

## **Tuition Waivers & Scholarships**

### **Are you Complying with the Associated Tax Regulations?**

Fringe benefits have long been used to enhance employment offers, and the IRS has left some tax-free fringe benefits open to schools. One of the most important benefits that all educational institutions can use is tuition remission. This benefit allows educational institutions to provide free or reduced tuition to the dependents of their employees. If you or your church operates a daycare, preschool, elementary, and/or secondary school (hereafter referred to in this article as “schools”) you know how valuable it can be to be able to offer to your staff tuition discounts, scholarships, or waivers.

Most schools (not all, but most) have a pretty clear idea of what the law says on the issue and the circumstances under which such benefits can be provided to staff members without incurring any tax obligations. However, schools operating under the tax-exempt umbrella of a church (e.g. the school is not incorporated as a separate legal entity and/or if incorporated separately, not operated independently of the church) can find themselves running afoul of the tax reporting requirements if the benefits are offered to employees of the church or other individuals not directly, and currently, employed by the school.

A recent Tax Court ruling is a reminder that the IRS is watching. In this particular case, the Court ruled that an individual was required to include in gross taxable income the value of a tuition waiver benefit received during the tax year at issue. According to the facts, the taxpayer received the tuition waiver benefit for his son from a qualified educational institution. However, the taxpayer was not an employee of the school in the tax year the waiver was granted (as verified from the educational institution’s records). Consequently, he was not entitled to exclude from taxable income the value of the tuition waiver benefit received during the year at issue as contemplated by Code Sec. 117(d)(2)(A) or 132(h).<sup>1</sup>

If you are operating a school and provide staff with tuition free benefits in any form, this might be a good time to review your understanding of the issue before the new school year begins. Attached is an excellent [article](#) published a few years ago by Debra P. Wilson, legal counsel for the National Association of Independent Schools (NAIS). Though dated, it remains fully relevant on the issues, as tax law in this area has not changed.

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#### DISCLAIMER

*This material is presented with the understanding that the author is providing basic information only and assumes no liability whatsoever in connection with its use. Tax laws are constantly changing, are subject to differing interpretations, and the facts and circumstances in any particular situation may not be the same as those presented here. Therefore, we urge you to do additional research and make sure that you are fully informed and knowledgeable before using the information contained herein.*

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<sup>1</sup> Source: J.A. Voigt, TC Summary Opinion 2018-25