United States Senate
WASHINGTON, DC 20510

July 17, 2018

The Honorable Steven Mnuchin
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

The Honorable David Kautter
Acting Commissioner and Assistant Secretary of the Treasury for Tax Policy
Internal Revenue Service
1111 Constitution Avenue NW
Washington, DC 20224

Dear Secretary Mnuchin and Acting Commissioner Kautter:

We are writing to urge you to clarify that fraudulently-issued student loan debt taken out by former students who attended the now-defunct Corinthian Colleges, Inc. ("Corinthian") chain is not considered income for federal tax purposes. We ask you to provide students clarity by issuing further guidance as soon as possible. Without your guidance, each student who received debt relief from predatory lending must individually challenge a tax liability that is not actually owed to the Internal Revenue Service (IRS).

While we appreciate the guidance you issued in Revenue Procedure 2015-57 regarding the taxability of *federal* student loan discharges for Corinthian borrowers participating in the borrower defense and closed school discharge processes, this guidance did not explicitly describe substantially similar fact patterns applicable to the discharge of *private* student loans.[i] Without further action by the U.S. Department of the Treasury ("Treasury") and the IRS, many former students who were cheated by Corinthian's predatory behavior and fraud will suffer further unnecessary financial harm.

After Corinthian collapsed in 2015, the U.S. Department of Education ("Department") acted to cancel the balance of tens of thousands of federal loan borrowers, and the Department continues to receive applications for debt relief to this day. The Consumer Financial Protection Bureau (CFPB) also achieved an additional settlement order with Aequitas Capital Management ("Aequitas") to wipe out a significant number of Corinthian's private student loans—known as "Genesis loans"—which the college chain used to evade federal accountability rules.[ii] Both the Department and the CFPB acted to provide this assistance to borrowers because Corinthian systematically falsified job placement rates to cover up for their subpar educational outcomes and, in the process, abused and evaded federal and state consumer protection laws.

According to recent information provided by the CFPB, approximately 47,000 borrowers of Corinthian's private student loans received 1099-C forms for tax year 2017.[iii] Borrowers received these notices despite a settlement order with CFPB and Aequitas that strongly suggested borrowers would not be required to make federal tax filings or receive 1099 forms.[iv] Given that the former students received 1099-Cs, many borrowers may have therefore paid taxes not actually owed, and must individually challenge automated tax assessments for which they are not liable. Others could be facing confusion during audits or when amending their returns. We believe this unfortunate result could be alleviated by updating Revenue Procedure 2015-57 to address Corinthian's private student loan debt, given that the very same authorities that Treasury and IRS relied on for Revenue Procedure 2015-57 apply to all defrauded Corinthian students.

Students should not be stuck with a tax bill when predatory for-profit colleges and corporations provide false or misleading information that leaves their borrowers with high levels of debt, poor job prospects, useless degrees and credentials, and in many cases, no degree at all. And, Treasury and IRS should seek to avoid imposing substantial and unnecessary costs on taxpayers through case-by-case adjudication. We urge you to issue further guidance that clearly indicates that borrowers of Corinthian's private student loans that were cancelled on the basis of fraud, misrepresentation, or unfair or deceptive acts or practices, may exclude the discharged amount from gross income. These infirmities reach back to the origination of these private student loans.

In addition to an expanded revenue procedure, we ask that you work with the IRS Taxpayer Advocate to provide sufficient information and outreach to affected borrowers and taxpayers. We look forward to working with your agencies to ensure these students receive fair treatment. If you have any questions, please contact Bryce McKibben with the Senate Committee on Health, Education, Labor, and Pensions at (202) 224-5501 or Adam Carasso with the Senate Committee on Finance at (202) 224-4515. Thank you for your attention to this matter.

Sincerely,

Patty Murray

PATTY MURRAY
Ranking Member
U.S. Senate Committee on Health, Education, Labor, & Pensions

Ron Wyden

RON WYDEN
Ranking Member
U.S. Senate Committee on Finance

Enclosures: Letter to Senator Patty Murray from Mr. Mick Mulvaney, Acting Director, Consumer Financial Protection Bureau. May 22, 2018

Letter to Ms. Kristen Donoghue, Enforcement Director, Consumer Financial Protection Bureau, from Senator Patty Murray. May 7, 2018.

