

26 CFR. 1.61-12; Income from discharge of indebtedness.
(Also Part III, §§ 61; 1.6050P-1.)

Rev. Proc. 2017-24

SECTION 1. PURPOSE

This revenue procedure extends the relief provided under Rev. Proc. 2015-57, 2015-51 I.R.B. 863, to taxpayers who took out Federal student loans to finance attendance at a school owned by American Career Institutes, Inc. (ACI) and whose Federal student loans are discharged under the Department of Education's "Defense to Repayment" or "Closed School" discharge process.

This revenue procedure provides that the Internal Revenue Service (IRS) will not assert that these taxpayers must recognize gross income as a result of the Defense to Repayment discharge process or increase gross income by the amount of certain tax credits or deductions related to loans discharged under either process and will not assert that the creditor must file information returns and furnish payee statements as a result of discharging these loans. This revenue procedure also modifies Rev. Proc. 2015-57 to provide that the IRS will not assert that creditors under that revenue procedure must file information returns and furnish payee statements as a result of discharges under that revenue procedure.

SECTION 2. BACKGROUND

.01 In general.

Revenue Procedure 2015-57 addresses taxpayers who took out Federal student

loans to finance attendance at a school owned by Corinthian Colleges, Inc. and whose Federal student loans are discharged under the Department of Education's "Defense to Repayment" or "Closed School" discharge process. The IRS determined that it will not assert that these taxpayers must recognize gross income as a result of these discharge processes.

The Treasury Department and the IRS are aware that the Department of Education (ED) has begun a process for settling and discharging Federal student loans taken out by taxpayers to finance attendance at a school owned by ACI. ED has estimated that to date about 4,400 ACI borrowers may be eligible for discharges under this program and that number may increase.

In general, under the Higher Education Act of 1965 (HEA), Pub. L. 89-329, the Closed School discharge process allows ED to discharge a Federal student loan obtained by a student, or by a parent on behalf of a student, who was attending a school at the time it closed or who withdrew from the school within a certain period prior to the closing date. See generally 20 U.S.C. § 1087(c) (Federal Family Education Loan (FFEL)); 20 U.S.C. § 1087dd(g) (Federal Perkins Loan); and 20 U.S.C. § 1087e(a)(1) (Federal Direct Loan).

Under the HEA, the Defense to Repayment process requires ED to discharge a Federal Direct Loan if a student loan borrower establishes, as a defense against repayment, that a school's actions would give rise to a cause of action against the school under applicable state law. See generally 20 U.S.C. § 1087e(h) and 34 C.F.R. § 685.206(c). FFEL loans may also be discharged under this process if certain additional requirements are met. See 34 C.F.R. § 682.209(g).

Section 61(a)(12) of the Internal Revenue Code (Code) provides that gross income includes income from the discharge of indebtedness. There are, however, exceptions under which a taxpayer may not be required to include income from the discharge of indebtedness in gross income.

Section 6050P of the Code requires any applicable entity which discharges the indebtedness (in whole or in part) of any person to make an information return and furnish a payee statement for that discharge of indebtedness. The regulations in 26 C.F.R. § 1.6050P-1 provide that reporting is required only upon the occurrence of one of the identifiable events enumerated in the regulations.

.02 Borrowers participating in Closed School discharge process.

The HEA provides statutory exclusions from gross income for Federal student loans discharged under the Closed School discharge process. 20 U.S.C. §§ 1087(c), 1087dd(g), 1087e(a)(1). Accordingly, a taxpayer whose Federal student loan is discharged under the Closed School discharge process will not recognize gross income as a result of the discharge, and the taxpayer should not report the amount of the discharged loan in gross income on his or her Federal income tax return.

.03 Borrowers participating in Defense to Repayment discharge process.

The HEA does not provide a statutory exclusion from gross income for Federal student loans discharged under the Defense to Repayment discharge process. However, a taxpayer may be able to exclude amounts discharged under this process from gross income under a provision of the Code or other tax law authorities.

For example, a borrower that has a liability reduced because of a legal infirmity that relates back to the original sale transaction (for example, fraud) may not have gross

income to the extent of the debt reduction. This rule requires a case-by-case analysis of each transaction.

In addition, section 108(a)(1)(B) of the Code provides that a taxpayer may exclude from gross income a discharge of indebtedness that occurs when the taxpayer is insolvent (the insolvency exclusion).

The Treasury Department and the IRS conclude that most borrowers whose Federal student loans taken out by taxpayers to finance attendance at a school owned by ACI that are discharged under the Defense to Repayment discharge process would be able to exclude from gross income all or substantially all of the discharged amounts based on fraudulent or material misrepresentations made by the schools owned by ACI to the students or based on the insolvency exclusion or another tax law authority. Accordingly, the IRS will not assert that a taxpayer within the scope of this revenue procedure recognizes gross income as a result of the Defense to Repayment discharge process. Further, the IRS will not assert that creditors within the scope of this revenue procedure must report under section 6050P regarding these discharges.

SECTION 3. SCOPE

The treatment provided in section 4 of this revenue procedure applies to any taxpayer who took out Federal student loans to finance attendance at a school owned by ACI that are discharged under the Closed School discharge process or the Defense to Repayment discharge process and any applicable entity, as defined in section 6050P and the regulations under that section, discharging these loans.

SECTION 4. APPLICATION

.01 Discharge of indebtedness income. The IRS will not assert that a taxpayer

within the scope of this revenue procedure must recognize gross income as a result of the Defense to Repayment discharge process for discharged Federal student loans that were taken out to finance attendance at a school owned by ACI. See section 2.02 of this revenue procedure for a general discussion regarding the exclusion from gross income for borrowers participating in the Closed School discharge process.

.02 Recapture of tax credits and tax benefit rule. The IRS will not assert that a taxpayer within the scope of this revenue procedure must increase his or her taxes owed in the year of a discharge, or in a prior year, as a result of either discharge process if in a prior year he or she received an education credit under section 25A of the Code attributable to payments made with proceeds of the discharged loan. In addition, the IRS also will not assert that a taxpayer within the scope of this revenue procedure must increase his or her income in the year of the discharge if he or she took a deduction under section 221 in a prior year attributable to interest paid on a discharged loan or a deduction under section 222 in a prior taxable year attributable to payments of qualified tuition and related expenses made with proceeds of the discharged loan.

.03 Information reporting. The IRS will not assert that any creditor that is an applicable entity, as defined in section 6050P of the Code, must file information returns and furnish payee statements under that section for the discharge of any indebtedness within the scope of this revenue procedure.

Further, this revenue procedure modifies Rev. Proc. 2015-57 to provide that the IRS will not assert that any creditor under that revenue procedure that is an applicable entity, as defined in section 6050P of the Code, must file information returns and furnish

payee statements for the discharge of any indebtedness under that revenue procedure.

SECTION 5. EFFECT ON OTHER DOCUMENTS

Revenue Procedure 2015-57 is modified.

SECTION 6. EFFECTIVE DATE

This revenue procedure is effective for taxable years beginning on or after January 1, 2016, for Federal student loans discharged under ED's Defense to Repayment discharge process or the Closed School discharge process.

SECTION 7. DRAFTING INFORMATION

The principal author of this revenue procedure is Craig Wojay of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding discharge of indebtedness income and exclusions, contact Mr. Wojay at (202) 317-4718 (not a toll-free call), and for further information regarding information reporting, contact Elie Mishory at (202) 317-6844.