

IRS Says No Form 1099-C Required for Certain Student Loan Discharges

December 22, 2021

Acting to clarify the practical impact of a COVID relief provision enacted earlier this year, the IRS has announced in Notice 2022-1 (Notice) that lenders are not required to, and should not, issue Forms 1099-C when certain student loans are discharged. Lenders and their servicers should act now to review their tax reporting procedures for compliance with the Notice.

By way of background, the American Rescue Plan Act of 2021 (ARPA) amended Section 108 of the Internal Revenue Code (Code) to expand the types of discharges of student loan debt that will be excluded from income.

Before the enactment of ARPA, Section 108 of the Code provided narrow exceptions to the general rule requiring the inclusion of cancellation of indebtedness (COD) income. The exceptions applied to COD income from the discharge of student loans:

1. in exchange for a provision requiring certain work for a certain period by certain professionals (*e.g.*, a doctor in a public hospital in a rural area), or
2. on account of the death or total and permanent disability of a student.

Relief also was provided for COD income resulting from certain other student loan discharges, such as loans discharged under the Department of Education's Closed School process or the Defense to Repayment discharge process.

ARPA added further relief by excluding from gross income certain discharges of student loans occurring after December 31, 2020, and before January 1, 2026. The new "student loan discharge" exclusion applies to the following types of loans:

1. Loans provided expressly for post-secondary educational expenses if the loan was made, insured, or guaranteed by a federal, state, or local governmental entity or an eligible educational institution.
2. Private education loans (as defined in Section 140(a)(7) of the Truth in Lending Act).
3. Any loan made by any educational institution qualifying as a 50% charity (for purposes of the income tax charitable deduction) (most nonprofit colleges and universities) if the loan is made under an agreement with any governmental entity (described in item (1)) or any private education lender that provided the

loan to the educational organization, or under a program of the educational institution that is designed to encourage its students to serve in occupations with unmet needs or in areas with unmet needs and under which the services provided by the students (or former students) are for or under the direction of a governmental unit or a tax-exempt charitable organization.

4. Any loan made by an educational organization qualifying as a 50% charity or by an tax-exempt organization to refinance a loan to an individual to assist the individual in attending any educational organization but only if the refinancing loan is under a program of the refinancing organization that is designed as described in item (3).

The discharge of a loan made by either an educational institution or a private education lender is not excluded under the above rules, however, if the discharge is on account of services performed for either the organization or for the private education lender.

It is important to note that that this provision of ARPA did not, by itself, require any student loan to be discharged. The change that ARPA made to the Code with respect to the expanded exception to COD income applies only to how a student loan discharge is treated for tax reporting purposes.

To summarize, normally, IRS Form 1099-C is used by lenders to report the discharge of indebtedness upon the occurrence of certain identifiable events. When applicable, the lender must file Form 1099-C with the IRS and furnish the borrower with a copy. If the debt that is discharged is a student loan described above, however, the Notice provides that the IRS does not want:

1. the lender filing a Form 1099-C with the IRS, as this could result in an IRS computer generated notice to the borrower of unreported income, or
2. furnishing a Form 1099-C to the borrower, as this could cause confusion for the borrower.

Related people

Douglas W. Charnas