---

[i] Internal Revenue Service. Rev. Proc. 2015-57. December 21, 2015. https://www.irs.gov/pub/irs-drop/rp-15-57.pdf

[ii] Consumer Financial Protection Bureau. Release: CFPB Takes Action Against Aequitas Capital Management for Aiding Corinthian Colleges' Predatory Lending Scheme. August 17, 2017. https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-against-aequitas-capital-management-aiding-corinthian-colleges-predatory-lending-scheme/

[iii] Letter to Senator Patty Murray from Mr. Mick Mulvaney, Acting Director, Consumer Financial Protection Bureau, regarding Aequitas Capital Management. May 22, 2018.

[iv] *CFPB c. Aequitas et al.*, Case No. 17-cv-01278-PK, Stipulated Final Judgment and Order. ¶33 (D. Or. September 1, 2017). https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201709_cfpb_aequitas-stipulated-final-judgment-and-order.pdf

1700 G Street NW,
Washington, DC 20552

May 22, 2018

The Honorable Patty Murray
United States Senate
154 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Murray:

Thank you for your letter of May 7, 2018, about Aequitas Capital Management (Aequitas).

As required by the September 1, 2017 Order,[1] the receiver for Aequitas submitted a request to the Internal Revenue Service (IRS) for a private letter ruling on whether federal tax information reporting (IRS Form 1099-C) was required with regard to the approximately 42,000 student loan borrowers who received loan relief from Aequitas. The Bureau of Consumer Financial Protection (Bureau) understands that in discussions with the IRS, Aequitas was informed that a ruling likely would require Aequitas to issue Form 1099-C to affected student borrowers. Aequitas subsequently withdrew its private letter ruling request and issued IRS Form 1099-C to affected student borrowers. Whether discharged debts constitute taxable income is ultimately a matter of tax law within the jurisdiction of the IRS, and may depend on the student loan borrower's individual circumstances.

As part of the Bureau's ongoing oversight of the Consent Order, the Bureau continues to analyze whether Aequitas is in compliance with the court's Order. The Bureau also notes that according to the Aequitas receiver's January 31, 2018 report[2] to the district court, the receiver is implementing the following steps to comply with the September 1, 2017 Order:

---

[1] *CFPB v. Aequitas et al.*, Case No. 17-cv-1278-PK, Stipulated Final Judgment and Order ¶33 (D. Or. September 1, 2017).

[2] http://www.kccllc.net/aequitasreceivership/document/list/4254

- calculating the relief for approximately 47,000 loans,
- re-applying cash collections received after the Settlement Record Date of March 31, 2017,
- adjusting every borrower's outstanding balance or balances,
- developing and negotiating detailed and complex borrower notice letters with the Bureau,
- mailing out approximately 47,000 personalized borrower notices (including a separate noticing process for borrowers in bankruptcy to avoid potential violation of an automatic stay),
- creating a process as required by the Consent Order for borrowers' optional loan re-amortization election and implementation, and
- calculating the amounts of and processing overpayment cash refunds for 2,739 loans.

Finally, the receiver subsequently confirmed to the Bureau that relief was provided on the approximately 47,000 loans.

Thank you for your interest in the Bureau's work. Should you have any further questions about this matter, please contact me or have your staff contact Matt Pippin in the Bureau's Office of Legislative Affairs. Mr. Pippin can be reached at (202) 435-7552.

