

# United States Senate

WASHINGTON, DC 20510

May 3, 2017

Honorable Steven T. Mnuchin  
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  
1111 Constitution Avenue, NW  
Washington, DC 20224

Dear Secretary Mnuchin and Commissioner Koskinen,

We, the undersigned Members of Congress, are following up on a letter sent to your respective offices on May 5, 2016, regarding the use of Qualified Student Loan Bonds (QSLBs) as a vehicle to refinance existing student loans. Prior to the letter mentioned above, many of us individually requested your agencies provide clearer guidance regarding the full range of options to which tax-exempt bonds may be utilized for refinancing purposes. In response to those requests, Notice 2015-78 was issued, and we are grateful for its prompt release. Students and their guardians are rightly concerned about the growing student debt problem in this country and your agency's prompt guidance demonstrated in the past a mutual interest in providing viable refinancing options to borrowers.

According to the Federal Reserve Bank of New York, the number of borrowers of student loans has grown by 89% between 2004 and 2014 and the aggregate debt has tripled during that time to over \$1.3 trillion. One way to reduce the burden of student debt is to make it easier for borrowers to refinance their student loans at a lower rate. By making it unequivocally clear that QSLBs are eligible to be used for refinancing purposes, Notice 2015-78 enlarges the pool of borrowers who may take advantage of lower interest rates.

For anyone interested in solving the never-ending mountain of student debt, Notice 2015-78 is an important step towards that end. However, our constituencies still need technical clarifications before fully implementing these refinancing programs. We urge you to address the following points:


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

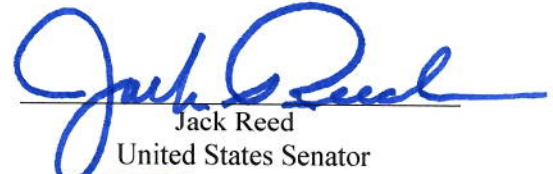
refinancing of an original tax-exempt financed loan may be considered a refunding. If this were the case, it would greatly hamstring any refinancing program to use tax-exempt bonds to refinance original loans under federal or state administered student loan programs, which generally rely on tax-exempt 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.

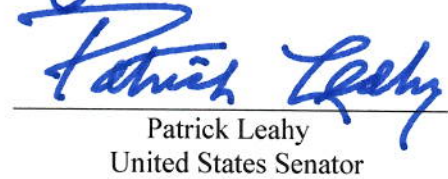
Again, we are appreciative and grateful for Notice 2015-78. We respectfully ask Treasury and the IRS to make clear the points provided above so that our state-approved programs can get to work providing more options and clarity to their borrowers. Empowering nonprofits operating in the student loan space is one of the many tools we should unleash to better deal with the student debt problem.

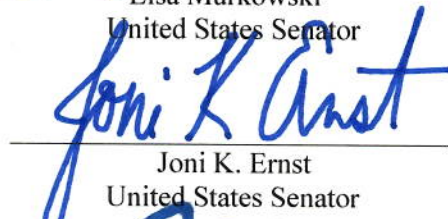
Sincerely,

  
Charles E. Grassley  
United States Senator

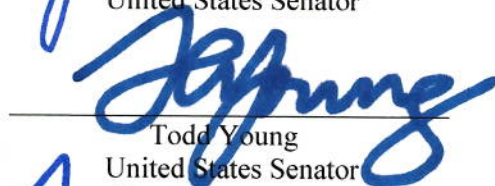
  
Jack Reed  
United States Senator

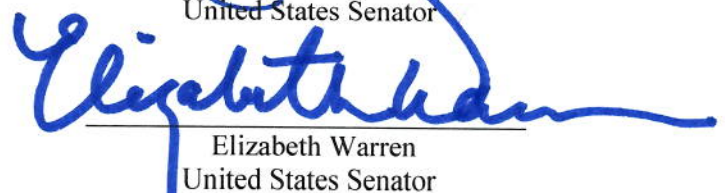
  
Lisa Murkowski  
United States Senator

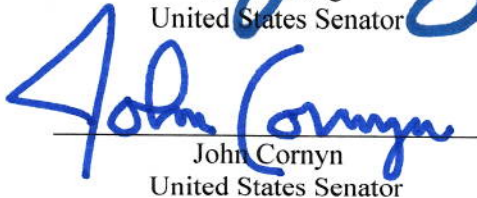
  
Patrick Leahy  
United States Senator

  
Joni K. Ernst  
United States Senator

  
Amy Klobuchar  
United States Senator

  
Todd Young  
United States Senator

  
Elizabeth Warren  
United States Senator

  
John Cornyn  
United States Senator

  
Sheldon Whitehouse  
United States Senator

  
Dan Sullivan  
United States Senator

  
Richard Blumenthal  
United States Senator

  
Margaret Wood Hassan  
United States Senator

  
Jeanne Shaheen  
United States Senator

  
Edward J. Markey  
United States Senator