

INTERNAL REVENUE SERVICE

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The Honorable Richard Lugar
United States Senate
Washington, D.C. 20510-1401

Attention: Darlee McCollum

Dear Senator Lugar:

I am responding to your letter dated July 20, 2000, on behalf of [REDACTED], who asked about the repayment of his student loan.

The Department of Defense Loan Repayment Program was established as an enlistment incentive. Under this program, the Department of Defense can repay the greater of 33 1/3 percent or \$1,500 of an enlisted member's student loans for each year of completed service performed by the borrower. The Department of Defense makes the payments to the lending institution.

In general, all transfers of anything of value, whether paid in cash or in kind, are included in gross income, unless specifically excluded. Section 61(a)(1) of the Internal Revenue Code states that gross income means all income, including compensation for services, fringe benefits, etc. Included in this definition is income from discharge of indebtedness.

As examples of income from discharge of indebtedness, the Supreme Court held that an employer's payment of an employee's taxes is included in gross income of the employee. *Old Colony Trust Co. v. Commissioner*, 279 U.S. 716 (1929). The Tax Court held that an employer's payment of civil penalties imposed on an employee is included in gross income of the employee. *Huff v. Commissioner*, 80 T.C. 804 (1983).

I am enclosing a copy of a recent case in which the Tax Court held that the Army's repayment of an enlisted member's student loan under the Department of Defense Loan Repayment Program is included in the member's gross income because the employer is satisfying the employee's debt. *Vasquez v. Commissioner*, T.C. Memo. 1997-78.

I hope this information is helpful to you. As requested, I am enclosing this letter in duplicate and returning your enclosure. If you have any questions, please call me or Elizabeth Edwards of this office at (202) 622-6040.

Sincerely yours,

Jerry E. Holmes
Branch Chief, Employment Tax 2
Office of Division Counsel/
Assistant Chief Counsel
(Tax Exempt and Government Entities)

Enclosures (3)