

Congress of the United States
Washington, DC 20515

May 5, 2016

Honorable Jacob J. Lew
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Honorable John Koskinen
Commissioner of Internal Revenue
Internal Revenue Service
111 Constitution Avenue, NW
Washington, DC 20224

Dear Secretary Lew and Commissioner Koskinen,

We are writing concerning the use of Qualified Student Loan Bonds (QSLBs) as a means of refinancing existing student loans. Many of us wrote to you last year requesting that you issue guidance to clarify the full extent to which tax-exempt bonds may be used for refinancing purposes. We appreciate your prompt response, which resulted in the issuance of Notice 2015-78. The priority Treasury and IRS placed on issuing this guidance demonstrates a shared interest in ensuring there are viable refinancing options available for borrowers (students and their parents) in light of concerns over growing student debt.

Student debt is a large and growing concern for millions of American graduates. Student loans are the second biggest source of personal debt in the United States, and about 90% of these loans are issued by the federal government. Currently, a few for-profit lenders offer refinancing options with lower interest rates to borrowers of federal student loans provided they meet the lenders' income and credit requirements. By clarifying that state and non-profit student loan organizations may use tax-exempt bonds for refinancing purposes, Notice 2015-78 takes a large step toward enlarging the pool of student loan borrowers who may be able to take advantage of lower interest rates through refinancing.

While Notice 2015-78 is welcome news for anyone interested in addressing the problem of ever-growing student debt, several technical issues remain that may inhibit state and nonprofit organizations from fully implementing refinancing programs. We respectfully request that you supplement Notice 2015-78 to make the following clarifications:

1. *Clarify in the case of a refinancing of an original loan financed with tax-exempt bonds that the bonds issued for refinancing purposes will not be considered refunding bonds, particularly where the issuer is utilizing a new volume cap allocation to issue the bonds that will refinance the original loans.* Confusion in this area has resulted due to an IRS private letter ruling (PLR-133996-13) issued in November of 2014 that suggests refinancing of an original tax-exempt financed loan may be considered a refunding. If

this were the case, it would greatly hamstring any refinancing program to use tax-exempt bonds to refinance original loans under federal or state administered student loan programs, which generally rely on tax-exempt bond financing. Notice 2015-78 is silent on this issue and additional guidance is necessary to settle this issue once and for all.

2. *Clarify guidance as to facts and/or circumstances that an issuer for refinancing purposes may rely on to safely determine the original loan met the loan size limitation required for the use of tax-exempt financing.* Requiring an issuer in the case of a refinancing loan to retroactively self-verify that an original loan was in compliance with the loan size limitation would be a highly burdensome and time consuming process that could hamper any refinancing program. This could be avoided through safe harbor rules that would provide certainty to all parties involved that the refinancing bond's tax-exempt status will not be questioned, provided reasonable due diligence requirements are met. For example, when it comes to original loans made under any federal Title IV loan program, under a state administered student loan program, or under other acceptable programs that required school certification of loan amounts, it would make sense to permit issuers to assume that the original loan complied with the rules for these programs as an appropriate part of a financial aid package that met the loan size limitation requirement and could be refinanced. For other loans, under current law an issuer could rely on self-certification by the borrower at the time of the refinancing along with meeting certain minimum due diligence requirements.
3. *Clarify (a) that a former student may refinance an original loan that was a parent loan and vice versa; and (b) the student nexus requirement as it relates to a parent refinance loan.*
 - a) Notice 2015-78 clarifies that a student loan, whether originally taken out by the student or the parent, is eligible for refinancing without regard to any additional cosigner or guarantor. However, the guidance does not address whether a student can refinance a parent's loan or whether a parent can refinance a student's loan. Given that financing the costs of higher education is a family responsibility, and that financial situations are likely to change between the original loan and the refinancing loan, it would make sense for refinancing loans to be available to either, without regard to original loan borrower status.
 - b) Notice 2015-78 clarifies that tax-exempt bonds may be issued by a state for refinancing a student loan based on the student's state of residence or school attendance at the time of the original loan or based on their current state of residence. While this clarification is extremely helpful given student mobility following college attendance, parents are equally mobile. Under current guidance, it would appear that parents who currently live in a State that is different from their student's current or in-school State of residence or attendance would be precluded from using refinancing loans from their current State of residence. A parent's mobility should no more be penalized than his or her student's.

Again, while we greatly appreciate the guidance provided by Notice 2015-78, we urge Treasury and IRS to provide additional clarification on the aforementioned three items to fully allow state-approved programs to take advantage of this guidance and offer refinancing programs to help education loan borrowers across the country. Expanding the ability of non-profit lenders to refinance student loans will result in more options and a better deal for more Americans working to pay down their student debt.

Sincerely,



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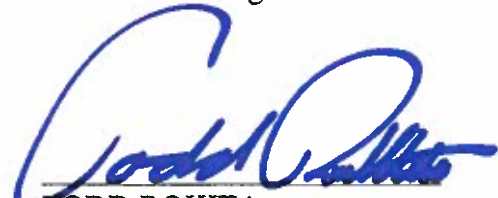
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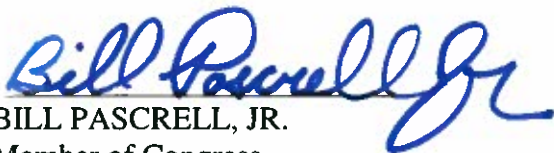
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