

26 CFR 1.61-12  
(Also Part III, §§ 25A, 61, 108, 221, 222, 6511, 1.6050P-1.)

Rev. Proc. 2020-11

## SECTION 1. PURPOSE

This revenue procedure establishes a safe harbor extending the relief provided under Rev. Proc. 2015-57, 2015-51 I.R.B. 863, Rev. Proc. 2017-24, 2017-7 I.R.B. 916, and Rev. Proc. 2018-39, 2018-34 I.R.B. 319, to additional taxpayers who took out Federal or private student loans to finance attendance at a nonprofit or for-profit school. Relief is also extended to any creditor that is an applicable entity, as defined by section 6050P of the Internal Revenue Code (Code) and the regulations thereunder, that otherwise would be required to file information returns and furnish payee statements pursuant to section 6050P of the Code for the discharge of any indebtedness within the scope of this revenue procedure.

## SECTION 2. BACKGROUND

.01 Under the Higher Education Act of 1965 (HEA), Pub. L. 89-329, the Closed School discharge process allows the Department of Education (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. The HEA provides statutory exclusions from gross income for Federal student loans discharged under the Closed School discharge process. See generally, 20 U.S.C. § 1087(c) (Federal Family Education Loan); 20

U.S.C. § 1087dd(g) (Federal Perkins Loan); and 20 U.S.C. § 1087e(a)(1) (Federal Direct Loan).

.02 Under the HEA, the Defense to Repayment process allows ED to discharge a Federal Direct Loan obtained by a student, or by a parent on behalf of a student, if the 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), 34 C.F.R. § 685.206(c), § 685.222, and § 685.212(k)(2).

.03 Rev. Proc. 2015-57 and Rev. Proc. 2017-24 provide relief for taxpayers who took out Federal student loans to finance attendance at a school owned by Corinthian College, Inc. (CCI) or American Career Institutes, Inc. (ACI), respectively, and whose loans were discharged by ED under the "Closed School" or "Defense to Repayment" discharge process.

.04 Rev. Proc. 2018-39 provides relief for taxpayers who took out private student loans to finance attendance at a school owned by CCI or ACI and whose loans were discharged based on a settlement of a legal cause of action resolving various allegations of unlawful business practices, including unfair, deceptive, and abusive acts and practices against CCI, ACI, and certain private lenders.

.05 Rev. Proc. 2015-57, Rev. Proc. 2017-24, and Rev. Proc. 2018-39 provide the following relief: (1) the Internal Revenue Service (IRS) will not assert that these taxpayers must recognize gross income resulting from the discharge of these Federal and private student loans; (2) the IRS will not assert that these taxpayers must increase their gross income by the amount of certain tax credits or deductions related to the

discharged Federal and private student loans; and (3) the IRS will not assert that the creditors of these discharged loans must file information returns and furnish payee statements under section 6050P of the Code as a result of discharging these Federal and private student loans.

.06 Rev. Proc. 2015-57, Rev. Proc. 2017-24, and Rev. Proc. 2018-39 are limited in application to schools owned by CCI or ACI.

.07 The Department of the Treasury (Treasury Department) and the IRS are aware that additional taxpayers may have Federal and private student loans discharged under the circumstances described in Rev. Proc. 2015-57, Rev. Proc. 2017-24, and Rev. Proc. 2018-39.

.08 The Treasury Department and the IRS have determined that it is appropriate to extend the relief provided in Rev. Proc. 2015-57, Rev. Proc. 2017-24, and Rev. Proc. 2018-39 to taxpayers who took out Federal and private student loans to finance attendance at nonprofit or other for-profit schools not owned by CCI or ACI where the Federal loans are discharged by ED under the Closed School or Defense to Repayment discharge process, or where the private loans are discharged based on a settlement of a legal cause of action against nonprofit or other for-profit schools and certain private lenders. As in Rev. Proc. 2015-57, Rev. Proc. 2017-24, and Rev. Proc. 2018-39, the Treasury Department and the IRS believe that most Federal and private student loan borrowers would be able to exclude from gross income all or substantially all of the discharged amounts based on the insolvency exclusion under section 108(a)(1)(B) of the Code; fraudulent or material misrepresentations made by such nonprofit or for-profit schools or certain private lenders to the students; or other tax law authority. However,

determining whether one or more of these exclusions is available to each affected borrower would require a fact intensive analysis of the particular borrower's situation to determine the extent to which the discharged amount is eligible for exclusion under each of the potentially available exceptions. The Treasury Department and the IRS are concerned that such an analysis would impose a compliance burden on taxpayers, as well as an administrative burden on the IRS, that is excessive in relation to the amount of taxable income that would result. Accordingly, the IRS will not assert that a taxpayer within the scope of the safe harbor in this revenue procedure recognizes gross income as a result of the discharge.

