

## Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PA:02

PLR-116307-22

Date:

February 08, 2023

### Legend

Entity =

State X =

State X Law =

Notices =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Re:

Dear :

This letter responds to your request, dated August 11, 2022, for a ruling that Entity has no reporting obligation under Section 6050P of the Internal Revenue Code for the write-off of certain account balances pursuant to a court's order granting final approval of a class action settlement. Your letter contends that there should be no reporting obligation because the discharge was not the result of an "identifiable event" listed in Treasury Regulation 1.6050P-1(b)(2), but rather was required by the operation of state law. For the reasons set forth below, we conclude that Entity is required to file Forms 1099-C

with respect to the write-off of balances and charges pursuant to its settlement agreement because the discharge was the result of an identifiable event.

### Facts

Entity is a credit union organized in State X. When certain debtors defaulted on loans, Entity sent presale notices to the debtors stating that the collateral for the loans was being repossessed. Two of these debtors filed a class-action lawsuit in State X circuit court. In the lawsuit, the debtors alleged that defects in the presale notices Entity sent violated State X Law for failing to clearly state whether a borrower would owe the deficiency balance. After the filing of an amended petition, the parties engaged in discovery. The debtors filed a motion for class certification on Date 1. After the motion was briefed and argued by the parties, the court certified the class on Date 2. Subsequently, the parties agreed to a settlement. The settlement agreement was executed Date 3. The joint motion for preliminary approval was entered that same day. After a fairness hearing, the court granted final approval of the settlement on Date 4.

### Law and Analysis

Section 6050P of the Internal Revenue Code requires that any discharge of debt greater than \$600 must be reported to the IRS by the applicable entity. It is not disputed that Entity is an applicable entity. The report under section 6050P must include the name, address, and Taxpayer Identification Number of the person whose debt is discharged, among other details. Under the regulations pertaining to section 6050P, however, the report of the discharge is only required when one of the “identifiable events” outlined in Treasury Regulation section 1.6050P-1(b)(2) takes place.

The identifiable event of primary relevance here is found in section 1.6050P-1(b)(2)(F). When an applicable financial entity and a debtor agree to discharge indebtedness for less than full consideration, this constitutes an identifiable event, and the discharge must be reported. To establish consideration, there must be a performance or a return promised which has been bargained for by the parties. Restatement (Second) Contracts § 71(1) (1981). In this case, Entity and the debtor class members agreed to the entry of a judgment, approved and supervised by the court, which incorporates the parties' settlement agreement by which Entity agreed to write off debt balances as part of the overall settlement of the pending litigation. This is an identifiable event described in section 1.6050P-1(b)(2)(F).

Entity's request for a ruling contends that the settlement agreement does not reflect a mere agreement of the parties, or any other identifiable event, but rather is a recognition that the write-off of the deficiency balances was required under state law.

While the application of State X Law regarding the sufficiency of the presale notices may have been a factor in the parties' decision to settle the litigation, such considerations are typical of parties' assessment of litigation hazards in arriving at a

negotiated settlement. The Agreement states that “[Entity] disputes the claims but desires to settle the claims being asserted against it on the terms and conditions in this Agreement to avoid the burden, expense, and uncertainty of continuing litigation.” The fact that the terms of the settlement agreement were approved and incorporated into the court's Preliminary Order and Final Order does not serve to convert the discharge of the debt from being entered into voluntarily to one forced by operation of state law.

Entity also argues that there was no identifiable event because the court in its Final Order stated that the court had made an independent judicial investigation into the legal sufficiency of the presale notices and held that the presale notices are unenforceable. But Entity vigorously pursued the litigation, including contesting class certification, throughout the pendency of the case. It was only by entering into a settlement agreement with the class members that Entity gave up its disputed claims to deficiency amounts. It was as part of this settlement agreement that the parties agreed to seek a judicial determination into a matter that they had already resolved, a determination made not as a result of the adversarial litigation process, but by mutual request of the parties as part of the settlement agreement. The debt write-off is due to the settlement agreement, not the court's subsequent order.

### Conclusion

Based solely on the information provided and the representations made, Entity is required to file Forms 1099-C with respect to the write-off of balances and charges pursuant to its settlement agreement because the discharge was the result of an identifiable event listed in section 1.6050P-1(b)(2).

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Sincerely,

Melissa A. Henkel  
Branch Chief  
(Procedure & Administration)

cc: