Part I

Section 108.—Income from Discharge of Indebtedness

Rev. Rul. 2008-34

ISSUE

Do the terms of a loan made under the Loan Repayment Assistance Program (LRAP) described below satisfy the requirements of § 108(f)(1) of the Internal Revenue Code, and is the LRAP loan a "student loan" within the meaning of § 108(f)(2)?

FACTS

A, an individual, attended law school and has student loan debt. Neither the loans nor the underlying loan documents addressed whether any of the indebtedness would be forgiven if *A* worked in a particular profession for a specified period of time.

A's law school offers a Loan Repayment Assistance Program (LRAP) to help reduce the student loan debt of graduates who engage in public service. The LRAP is designed to encourage graduates to enter into public service in occupations or areas with unmet needs. Under the LRAP, the law school makes loans that refinance the graduates' original student loan(s). To qualify for an LRAP loan, a graduate must work in a law-related public service position for, or under the direction of, a tax-exempt

charitable organization or a governmental unit, including a position in (1) a public interest or community service organization, (2) a legal aid office or clinic, (3) a prosecutor's office, (4) a public defender's office, or (5) a state, local, or federal government office. The amount of the LRAP loan is based on the graduate's outstanding student loan debt and annual income. After the graduate works for the required period in a qualifying position, the law school will forgive all or part of the graduate's LRAP loan.

After *A* graduates from law school, *A* signs an LRAP promissory note and accepts the terms and conditions of the law school's LRAP loan. The LRAP loan provides that the indebtedness will be forgiven if *A* works for a certain minimum period of time in a qualifying law-related public service position.

LAW

Section 61(a) provides that gross income means all income from whatever source derived. Section 61(a)(12) provides that gross income includes income from the discharge of indebtedness.

Section 108(f)(1) provides that in the case of an individual, gross income does not include any amount which (but for § 108(f)) would be includible in gross income by reason of the discharge (in whole or in part) of any student loan if such discharge was pursuant to a provision of such loan under which all or part of the indebtedness of the individual would be discharged if the individual worked for a certain period of time in certain professions for any of a broad class of employers.

Section 108(f)(2) defines "student loan" for purposes of § 108(f) to include any loan to an individual to assist the individual in attending an educational organization described in § 170(b)(1)(A)(ii) made by (A) the United States, or an instrumentality or agency thereof, (B) a State, territory, or possession of the United States, or the District of Columbia, or any political subdivision thereof, or (C) certain tax-exempt public benefit corporations. The Taxpayer Relief Act of 1997 (1997 Act), Pub. L.105-34, added § 108(f)(2)(D), which amended and expanded the definition of "student loan" to include loans made by the educational organizations themselves if the loans were made either:

> (i) pursuant to an agreement with any entity described in subparagraph (A), (B), or (C) under which the funds from which the loan was made were provided to such educational organization, or
>
> (ii) pursuant to a program of such educational organization which 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 an organization described in section 501(c)(3) and exempt from tax under section 501(a).

The 1997 Act further amended § 108(f)(2) to provide that the term "student loan" includes any loan made by an educational organization described in section 170(b)(1)(A)(ii) or by an organization exempt from tax under section 501(a) "to refinance a loan to an individual to assist the individual in attending any such educational organization but only if the refinancing loan is pursuant to a program of the refinancing organization which is designed as described in subparagraph

(D)(ii)."[1] The legislative history to the 1997 Act explains that, in the case of loans made or refinanced by educational organizations (and loans refinanced by certain tax-exempt organizations), the student's work must fulfill a "public service requirement." *See* H.R. Conf. Rep. No. 105-220, at 375-76 (1997).

ANALYSIS

The terms of *A*'s LRAP loan provide for loan forgiveness only if *A* works for a certain minimum period of time in a qualifying law-related public service position. This requirement is consistent with the requirement in §108(f)(1) to work in certain professions for a certain period of time.

Additionally, the law school's LRAP is designed to encourage its students to engage in public service in occupations or areas with unmet needs. All of the positions listed in the LRAP are for, or under the direction of, a governmental unit or a tax-exempt charitable organization. Further, the LRAP loan was made to refinance *A*'s original student loans. Therefore, the LRAP loan meets the definition of a "student loan" in § 108(f)(2).

HOLDING

The terms of the loan made under the LRAP satisfy the requirements of § 108(f)(1), and the LRAP loan is a "student loan" within the meaning of § 108(f)(2).

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[1] A technical correction clarified that gross income does not include amounts from the forgiveness of loans made by educational organizations and certain tax-exempt organizations to refinance *any* existing student loan (and not just loans made by educational organizations). *See* Pub. L. 105-206, § 6004(f)(1), and H. R. Rep. No. 356, 105th Cong., 1st Sess. 10 (1997).

DRAFTING INFORMATION

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