



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

OFFICE OF THE CHIEF COUNSEL

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Dear _____ :

This letter responds to your request for a general information letter concerning whether payments made under an employer's loan repayment assistance program should be reported as wages on Form W-2, Wage and Tax Statement, or as cancellation of indebtedness income on Form 1099-C, Cancellation of Debt.

Your request for general information concerns an employee who receives an annual salary and student loan repayment assistance from the employer. The employee must demonstrate that the loan assistance payments are used to repay student loans. An employee must be employed at least two years to obtain the full benefit of the assistance program. If an employee leaves prior to that time, or the employee does not use the assistance to repay student loans, the employee must repay a portion of the assistance received from the employer.

As discussed below, it appears that payment under the loan assistance repayment program may constitute wages reportable on Form W-2. However, this information is not a definitive ruling. See Rev. Proc. 2009-1, 2009-1 I.R.B. 7, §2.04.

Section 61(a) of the Internal Revenue Code provides that, except as otherwise provided in subtitle A, gross income means all income from whatever source derived including but not limited to compensation for services.

In Rev. Rul. 70-282, 1970-1 C.B. 16, the Service addressed the tax treatment of an amount received by a taxpayer from his employer to assist the taxpayer in repaying an outstanding indebtedness. The Service concluded that the amount was compensatory in nature arising out of the employment relationship. Accordingly, the amount was additional compensation for services rendered, and was includible in the taxpayer's gross income.

Section 6051(a) of the Code requires every person required to deduct and withhold income taxes or the employee portion of the employment tax to file an information return

regardless of the amount. The information is reported on Form W-2, Wage and Tax Statement. See Publication 15, enclosed.

Again, this letter has called your attention to certain general principles of the law. It is intended for informational purposes only and does not constitute a definitive ruling. See Rev. Proc. 2009-1, 2009-1 I.R.B. 7, §2.04.

If you have any additional questions, please contact _____ of the Office of Associate Chief Counsel (Income Tax & Accounting) on _____.

Sincerely,

Donna Welsh
Senior Technician Reviewer, Branch 4
(Income Tax & Accounting)