

section 6721, and the regulations thereunder, for rules relating to penalties for failure to file correct returns. See section 6724, and the regulations thereunder, for rules relating to waivers of penalties for certain failures due to reasonable cause.

(2) *Failure to furnish correct information statements.* The section 6722 penalty may apply to a payee that fails to furnish statements required by section 6050S and this section on or before the prescribed date; that fails to include all the required information on the statement; or that includes incorrect information on the statement. See section 6722, and the regulations thereunder, for rules relating to penalties for failure to furnish correct statements. See section 6724, and the regulations thereunder, for rules relating to waivers of penalties for certain failures due to reasonable cause.

(3) *Waiver of penalties for failures to include a correct TIN—(i) In general.* In the case of a failure to include a correct TIN on Form 1098-E or a related information statement, penalties may be waived if the failure is due to reasonable cause. Reasonable cause may be established if the failure arose from events beyond the payee's control, such as a failure of the payor to furnish a correct TIN. However, the payee must establish that it acted in a responsible manner both before and after the failure.

(ii) *Acting in a responsible manner.* A payee must request the TIN of each payor if it does not already have a record of the payor's correct TIN. If the payee does not have a record of the payor's correct TIN, then it must solicit the TIN in the manner described in paragraph (f)(3)(iii) of this section on or before December 31 of each year during which it receives payments of interest. If a payor refuses to provide his or her TIN upon request, the payee must file the return and furnish the statement required by this section without the payor's TIN, but with all other required information. The specific solicitation requirements of paragraph (f)(3)(iii) of this section apply in lieu of the solicitation requirements of § 301.6724-1(e) and (f) of this chapter for the purpose of determining whether a payee acted in a responsible manner in

attempting to obtain a correct TIN. A payee that complies with the requirements of this paragraph (f)(3) will be considered to have acted in a responsible manner within the meaning of § 301.6724-1(d) of this chapter with respect to any failure to include the correct TIN of a payor on a return or statement required by section 6050S and this section.

(iii) *Manner of soliciting TIN.* A payee must request the payor's TIN in writing and must clearly notify the payor that the law requires the payor to furnish a TIN so that it may be included on an information return filed by the payee. A request for a TIN made on Form W-9S, "Request for Student's or Borrower's Social Security Number and Certification," satisfies the requirements of this paragraph (f)(3)(iii). A payee may establish a system for payors to submit Forms W-9S electronically as described in applicable forms and instructions. A payee may also develop a separate form to request the payor's TIN or incorporate the request into other forms customarily used by the payee, such as loan applications.

(4) *Failure to furnish TIN.* The section 6723 penalty may apply to any payor who is required (but fails) to furnish his or her TIN to a payee. See section 6723, and the regulations thereunder, for rules relating to the penalty for failure to furnish a TIN.

(g) *Effective date.* The rules in this section apply to information returns required to be filed, and information statements required to be furnished, after December 31, 2003.

[T.D. 8992, 67 FR 20904, Apr. 29, 2002, as amended by T.D. 9125, 69 FR 25499, May 7, 2004]

§ 1.6050S-4 Information reporting for payments of interest on qualified education loans.

(a) *Electronic furnishing of statements—(1) In general.* A person required by section 6050S(d) to furnish a written statement regarding payments of interest on qualified education loans (furnisher) to the individual to whom it is required to be furnished (recipient) may furnish the statement in an electronic format in lieu of a paper format.

A furnisher who meets the requirements of paragraphs (a)(2) through (6) of this section is treated as furnishing the required statement.

(2) *Consent*—(i) *In general*. The recipient must have affirmatively consented to receive the statement in an electronic format. The consent may be made electronically in any manner that reasonably demonstrates that the recipient can access the statement in the electronic format in which it will be furnished to the recipient. Alternatively, the consent may be made in a paper document if it is confirmed electronically.

(ii) *Withdrawal of consent*. The consent requirement of this paragraph (a)(2) is not satisfied if the recipient withdraws the consent and the withdrawal takes effect before the statement is furnished. The furnisher may provide that a withdrawal of consent takes effect either on the date it is received by the furnisher or on a subsequent date. The furnisher may also provide that a request for a paper statement will be treated as a withdrawal of consent.

(iii) *Change in hardware or software requirements*. If a change in the hardware or software required to access the statement creates a material risk that the recipient will not be able to access the statement, the furnisher must, prior to changing the hardware or software, provide the recipient with a notice. The notice must describe the revised hardware and software required to access the statement and inform the recipient that a new consent to receive the statement in the revised electronic format must be provided to the furnisher. After implementing the revised hardware and software, the furnisher must obtain from the recipient, in the manner described in paragraph (a)(2)(i) of this section, a new consent or confirmation of consent to receive the statement electronically.

