

## Part III - Administrative, Procedural and Miscellaneous

### Returns Relating to Interest on Education Loans

#### Notice 98-54

#### PURPOSE

This notice modifies Notice 98-7, 1998-3 I.R.B. 54, which describes the information reporting requirements under § 6050S of the Internal Revenue Code for 1998 that apply in the case of payments of interest on qualified education loans.

Specifically, this notice provides that no information reporting is required with respect to “mixed use” loans in light of amendments made to § 221(e)(1) by the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 1998), Pub. L. No. 105-206, § 6004(b)(1), 112 Stat. 792. This notice also provides that the Internal Revenue Service and the Treasury Department are extending the application of Notice 98-7 to information reporting required under § 6050S for 1999.

#### BACKGROUND

Section 6050S, as enacted by the Taxpayer Relief Act of 1997, Pub. L. No. 105-34, § 202(c), 111 Stat. 808, requires the filing of information returns by persons who receive payments of interest that may be deductible as interest on a qualified education loan (“payees”). Section 6050S(e) provides that, except as provided in regulations, the term “qualified education loan” has the meaning given such term by § 221(e)(1). Section 6050S requires that payees file the specified information returns with the Service and provide a corresponding statement to the individuals named on the information return (“payor”) showing the information that has been reported.

The requirements for reporting qualified education loan interest under § 6050S are generally described in Notice 98-7, along with specific information reporting requirements for 1998. Section D of the Discussion portion of Notice 98-7 provides a rule for reporting payments of interest made on or after January 1, 1998, on mixed use loans or revolving accounts, such as credit card accounts. Payments of interest on these loans are treated under Notice 98-7 as interest paid with respect to a qualified education loan (and must be reported as such) only if the mixed use loan or revolving account is certified by the payor to be, in part, a qualified education loan, and the payee has a reasonable method for allocating the interest payments to the part of the loan that is certified to be a qualified education loan. In addition, Section E of the Discussion provides that, with respect to loans made on or after January 1, 1998, that are secured by real property, if a payor certifies all or part of such a loan as a qualified education loan, only the certified portion of the loan may be treated as a qualified education loan for purposes of information reporting. The remaining portion must be treated as a mortgage subject to information reporting under § 6050H.

## DISCUSSION

Section 221(e)(1), as amended by RRA 1998, provides that the term "qualified education loan" means any indebtedness incurred by the taxpayer solely to pay qualified higher education expenses. The amendment to § 221(e)(1) is effective as if included in the Taxpayer Relief Act of 1997 and applies to interest payments due and paid after December 31, 1997. Thus, the payee must not report under § 6050S information on mixed use loans (whether or not secured by real property) because they are not qualified education loans under § 221(e)(1) as amended. However, information

reporting under § 6050S continues to be required for any loan (including a loan secured by real property) or revolving account, such as credit card account, that the payor certifies is used solely for the purpose of paying qualified higher education expenses. The payee may rely on this certification when filing Form 1098-E, Student Loan Interest Statement, for 1998 and need not verify the payor's actual use of the funds. In all other respects, the requirements of § 6050S with respect to qualified education loan interest reporting for 1998 remain the same as described in Notice 98-7.

The Service is currently revising Form W-9S, Request for Student's or Borrower's Social Security Number and Certification, to remove the certification for mixed use loans. In addition, payees should disregard the instructions regarding mixed use loans and revolving accounts, which are found in the Form 1098-E section of the 1998 Instructions for Forms 1099, 1098, 5498, and W-2G. Those instructions will be revised for 1999.

The Treasury Department intends to issue regulations soon on the information reporting requirements of § 6050S. Pending issuance of those regulations, the Service is extending the application of Notice 98-7, as modified by this notice, for an additional year, i.e., to information reporting required under § 6050S for 1999.

For 1999, payees must follow the rules provided in Notice 98-7, as modified by this notice, for information reporting under § 6050S. For example, a payee that receives payments of interest on a qualified education loan in 1999 must file a Form 1098-E that includes the same information that was required by Notice 98-7, as modified by this notice. The Forms 1098-E for 1999 must be filed with the Service by

February 28, 2000, if filed on paper or by magnetic media, or by March 31, 2000, if filed electronically. A statement containing the same information as the Form 1098-E filed with the Service must be furnished to the payor by January 31, 2000. Similarly, Notice 98-7, as modified by this notice, applies for 1999 with respect to how penalties will be administered under §§ 6721 and 6722 for information returns required under § 6050S.

#### EFFECT ON OTHER DOCUMENTS

Notice 98-7 is modified.

#### DRAFTING INFORMATION

The principal author of this notice is John J. McGreevy of the Office of the Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this notice contact him on (202) 622-4910 (not a toll-free call).