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.

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[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