(iv) *Examples*. The following examples illustrate the rules of this paragraph (a)(2):

Example 1. Furnisher F sends Recipient R a letter stating that R may consent to receive statements required by section 6050S(d) electronically on a Web site instead of in a paper format. The letter contains instructions explaining how to consent to receive the state-

ments electronically by accessing the Web site, downloading the consent document, completing the consent document and e-mailing the completed consent back to F. The consent document posted on the Web site uses the same electronic format that F will use for the electronically furnished statements. R reads the instructions and submits the consent in the manner provided in the instructions. R has consented to receive the statements electronically in the manner described in paragraph (a)(2)(i) of this section.

Example 2. Furnisher F sends Recipient R an e-mail stating that R may consent to receive statements required by section 6050S(d) electronically instead of in a paper format. The e-mail contains an attachment instructing R how to consent to receive the statements electronically. The e-mail attachment uses the same electronic format that F will use for the electronically furnished statements. R opens the attachment, reads the instructions, and submits the consent in the manner provided in the instructions. R has consented to receive the statements electronically in the manner described in paragraph (a)(2)(i) of this section.

Example 3. Furnisher F posts a notice on its Web site stating that Recipient R may receive statements required by section 6050S(d) electronically instead of in a paper format. The Web site contains instructions on how R may access a secure Web page and consent to receive the statements electronically. By accessing the secure Web page and giving consent, R has consented to receive the statements electronically in the manner described in paragraph (a)(2)(i) of this section.

(3) *Required disclosures*—(i) *In general*. Prior to, or at the time of, a recipient's consent, the furnisher must provide to the recipient a clear and conspicuous disclosure statement containing each of the disclosures described in paragraphs (a)(3)(ii) through (viii) of this section.

(ii) *Paper statement*. The recipient must be informed that the statement will be furnished on paper if the recipient does not consent to receive it electronically.

(iii) *Scope and duration of consent*. The recipient must be informed of the scope and duration of the consent. For example, the recipient must be informed whether the consent applies to statements furnished every year after the consent is given until it is withdrawn in the manner described in paragraph (a)(3)(v)(A) of this section or only to the statement required to be furnished

on or before the January 31 immediately following the date on which the consent is given.

(iv) *Post-consent request for a paper statement.* The recipient must be informed of any procedure for obtaining a paper copy of the recipient's statement after giving the consent described in paragraph (a)(2)(i) of this section and whether a request for a paper statement will be treated as a withdrawal of consent.

(v) *Withdrawal of consent.* The recipient must be informed that—

(A) The recipient may withdraw a consent by writing (electronically or on paper) to the person or department whose name, mailing address, telephone number, and e-mail address is provided in the disclosure statement;

(B) The furnisher will confirm the withdrawal and the date on which it takes effect in writing (either electronically or on paper); and

(C) A withdrawal of consent does not apply to a statement that was furnished electronically in the manner described in this paragraph (a) before the date on which the withdrawal of consent takes effect.

(vi) *Notice of termination.* The recipient must be informed of the conditions under which a furnisher will cease furnishing statements electronically to the recipient.

(vii) *Updating information.* The recipient must be informed of the procedures for updating the information needed by the furnisher to contact the recipient. The furnisher must inform the recipient of any change in the furnisher's contact information.

(viii) *Hardware and software requirements.* The recipient must be provided with a description of the hardware and software required to access, print, and retain the statement, and the date when the statement will no longer be available on the Web site.

(4) *Format.* The electronic version of the statement must contain all required information and comply with applicable revenue procedures relating to substitute statements to recipients.

(5) *Notice—(i) In general.* If the statement is furnished on a Web site, the furnisher must notify the recipient that the statement is posted on a Web site. The notice may be delivered by

mail, electronic mail, or in person. The notice must provide instructions on how to access and print the statement. The notice must include the following statement in capital letters, "IMPORTANT TAX RETURN DOCUMENT AVAILABLE." If the notice is provided by electronic mail, the foregoing statement must be on the subject line of the electronic mail.

(ii) *Undeliverable electronic address.* If an electronic notice described in paragraph (a)(5)(i) of this section is returned as undeliverable, and the correct electronic address cannot be obtained from the furnisher's records or from the recipient, then the furnisher must furnish the notice by mail or in person within 30 days after the electronic notice is returned.

