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INTERNAL REVENUE SERVICE
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OFFICE OF
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TL-N-2976-99

MEMORANDUM FOR DISTRICT COUNSEL
Virginia -West Virginia District

FROM: [REDACTED]
Deputy Assistant Chief Counsel
(Income Tax & Accounting)

SUBJECT: Significant Service Center Advice - Physician Recruitment
Agreements

Your memorandum dated June 11, 1999, requested advice concerning physician recruitment agreements.

ISSUE:

How does a hospital report cancellation of indebtedness of a physician who works at the hospital under a medical education loan program?

CONCLUSION:

Under § 6041(a) of the Internal Revenue Code the hospital must report the income on Form W-2 if the physician is an employee of the hospital. If the physician is not an employee, the hospital may be required, under § 6050P, to report the income on Form 1099-C.

FACTS:

Under a written contract between a hospital and a medical student the hospital agrees to pay for the medical education of a student. The student agrees to repay the hospital the amount it paid for the education and to work at the hospital as a physician for a set number of years after completion of the student's medical education. The hospital further agrees to cancel a portion of the debt for each year of services rendered by the physician or to cancel the entire debt only after services are rendered for the entire period. For purposes of this memorandum, we assume that there is a bona fide loan between the hospital and the student, that the amount of the debt canceled is in

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accordance with the agreement, and that the physician repaid any portion of the loan corresponding to the period for which services were not rendered.

LAW AND ANALYSIS:

Under § 6041(a) all persons engaged in a trade or business and making payment in the course of that trade or business to another person of rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income (other than certain payments not here relevant) aggregating \$600 or more in a taxable year must render a true and accurate return under regulations prescribed by the Secretary setting forth the amount of those gains, etc., and the name and address of the recipient of the payment. Under § 1.6041-1(c) of the Income Tax Regulations income is fixed when it is to be paid in amounts definitely predetermined and is determinable whenever there is a basis of calculation by which the amount to be paid may be ascertained.

Under § 61(a)(12) gross income includes income from the discharge of indebtedness. Section 1.61-12(a) states that if an individual performs services for a creditor, who in consideration of those services cancels the debt, the debtor realizes income in the amount of the debt as compensation for his or her services.

Section 1.6041-2 (a)(1) provides that wages paid to an employee and all other payments of compensation to an employee must be reported on Form W-2 if the total is \$600 or more in a calendar year. Accordingly, if the physician was an employee of the hospital, any income from cancellation of the debt must be reported on Form W-2 if the compensation for the year totaled \$600 or more.

Under § 6050P, a return of information is required whenever an applicable entity discharges the indebtedness of \$600 or more of any person during any calendar year. In general, an "applicable entity" is defined in § 6050P(c)(1)(A) and (B) as an executive, judicial, or legislative agency, and an applicable financial entity. The form prescribed by § 1.6050P-1(a)(1) for reporting under § 6050P is Form 1099-C.

An "applicable financial entity" is defined in § 6050P(c)(2) as:

- (A) any financial institution described in § 581 or 591(a) and any credit union,
- (B) the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the National Credit Union Administration, and any other Federal executive agency (as defined in § 6050M), and any successor or subunit of the foregoing, and
- (C) any other corporation which is a direct or indirect subsidiary of an entity referred to in subparagraph (A) but only if, by virtue of being affiliated with such

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entity, such corporation is subject to supervision and examination by a federal or state agency which regulations entities referred to in subparagraph (A).

In general, most hospitals will not be included in the classification of applicable entity as defined in § 6050P(c) and such hospital are not required to report under § 6050P. However, if a hospital is an applicable entity (e.g., a hospital operated by an agency of the federal government, such as a military hospital), and it discharges indebtedness of a person who is not an employee of the hospital of \$600 or more in a calendar year in exchange for services rendered by that person, the amount must be reported on Form 1099-C.

This memorandum is for your information and is advisory only. We hope this information will be helpful to you. It is not intended to be conclusive as to the tax consequences for any specific taxpayer. If we may be of additional assistance, please contact CC:DOM:IT&A:2 at 202-622-4920.