



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

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Attention:

Dear _____ :

This letter responds to your request for information dated March 29, 2005, regarding reporting cancellation of indebtedness under section 6050P of the Internal Revenue Code (Code). Specifically, you request information concerning your organization's reporting obligations if it discharges debt based on a debtor's inability to pay.

In your letter, you state that your organization provides funding for oil spill removals and damage claims and seeks reimbursement from the party responsible for the oil spills. Occasionally, while seeking to collect, your organization may determine that the responsible party is unable to pay the full amount of the debt and may settle the debt for less than the full amount owed. You describe six scenarios involving responsible parties that are unable to pay the full amount of the debt or that will not settle if your organization informs them that it will file a Form 1099-C, "Cancellation of Debt," reporting the amount of the discharged debt. In order to minimize disruptions to your organization's collection process, you would like not to send Forms 1099-C if your organization determines that it is unfair or unreasonable to report the discharged debt.

Section 6050P(a) of the Code provides that any applicable entity that discharges indebtedness of any person during a calendar year must file an information return reporting the discharge. Section 6050P(c)(1) defines an "applicable entity" as an executive, judicial, or legislative agency and any applicable financial entity. Section 6050P(d) provides that every applicable entity required to file a return under section 6050P(a) must furnish an information statement to the debtor. Section 6050P(b) provides that no information reporting is required under section 6050P(a) if the amount of the discharge is less than \$600.

Section 1.6050P-1 of the Income Tax Regulations (regulations) provides that, upon the occurrence of an identifiable event, an applicable entity must report cancellation of indebtedness of \$600 or more during a calendar year unless an exception to reporting applies. Section 1.6050P-1(b)(2)(i) provides eight identifiable events that require reporting cancellation of indebtedness. Section 1.6050P-1(b)(2)(i)(F) provides that an

identifiable event includes a discharge of indebtedness pursuant to an agreement between an applicable entity and a debtor to discharge indebtedness at less than full consideration. Section 1.6050P-1(d) provides various exceptions to reporting cancellation of indebtedness under section 6050P, including certain bankruptcy discharges, interest, and nonprincipal amounts in lending transactions.

In general, under section 6050P of the Code and the regulations, an applicable entity must report cancellation of indebtedness of \$600 or more in a calendar year upon the occurrence of an identifiable event. The settlement of a debt for less than the full amount owed may constitute an identifiable event under section 1.6050P-1(b)(2)(i)(F). Therefore, unless an exception to reporting applies, an applicable entity must report cancellation of indebtedness upon the settlement of a debt for less than the full amount owed. Reporting under section 6050P is mandatory, not discretionary, and there is no exception based on what the creditor believes would be unfair, unreasonable, or disruptive to its business.

To briefly address your concerns regarding reporting based on what the creditor thinks is unfair, unreasonable, or disruptive, you should note the following: (1) there is no provision in section 6050P of the Code or the regulations that requires a creditor to notify the debtor that it will report cancellation of indebtedness upon a settlement; (2) section 1.6050P-1(a)(3) requires reporting cancellation of indebtedness regardless of whether or not the debtor is subject to tax on the cancellation of indebtedness; and (3) the tax consequences to the debtor on the cancellation of indebtedness do not change whether or not the creditor files a Form 1099-C reporting the discharge.

This letter calls your attention to certain general principles of the law. It is intended for informational purposes only and does not constitute a ruling. See Section 2.04 of Rev. Proc. 2005-1, 2005-1 IRB 1. If you have any additional questions, please contact our office at

Sincerely,

Donna Welch
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Judicial Practice
(Procedure & Administration)