

New FAQs on Educational Assistance Programs: What Employers Need to Know

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The IRS has released updated FAQs (FS-2026-10) on educational assistance programs, superseding the prior guidance. The revisions reflect changes made by the One Big, Beautiful Bill Act (OB3), signed into law on July 4, 2025.

Key changes include: permanent extension of tax-free student loan repayment benefits (previously set to expire), future cost-of-living indexing of the \$5,250 annual cap starting in 2027, and mandatory employee disclosure.

Section 127 of the IRC allows employers to provide tax-free educational assistance to employees through a qualifying written plan. When properly structured, education assistance benefits are excludable from the employee's gross income.

Qualification Requirements

To constitute a valid Section 127 educational assistance program:

- There must be a written plan document;
- Benefits must be exclusively for employees (subject to limited exceptions for family members who are themselves employees); and,
- Not discriminate in favor of officers, shareholders, self-employed individuals, highly compensated employees (HCEs), or owners with respect to eligibility or benefits.

Eligible Educational Assistance Benefits

Tax-free benefits under a qualifying Section 127 plan may include:



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- Tuition, fees, and similar expenses for undergraduate or graduate coursework;
- Books, supplies, and equipment required for coursework;
- Payments of principal and interest on qualified education loans (student loan repayment assistance); and
- Employer-provided courses of instruction (including books, supplies, and equipment).

Benefits do not include: tools or supplies (other than textbooks) that the employee retains after completing a course; meals, lodging, or transportation; or courses involving sports, games, or hobbies (unless directly related to the employer's business or required as part of a degree program).

Annual \$5,250 Exclusion Cap

The maximum amount excludable from an employee's gross income under 127 is \$5,250 per calendar year. This cap applies to the combined total of all types of qualifying educational assistance — including both tuition reimbursement and student loan repayment — received from the employer during the year. Unused amounts may not be carried forward to a subsequent year. Amounts exceeding the annual cap remain taxable as wages, unless another exclusion applies.

What Is New and FAQs

Permanent Extension of Tax-Free Student Loan Repayment Benefits

- The OB3 permanently extends these benefits. The revised FAQs eliminate all references to the prior sunset date, confirming that employer student loan repayment assistance under Section 127 may now be provided indefinitely.

Cost-of-Living Adjustment to the \$5,250 Annual Cap (Beginning in 2027)

- The \$5,250 cap remains fixed through 2026 but will be indexed for inflation for taxable years beginning in 2027.

Mandatory Employee Disclosure Requirement

- The revised FAQs mandate, rather than provide, that employers inform

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employees whether a qualifying Section 127 educational assistance program exists and must also disclose the terms of the program.

Updated Sample Plan Document

- The IRS has released a revised sample plan document (IRS Publication 5993) that incorporates the OB3 changes, including the inflation-adjusted cap and the permanent student loan repayment feature. This updated template is a useful starting point for drafting or amending Section 127 plan documents.

In light of the revised FAQs and OB3 amendments, employers should take the following steps:

- Review existing Section 127 plan documents against the revised FAQ and updated IRS sample plan. Plans that previously included a sunset date for student loan repayment benefits should be amended to remove that limitation. Plans not yet written to include student loan repayment assistance should consider whether to add that feature now that it is permanent.
- Establish formal processes to notify all eligible employees of the existence and terms of the Section 127 plan.
- Review payroll and HRIS systems to ensure they can be updated to reflect annual inflation adjustments to the exclusion cap beginning in 2027. IRS announcements of the adjusted amounts for each year should be monitored and incorporated into plan communications and systems.
- Confirm that the plan's eligibility provisions do not discriminate in favor of officers, HCEs, shareholders, self-employed individuals, or owners.
- Employers who deferred adopting student loan repayment benefits due to the prior sunset date should revisit this benefit in light of its permanent status. Such programs can be a meaningful recruitment and retention tool.

The SECURE 2.0 Act allows employers to make matching contributions to 401(k) or other retirement plans based on employees' qualified student loan payments. Employers should coordinate any Section 127 student loan repayment benefit with this retirement plan matching opportunity, as both may be offered simultaneously.

If you need assistance assessing the impact of these updated FAQs on your business, reach out to Attorney DaSilva or any member of our Business Law team.

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