(iii) *Corrected statements.* If the furnisher has corrected a recipient's statement that was furnished electronically, the furnisher must furnish the corrected statement to the recipient electronically. If the recipient's statement was furnished through a Web site posting and the furnisher has corrected the statement, the furnisher must notify the recipient that it has posted the corrected statement on the Web site within 30 days of such posting in the manner described in paragraph (a)(5)(i) of this section. The corrected statement or the notice must be furnished by mail or in person if—

(A) An electronic notice of the Web site posting of an original statement or the corrected statement was returned as undeliverable; and

(B) The recipient has not provided a new e-mail address.

(6) *Access period.* Statements furnished on a Web site must be retained on the Web site through October 15 of the year following the calendar year to which the statements relate (or the first business day after such October 15, if October 15 falls on a Saturday, Sunday, or legal holiday). The furnisher must maintain access to corrected statements that are posted on the Web site through October 15 of the year following the calendar year to which the statements relate (or the first business day after such October 15, if October 15 falls on a Saturday, Sunday, or legal holiday) or the date 90

days after the corrected statements are posted, whichever is later.

(b) *Effective date.* This section applies to statements required to be furnished after February 13, 2004. Paragraph (a)(6) of this section also applies to statements required to be furnished after December 31, 2003.

[T.D. 9114, 69 FR 7570, Feb. 18, 2004]

§ 1.6052-1 Information returns regarding payment of wages in the form of group-term life insurance.

(a) *Requirement of reporting—(1) In general.* Every employer, who during any calendar year provides any one of his employees remuneration for services in the form of group-term life insurance on the life of such employee any part of the cost of which is to be included in such employee's gross income as provided in section 79(a), shall make a separate return on Form W-2 with respect to each such employee for such year which includes the following information:

- (i) Name, address, and identifying number of the employer;
- (ii) Name, address, and social security number of the employee; and
- (iii) Total amount includible in the employee's gross income by reason of the provisions of section 79(a), computed as if each employee reported his income on the basis of a calendar year (determined as if the employer making such return is the only employer paying the employee remuneration in the form of group-term life insurance on his life which is includible in his gross income under section 79(a)).

Returns on Form W-2 required to be filed pursuant to the provisions of this section shall be transmitted by Form W-3. In a case where, with respect to the same employee, an employer must make a return on Form W-2 under this section and also under §31.6011(a)-4 or §31.6011(a)-5 of this chapter (Employment Tax Regulations), or under §1.6041-2 (relating to return of information as to payments to employees), such employer may make such returns on the same Form W-2 or on separate Forms W-2. In a case where an employer must file a Form W-3 under this section and also under §31.6011(a)-4 or §31.6011(a)-5 of this chapter (Employ-

ment Tax Regulations), the Form W-3 filed under such §31.6011(a)-4 or §31.6011(a)-5 shall also be used as the transmittal form for a return on Form W-2 made pursuant to the provisions of this section.

(2) *Definitions.* Terms used in subparagraph (a)(1) of this section and in section 79 and the regulations thereunder have the meaning ascribed to them in section 79 and the regulations thereunder.

(b) *Time and place for filing—(1) Time for filing—(i) General rule.* In a case where an employer must file Forms W-3 and W-2 under this section and also under §31.6011(a)-4 or §31.6011(a)-5 of this chapter (Employment Tax Regulations), the time for filing such forms under this section shall be the same as the time (including extensions thereof) for filing such forms under §31.6011(a)-4 or §31.6011(a)-5.

(ii) *Exception.* In a case where an employer is not required to file Forms W-3 and W-2 under §31.6011(a)-4 or §31.6011(a)-5 of this chapter, returns on Forms W-3 and W-2 required under paragraph (a) of this section for any calendar year shall be filed on or before February 28 (March 31 if filed electronically) of the following year.

(iii) *Cross reference.* For extensions of time for filing returns, see section 6081 and the regulations thereunder.

(2) *Place for filing.* The returns on Forms W-3 and W-2 required under paragraph (a) of this section shall be filed pursuant to the rules contained in §31.6091-1 of this chapter (Employment Tax Regulations), relating to the place for filing certain returns.

(c) *Special rule for calendar years before 1972.* For calendar years before 1972, the provisions of this section will be deemed to have been complied with if the returns for such years were filed in accordance with the provisions of this section in effect prior to August 3, 1973, or with the instructions applicable to the appropriate forms.

(d) *Last day for filing return.* For provisions relating to the time for performance of an act when the last day prescribed for performance falls on Saturday, Sunday, or a legal holiday, see §301.7503-1 of this chapter (Regulations on Procedure and Administration).