Sincerely,

Mick Mulvaney
Acting Director

United States Senate

WASHINGTON, DC 20510

May 7, 2018

Ms. Kristen Donoghue
Enforcement Director
Consumer Financial Protection Bureau
1700 G Street, N.W.
Washington, D.C. 20552

Dear Ms. Donoghue:

We are writing to request information on behalf of students who were cheated or defrauded by Corinthian Colleges, Inc. ("Corinthian") and whether they have been provided with the relief they are owed. Before it collapsed, the now-defunct Corinthian chain took numerous steps to mislead students and taxpayers. One of those schemes involved an effort to circumvent guardrails in the federal financial aid programs by employing the use of a high-cost private student loan program backed by a private equity firm. In March 2016, The Securities and Exchange Commission charged Aequitas Capital Management ("Aequitas") and its top executives with defrauding investors in the loan program while they continued to enjoy lavish salaries, private jets, and expensive recreational outings.[1] Then, on August 17, 2017, the Consumer Financial Protection Bureau (CFPB) announced a proposed settlement with Aequitas for aiding Corinthian's predatory loan scheme. The settlement order sought approximately $183.3 million in loan cancelation for 41,000 cheated Corinthian borrowers.[2]

We are writing to determine whether the victims of the illegal private student loan scheme invented by Corinthian have been made whole. Specifically, we are concerned that former Corinthian students may not have received the relief they are entitled to under the settlement and that many may have incurred tax liability for canceled loans. The Aequitas settlement not only sought loan cancelation for borrowers, but also required that Aequitas "use commercially reasonable efforts to obtain guidance from the Internal Revenue Service indicating that the Receiver is not required to make federal tax filings (including sending Form 1099-C to borrowers) as a result of the debt relief."[3]

The settlement further required that Aequitas submit a compliance report within 180 days of the order's effective date that "describes in detail the manner and form in which Defendants...have complied with this Order."[4] Because this report is not publicly available, it has been difficult to determine if former Corinthian students have received the full relief they are entitled to, including tax relief from the loan cancelations. After all that Corinthian students have suffered

---

[1] Securities and Exchange Commission. SEC Charges Oregon-Based Investment Group and Executives With Defrauding Investors. March 10, 2016. https://www.sec.gov/news/pressrelease/2016-49.html

[2] Consumer Financial Protection Bureau. CFPB Takes Action Against Aequitas Capital Management for Aiding Corinthian Colleges' Predatory Lending Scheme. August 17, 2017. https://go.usa.gov/xQXbb

[3] Stipulated Financial Judgment and Order in the Matter of Consumer Financial Protection Bureau v. Aequitas Capital Management Inc. August 17, 2017. https://go.usa.gov/xQXbj

[4] *Id.*

over the last few years, incurring tax liability from their fraudulently-issued debt would only add insult to injury. To better understand the progress that has been made under the settlement, we would appreciate answers to the following questions and requests:

1. Please provide a copy of the compliance report(s) submitted by Aequitas.

2. What steps did Aequitas take to comply with the provisions of the order relating to obtaining guidance from the Internal Revenue Service?

3. Please provide copies of any guidance sought or obtained from the IRS.

4. Did borrowers who received loan cancelations receive Form 1099-Cs indicating that they have taxable income due as a result of the loan cancelation?

5. Did borrowers who received cancelations receive any other tax form, document or guidance other than a Form 1099-C with regard to the loan cancelation?

6. Please state the exact number of borrowers entitled to relief under the settlement order, the number of borrowers who have received loan cancelations, and the number of borrowers who have received Form 1099-Cs.

7. Is it the position of the CFPB that Aequitas is currently in compliance with the Aequitas settlement order? If not, is the CFPB taking any additional actions to bring Aequitas into compliance with the settlement order?

8. What steps were taken by CFPB to confirm the accuracy of the information in the Aequitas report?

As you know, it is critical that the CFPB ensures its consent orders are closely monitored and enforced to ensure that victims of fraud receive full relief. We look forward to working together to ensure that students of Corinthian are made whole and look forward to your response no later than May 21, 2018. If you have any questions, please contact Bryce McKibben with Senator Murray's office at (202) 224-5501. Thank you in advance for your attention to this matter.

Sincerely,

Patty Murray

PATTY MURRAY
United States Senator

Sherrod Brown

SHERROD BROWN
United States Senator

Bill Nelson

BILL NELSON
United States Senator

Richard Blumenthal

RICHARD BLUMENTHAL
United States Senator

Kirsten Gillibrand

KIRSTEN GILLIBRAND
United States Senator

Dick Durbin

RICHARD J. DURBIN
United States Senator