

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:PA:APJP:B01/PLR-106131-01

Date:

May 9, 2001

Re:

Legend

| | |
|-------------|---|
| Bank | = |
| Parent | = |
| Purchaser 1 | = |
| Purchaser 2 | = |
| Program | = |
| Date 1 | = |
| Year 1 | = |
| \$ | = |

Dear

This letter responds to the letter dated January 26, 2001, submitted on behalf of the Bank, requesting the following ruling:

(1) the cancellation of a cardholder's obligation to pay the balance pursuant to the occurrence of _____ under the Program does not constitute an event subject to information return reporting under section 6050P of the Internal Revenue Code.

Facts

Based upon the facts submitted and the representations made, Bank , Purchaser 1 and Purchaser 2 are subsidiaries of Parent. Chartered on Date 1, Bank makes loans to holders of credit cards issued by the Bank to purchase goods and services. Bank's fiscal year ends on _____. The Bank uses the accrual method of accounting.

Purchaser 1 purchases certain receivables from the Bank at their face value and resells them to Purchaser 2, a "bankruptcy remote entity," at the same price. Purchaser 2 transfers the customer receivables to a trust in exchange for a transferor certificate, and sells a small percentage of that interest to the Bank, which receives a participation certificate. Purchaser 2 has secured a portion of its interest in the trust in both public and private transactions that are treated as sales for financial reporting purposes and

CC:PA:APJP:B01/PLR-106131-01

as loans for federal income tax purposes. The interests in the public transactions are freely transferable while the interest in the private transaction is not.

During Year 1, the Bank began offering cardholders the Program. A cardholder joins the Program by entering into a contractual agreement with the Bank. According to the terms of the Program, the cardholder pays a fee at a rate of \$. In exchange for the fee, the Bank agrees to cancel all or a portion of the cardholder's account balance where the cardholder experiences

The Bank adds the fee to the
cardholder's monthly account balance.

Upon the occurrence of one of the above stated events, the cardholder must file a claim within days.

Law and Analysis

Section 6050P of the Internal Revenue Code requires that an applicable entity report any discharges (in whole or in part) of indebtedness of any person in excess of \$600. In addition, § 1.6050P-1(b)(2) of the Income Tax Regulations provides that a discharge of indebtedness occurs if one of the following identifiable events takes place:

(A) A discharge of indebtedness under title 11 of the United States Code (bankruptcy);

(B) A cancellation or extinguishment of an indebtedness that renders a debt unenforceable in a receivership, foreclosure, or similar proceeding in a federal or state court, as described in section 368(a)(3)(A)(ii) (other than a discharge described in paragraph (b)(2)(i)(A) of this section);

(C) A cancellation or extinguishment of an indebtedness upon the expiration of the statute of limitations for collection of an indebtedness, subject to the limitations described in paragraph (b)(2)(ii) of this section, or

CC:PA:APJP:B01/PLR-106131-01

upon the expiration of a statutory period for filing a claim or commencing a deficiency judgment proceeding;

(D) A cancellation or extinguishment of an indebtedness pursuant to an election of foreclosure remedies by a creditor that statutorily extinguishes or bars the creditor's right to pursue collection of the indebtedness;

(E) A cancellation or extinguishment of an indebtedness that renders a debt unenforceable pursuant to a probate or similar proceeding;

(F) A discharge of indebtedness pursuant to an agreement between an applicable financial entity and a debtor to discharge indebtedness at less than full consideration;

(G) A discharge of indebtedness pursuant to a decision by the creditor, or the application of a defined policy of the creditor, to discontinue collection activity and discharge debt; or

(H) The expiration of the non-payment testing period, as described in paragraph (b)(2)(iv) of this section.

Out of the above identifiable events, two events contain language that may apply to the current situation.

First, §1.6050P-1(b)(2)(F) states that an identifiable event exists where the creditor and debtor agree to discharge the indebtedness for less than full consideration. To establish consideration, there must be a performance or a return promise which has been bargained for by the parties. Restatement (Second) Contracts § 71(1) (1981). In this case, the Bank offers to credit the cardholder's account at the occurrence of

if the cardholder pays a monthly fee in the amount of \$. The cardholder accepts the offer and pays the monthly fee. The payment of the fee constitutes full consideration for the Bank's promise. Therefore, § 1.6050P-1(b)(2)(F) of the Income Tax Regulations does not apply.

Second, § 1.6050P-1(b)(2)(G) holds that a discharge of indebtedness exists where a creditor discontinues collection activity pursuant to a decision by the creditor or a defined policy of the creditor. According to § 1.6050P-1(b)(2)(iii), a creditor's defined policy includes both a written policy and the creditor's established business practice. However, in this case, neither a decision nor a policy triggers the cancellation of indebtedness. The contractual agreement triggers the cancellation. The agreement requires the Bank to cancel the cardholder's account balance upon the occurrence of

Thus, § 1.6050P-1(b)(2)(G) of the Income Tax Regulations does not apply.

Conclusion

Based solely on the information provided and the representations made, we therefore conclude that the cancellation of a cardholder's obligation to pay the account balance pursuant to the occurrence of

under the Program does not constitute an identifiable event under § 1.6050P-1(b)(2) of the Income Tax Regulations. As a result, the Bank is not subject to information return reporting under section 6050P of the Internal Revenue Code.

This ruling is based on the facts presented and the applicable law in effect on the date of this letter. If there is a change in material fact or law (local or federal) before the transactions considered in this ruling take effect, the ruling will have no force or effect.

Except as specifically ruled herein, no opinion is expressed as to the federal tax treatment of any issue addressed in this ruling under other provisions of the Internal Revenue Code and Regulations that may be applicable.

Pursuant to the power of attorney on file in this office, the original of this letter is being sent to you as the Bank's authorized representative.

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

Sincerely,
PAMELA W. FULLER
Senior Technician Reviewer, Branch 1
Office of the Assistant Chief Counsel
(Administrative Provisions and
Judicial Practice)

Enclosures (2):

Copy of this letter
Copy for section 6110 purposes

cc: