

IRS Sending Penalty Notices for Form 1098-Ts With Missing or Inaccurate TINs

Regulations require colleges and universities to annually submit to the Internal Revenue Service Forms 1098-T for certain students who may be eligible to claim the federal education tax credits. While the regulations require institutions to report the student's Taxpayer Identification Number (TIN), which for most students is their Social Security number, institutions also are required to submit the form even if they have not received the TIN from the student.

NACUBO has heard from a number of institutions that have received 972CG notices from IRS, proposing to penalize them for doing precisely that – submitting Forms 1098-T that do not include the student's TIN or with a name/TIN mismatch.

If they do not already have students' TINs, the regulations require institutions to annually solicit them from enrolled students for whom they need to generate Forms 1098-T. (Institutions do not need to report on continuing education students or nonresident aliens, unless specifically requested to do so.)

How to Respond to IRS

If your institution has received an IRS penalty notice and you can demonstrate that you have solicited TINs in a "responsible manner" in accordance with the rules, penalties should be waived. The regulations spell out that the institution must request the TIN in writing, clearly notifying the student that the law requires the individual to furnish a TIN for inclusion on an information return. Requests made on Form W-9S, Request for Student's or Borrower's Taxpayer Identification Number and Certification, satisfy the requirement, as does a separate form or request incorporated into other forms customarily used by the institution, such as admission or enrollment forms or financial aid applications.

Follow the instructions included in the penalty notice, and provide an explanation for the missing TINs (i.e., these students did not furnish TINs). Attach copies of the correspondence or format you use to annually solicit TINs. Also include any other information that demonstrates your college's compliance with the regulations. Other guidance includes:

- You must respond within 45 days of the date of the notice or ask for an extension.
- A brief two-page letter describing your practices and procedures for collecting or correcting SSNs/TINs, not a spreadsheet providing information on each individual.
- Explain how you solicit SSNs/TINs from students at least once a year. If you haven't done this correctly in the past, use the future tense and promise to do so in the future.
- It might be good to characterize how many forms fall into certain categories (i.e., x are nonresident aliens, y were inadvertent errors in transcribing numbers) if this is possible.
- You do not need to go back and file corrected returns for mismatched names/TINs or incorrect numbers or provide this information to IRS – just show that you have a process in place to solicit the correct information and update your records so that you won't have the same mismatch data next year.
- Institutions need to ask for the information from the individual in the proper manner, and warn students that they are required to provide it or may be penalized by IRS if they don't. Using Form W-9S meets the requirements.
- In preparing your institution's response, the most helpful publication is IRS Publication 1586, Reasonable Cause Regulations & Requirements for Missing and Incorrect Name/TINs (www.irs.gov/pub/irs-pdf/p1586.pdf).