EACH PENALTY TYPE. THE AMOUNT OF THE PROPOSED PENALTY MAY BE LOWER THAN THE ACTUAL PENALTY AMOUNT DUE TO THE DOLLAR LIMITATIONS IMPOSED UNDER IRC 6721 AND IRC 6722.

PROPOSED PENALTY AMOUNT: \$ 6,700



PROPOSED PENALTY AMOUNT -- THIS AMOUNT MAY BE LESS THAN THE TOTAL OF THE INDIVIDUAL PENALTY AMOUNTS SHOWN ABOVE IF MORE THAN ONE TYPE OF PENALTY APPLIES TO ANY OF THE RETURNS FILED. FOR EXAMPLE, IF YOU FILED A RETURN LATE AND WITH A MISSING TAXPAYER IDENTIFICATION NUMBER, THE RETURNS WILL BE SHOWN IN BOTH PENALTY COLUMNS. HOWEVER, THE MAXIMUM CHARGE IS \$100 FOR THAT RETURN.

00500

LATE FILING PENALTY -- THIS PENALTY APPLIES TO RETURNS FILED AFTER THE DUE DATE. IT MAY ALSO APPLY TO RETURNS FILED BY THE DUE DATE BUT NOT FILED CORRECTLY.

ELECTRONIC MEDIA PENALTY -- THIS PENALTY APPLIES TO THE NUMBER OF PAPER RETURNS OVER 250 THAT YOU FILED.

INCORRECT TIN -- THIS PENALTY APPLIES TO RETURNS FILED WITH A MISSING OR INCORRECT TAXPAYER IDENTIFICATION NUMBER.

IRS INFORMATION: PHILADELPHIA SERVICE CENTER

PENALTY TYPE	TIN	ELECTRONIC	LATE			TOTALS
			TIER 1	TIER 2	TIER 3	
1098-T	65	0	0	0	0	65
1099-MISC	2	0	0	0	0	2
NO. OF PENALTIES	67	0	0	0	0	
X	\$100	\$100	\$30	\$60	\$100	TOTALS
GROSS PEN. MINUS DUPLS	\$6,700	\$0	\$0	\$0	\$0	\$6,700
	\$0	\$0	\$0	\$0	\$0	\$0
	\$6,700	\$0	\$0	\$0	\$0	\$6,700
TIER CAP LIMITATION	\$6,700	\$0	\$0	\$0	\$0	\$6,700
LARGE BUSINESS CAP LIMITATION						\$6,700



000500

RESPONSE TO PROPOSED PENALTY FOR YOUR TAX YEAR 2011 INFORMATION RETURNS

PLEASE CHECK THE BOX THAT APPLIES TO YOU AND RETURN THIS PAGE IN THE ENCLOSED ENVELOPE. PLEASE REMEMBER TO INCLUDE THE APPROPRIATE MAILING STUB AND INSERT IT IN THE ENCLOSED ENVELOPE SO THE ADDRESS APPEARS IN THE ENVELOPE WINDOW.

PLEASE CHECK ONLY ONE BOX:

- (A) TOTAL AGREEMENT WITH THE PROPOSED PENALTY - I CONSENT TO THE IMMEDIATE ASSESSMENT AND COLLECTION OF THE PENALTY AMOUNT SHOWN IN THIS NOTICE, PLUS ANY APPLICABLE INTEREST.
I HAVE HAVE NOT ENCLOSED A PAYMENT.

SIGNATURE _____

DATE _____

- (B) PARTIAL AGREEMENT WITH THE PROPOSED PENALTY - I AGREE WITH PART OF THE PROPOSED PENALTY SHOWN IN THIS NOTICE. I HAVE ATTACHED A SIGNED STATEMENT AND SUPPORTING DOCUMENTS EXPLAINING WHICH ITEMS I DISAGREE WITH AND WHY I DISAGREE, OR WHY I FEEL YOU SHOULDN'T CHARGE PART OF THE PROPOSED PENALTY.
I HAVE HAVE NOT ENCLOSED A PAYMENT.
- (C) TOTAL DISAGREEMENT WITH THE PROPOSED PENALTY - I DISAGREE WITH THE ENTIRE PROPOSED PENALTY SHOWN IN THIS NOTICE. I'VE ATTACHED A SIGNED STATEMENT AND SUPPORTING DOCUMENTS EXPLAINING WHY THE PROPOSED PENALTY IS INCORRECT, OR AN ACCEPTABLE REASON WHY YOU SHOULDN'T CHARGE THIS PROPOSED PENALTY.

TELEPHONE NUMBER: () _____ BEST HOURS TO CALL: _____
(INCLUDE AREA CODE)

PLEASE DO NOT DETACH

IRS INFORMATION: PHILADELPHIA SERVICE CENTER

CORRESPONDENCE ONLY (NO PAYMENTS)

1. Write on all attached pages:
Name, taxpayer identification number, 972CG Notice, and tax period
2. Include your phone numbers: () - home () - work/cell
3. Best time to call: a.m. p.m.



INTERNAL REVENUE SERVICE
PHILADELPHIA, PA 19255-0633

000500



Cut Here



972CG Correspondence Only. Cut the stub (Philadelphia, PA) above, and place in the enclosed envelope, ensuring the entire address appears in the envelope window.

972CG Payment (with or without correspondence). Cut the stub below (Kansas City, MO) and place in the enclosed envelope, ensuring the entire address appears in the envelope window.



Cut Here

IRS INFORMATION: PHILADELPHIA SERVICE CENTER

PAYMENT (WITH OR WITHOUT CORRESPONDENCE)

1. Make check payable to: United States Treasury Amount Enclosed: \$ _____
2. Write on payment and all attached pages:
Name, taxpayer identification number, 972CG Notice, and tax period
3. Include your phone numbers: () - home () - work/cell
4. Best time to call: a.m. p.m.

INTERNAL REVENUE SERVICE
Kansas City, MO 64999-0202

