

# INTERNAL REVENUE BULLETIN



## HIGHLIGHTS OF THIS ISSUE

These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.

### INCOME TAX

#### **Rev. Proc. 2020-11, page 406.**

Revenue Procedure 2020-11 provides relief to additional taxpayers who took out Federal or private student loans to finance attendance at a nonprofit or for-profit school. The IRS will not assert that taxpayers within the scope of the

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revenue procedure must recognize gross income as a result of the discharge of their student loans. Additionally, the IRS will not assert that a creditor must file information returns and furnish payee statements for the discharge of any indebtedness within the scope of the revenue procedure. To avoid confusion, the IRS strongly recommends that these creditors not furnish students nor the IRS with a Form 1099-C.

# The IRS Mission

Provide America's taxpayers top-quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all.

## Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly.

It is the policy of the Service to publish in the Bulletin all substantive rulings necessary to promote a uniform application of the tax laws, including all rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin. All published rulings apply retroactively unless otherwise indicated. Procedures relating solely to matters of internal management are not published; however, statements of internal practices and procedures that affect the rights and duties of taxpayers are published.

Revenue rulings represent the conclusions of the Service on the application of the law to the pivotal facts stated in the revenue ruling. In those based on positions taken in rulings to taxpayers or technical advice to Service field offices, identifying details and information of a confidential nature are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations, court decisions, rulings, and procedures must be considered, and Service personnel and others concerned are cautioned

against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

### **Part I.—1986 Code.**

This part includes rulings and decisions based on provisions of the Internal Revenue Code of 1986.

### **Part II.—Treaties and Tax Legislation.**

This part is divided into two subparts as follows: Subpart A, Tax Conventions and Other Related Items, and Subpart B, Legislation and Related Committee Reports.

### **Part III.—Administrative, Procedural, and Miscellaneous.**

To the extent practicable, pertinent cross references to these subjects are contained in the other Parts and Subparts. Also included in this part are Bank Secrecy Act Administrative Rulings. Bank Secrecy Act Administrative Rulings are issued by the Department of the Treasury's Office of the Assistant Secretary (Enforcement).

### **Part IV.—Items of General Interest.**

This part includes notices of proposed rulemakings, disbarment and suspension lists, and announcements.

The last Bulletin for each month includes a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a semiannual basis, and are published in the last Bulletin of each semiannual period.

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# Part III

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).

# Definition of Terms

*Revenue rulings and revenue procedures (hereinafter referred to as "rulings") that have an effect on previous rulings use the following defined terms to describe the effect:*

*Amplified* describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified. (Compare with *modified*, below).

*Clarified* is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

*Distinguished* describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

*Modified* is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the

new ruling holds that it applies to both A and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

*Obsoleted* describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in laws or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

*Revoked* describes situations where the position in the previously published ruling is not correct and the correct position is being stated in a new ruling.

*Superseded* describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the

new ruling does more than restate the substance of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case, the previously published ruling is first modified and then, as modified, is superseded.

*Supplemented* is used in situations in which a list, such as a list of the names of countries, is published in a ruling and that list is expanded by adding further names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

*Suspended* is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

# Abbreviations

*The following abbreviations in current use and formerly used will appear in material published in the Bulletin.*

A—Individual.  
Acq.—Acquiescence.  
B—Individual.  
BE—Beneficiary.  
BK—Bank.  
B.T.A.—Board of Tax Appeals.  
C—Individual.  
C.B.—Cumulative Bulletin.  
CFR—Code of Federal Regulations.  
CI—City.  
COOP—Cooperative.  
Ct.D.—Court Decision.  
CY—County.  
D—Decedent.  
DC—Dummy Corporation.  
DE—Donee.  
Del. Order—Delegation Order.  
DISC—Domestic International Sales Corporation.  
DR—Donor.  
E—Estate.  
EE—Employee.  
E.O.—Executive Order.  
ER—Employer.

ERISA—Employee Retirement Income Security Act.  
EX—Executor.  
F—Fiduciary.  
FC—Foreign Country.  
FICA—Federal Insurance Contributions Act.  
FISC—Foreign International Sales Company.  
FPH—Foreign Personal Holding Company.  
FR.—Federal Register.  
FUTA—Federal Unemployment Tax Act.  
FX—Foreign corporation.  
G.C.M.—Chief Counsel's Memorandum.  
GE—Grantee.  
GP—General Partner.  
GR—Grantor.  
IC—Insurance Company.  
I.R.B.—Internal Revenue Bulletin.  
LE—Lessee.  
LP—Limited Partner.  
LR—Lessor.  
M—Minor.  
Nonacq.—Nonacquiescence.  
O—Organization.  
P—Parent Corporation.  
PHC—Personal Holding Company.  
PO—Possession of the U.S.  
PR—Partner.  
PRS—Partnership.

PTE—Prohibited Transaction Exemption.  
Pub. L.—Public Law.  
REIT—Real Estate Investment Trust.  
Rev. Proc.—Revenue Procedure.  
Rev. Rul.—Revenue Ruling.  
S—Subsidiary.  
S.P.R.—Statement of Procedural Rules.  
Stat.—Statutes at Large.  
T—Target Corporation.  
T.C.—Tax Court.  
T.D.—Treasury Decision.  
TFE—Transferee.  
TFR—Transferor.  
T.I.R.—Technical Information Release.  
TP—Taxpayer.  
TR—Trust.  
TT—Trustee.  
U.S.C.—United States Code.  
X—Corporation.  
Y—Corporation.  
Z—Corporation.

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<sup>1</sup> A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2018–27 through 2018–52 is in Internal Revenue Bulletin 2018–52, dated December 27, 2018.

## **Finding List of Current Actions on Previously Published Items<sup>1</sup>**

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<sup>1</sup> A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2018–27 through 2018–52 is in Internal Revenue Bulletin 2018–52, dated December 27, 2018.

# **Internal Revenue Service**

## **Washington, DC 20224**

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## **INTERNAL REVENUE BULLETIN**

The Introduction at the beginning of this issue describes the purpose and content of this publication. The weekly Internal Revenue Bulletins are available at [www.irs.gov/irb/](http://www.irs.gov/irb/).

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## **We Welcome Comments About the Internal Revenue Bulletin**

If you have comments concerning the format or production of the Internal Revenue Bulletin or suggestions for improving it, we would be pleased to hear from you. You can email us your suggestions or comments through the IRS Internet Home Page ([www.irs.gov](http://www.irs.gov)) or write to the Internal Revenue Service, Publishing Division, IRB Publishing Program Desk, 1111 Constitution Ave. NW, IR-6230 Washington, DC 20224.