

## Publications

# IRS Issues FAQs on Educational Assistance Programs

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On June 17, 2024, the IRS issued [Fact Sheet 2024-22](#), which includes nine FAQs about educational assistance programs. The Fact Sheet also links to a sample program document for employers.

As background, Code section 127 educational assistance programs are separate, written employer-sponsored programs under which employers can provide up to \$5,250 in tax-free qualified educational benefits per year to employees. Examples of permissible educational benefits include payments for tuition, fees and similar expenses, books, supplies and equipment. Additionally, through the end of 2025, permissible educational benefits include principal and interest payments on qualified education loans ("Student Loans").

The FAQs largely restate long-standing IRS guidance governing Code section 127 educational assistance programs. However, this is the first IRS document that addresses the Student Loan provision in detail. A few noteworthy points/reminders in the FAQs are:

- The Student Loan provision applies to payments made before January 1, 2026. Thus, if an employee submits a reimbursement request for a loan payment before January 1, 2026, but the employer does not make the payment to the employee until on or after January 1, 2026, the amount is not eligible for tax-free reimbursement (unless the student loan provision is extended by future legislation).
- For education expenses other than Student Loans, the employee must pay the education expenses in the same calendar year that the employer makes the reimbursement to the employee, and the employee must not have incurred the expenses prior to employment.

**GROOM INSIGHT:** The IRS’ sample program document similarly states that if an employee “seeks reimbursement for expenses incurred, the expenses must be paid by the [employee] in the same calendar year for which reimbursement is made by the Employer.” Note that neither the Code nor the Regulations impose any timing restrictions on reimbursements. Many employers have historically interpreted this statutory silence to permit employers to reimburse educational expenses in the calendar year after the employee has paid them (for example, the employee submits the reimbursement request at the end of year 1 and the employer does not reimburse the amount until the beginning of year 2). Many employers also require employees to obtain a minimum GPA or complete a course in order to qualify for a reimbursement. If an employee starts a course and is required to pay for the course upon enrollment, but does not receive a grade for the course or complete the course until the following calendar year, the FAQs could be interpreted to imply that this expense would be ineligible for tax-free reimbursement. It is unclear whether this language in this FAQ is a drafting error – further clarification from the IRS is welcome.

- For Student Loans, the employee could have incurred the Student Loan in a prior calendar year and prior to employment, and the employer may make payments of principal and interest in a subsequent year.

**GROOM INSIGHT:** Some practitioners previously took the position that the Student Loan provision only applied to student loans that the employee incurred while employed. This clarification makes clear that this is not a requirement and that the employer can pay Student Loans related to education that the employee received prior to employment. This is welcome news for employers.

- If an employer would like to add the Student Loan benefit, the employer must amend the terms of its plan to include the Student Loan benefit. However, if the plan is currently written to provide generally for all Code section 127 benefits, then it is possible that the employer would not need to amend the plan to provide for the Student Loan benefit.

**GROOM INSIGHT:** Conversely, if the plan is currently written to provide generally for all Code section 127 benefits, and the employer does not want to pay for Student Loans, then it would need to amend its plan to specifically exclude Student Loan benefits.

FAQs are merely informal guidance and are non-precedential. In fact, the IRS expressly states that it issued the FAQs to “provide general information . . . as expeditiously as possible.” The IRS also states that, if an FAQ turns out to be an inaccurate statement of the law as applied to a particular taxpayer’s case, the law will control the taxpayer’s tax liability. But, taxpayers who rely in good faith on the FAQs will satisfy the reasonable cause standard for penalty relief.