### SECTION 3. SCOPE

.01 The treatment provided in section 4 of this revenue procedure applies to any taxpayer who took out Federal or private student loans to finance attendance at a nonprofit or for-profit school described in section 3.02 of this revenue procedure and (a) whose Federal loans are discharged by ED based on the Closed School or Defense to Repayment discharge process, or (b) whose private loans are discharged based on a settlement of a legal cause of action resolving various allegations of unlawful business practices, including unfair, deceptive, and abusive acts and practices against a nonprofit or for-profit school or private lenders that made student loans to finance attendance at these schools. This revenue procedure also applies to any applicable entity, as defined by section 6050P of the Code and the regulations thereunder, that discharges these loans.

.02 Section 3.01 of this revenue procedure applies to nonprofit schools that meet the definition of an "institution of higher education" under 20 U.S.C. § 1001(a) or (b), or

for-profit schools that meet the definition of a “proprietary institution of higher education” under 20 U.S.C. § 1002(b).

#### SECTION 4. SAFE HARBOR FOR DISCHARGED STUDENT LOANS

.01 This section 4 describes the safe harbor available for certain discharged student loans. Taxpayers are eligible to use the safe harbor if they are within the scope of section 3 of this revenue procedure and one of the following paragraphs of this section 4.01.

(a) Borrowers participating in Closed School discharge process.

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. The HEA provides statutory exclusions from gross income for Federal student loans discharged under the Closed School discharge process.

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.

(b) Borrowers participating in Defense to Repayment discharge process.

The Defense to Repayment process allows ED to discharge a Federal Direct Loan obtained by a student, or by a parent on behalf of a student, if the 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. Most of these borrowers would be able to exclude from gross income the discharged amounts based

on the insolvency exclusion, fraudulent or material misrepresentations, or other tax law authority.

A taxpayer whose Federal student loan is discharged under the Defense to Repayment 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.

(c) Borrowers participating in legal settlement discharge actions.

Federal and state governmental agencies have brought legal causes of action that have resulted in settlements resolving various allegations of unlawful business practices, including unfair, deceptive, and abusive acts and practices, against for-profit schools and certain private lenders that made student loans to finance attendance at these schools. Most of these borrowers would be able to exclude amounts discharged as a result of these settlements from gross income based on the insolvency exclusion, fraudulent or material misrepresentations, or other tax law authority.

A taxpayer whose private student loan is discharged based on a settlement of a legal cause of action resolving various allegations of unlawful business practices against nonprofit or for-profit schools or private lenders that made student loans to finance attendance at these schools 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.

.02 Recapture of tax credits and deductions under the 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 a discharge described in section 4.01 of this revenue procedure, if in a prior taxable year he or she received an education tax 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 gross income in the year of the discharge as a result of a discharge described in section 4.01 of this revenue procedure, if in a prior taxable year he or she took a deduction under section 221 of the Code attributable to interest paid on a discharged loan or a deduction in a prior taxable year under section 222 of the Code 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 a creditor that is an applicable entity, as defined by section 6050P of the Code and the regulations thereunder, must file information returns and furnish payee statements pursuant to section 6050P of the Code for the discharge of any indebtedness within the scope of this revenue procedure. The filing of such information returns with the IRS could result in the issuance of underreporter notices to taxpayers and the furnishing of such payee statements to taxpayers could cause confusion.

SECTION 5. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2015-57, Rev. Proc. 2017-24, and Rev. Proc. 2018-39 are amplified.

SECTION 6. EFFECTIVE DATE

This revenue procedure is effective for Federal student loans discharged by ED in taxable years beginning on or after January 1, 2016, under the Closed School or

Defense to Repayment discharge process, and for private student loans discharged in taxable years beginning on or after January 1, 2016, based on a settlement of a legal cause of action resolving various allegations of unlawful business practices, including unfair, deceptive, and abusive acts and practices against the nonprofit or for-profit schools or certain private lenders. Taxpayers to whom this revenue procedure applies may claim a credit or refund for an overpayment of tax for taxable years for which the period of limitations under section 6511 of the Code has not expired.

#### SECTION 7. DRAFTING INFORMATION

The principal authors of this revenue procedure are Suzanne R. Sinno and Craig R. Wojay of the Office of Associate Chief Counsel (Income Tax and Accounting). For further information regarding discharge of indebtedness income and exclusions, contact Ms. Sinno or Mr. Wojay at (202) 317-4718 (not a toll-free number), and for further information regarding information reporting, contact Danielle Pierce at (202) 317-5150 (not a toll-free number).