Ranges of absorbency in grams[1]	Corresponding term of absorbency
12 to 15	Super plus absorbency.
15 to 18	Ultra absorbency.
Above 18	No term.

[1]These ranges are defined, respectively, as follows: Less than or equal to 6 grams; greater than 6 grams up to and including 9 grams; greater than 9 grams up to and including 12 grams; greater than 12 grams up to an including 15 grams; greater than 15 grams up to and including 18 grams; and greater than 18 grams.

* * * * *

Dated: January 13, 1999.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 99–1362 Filed 1–20–99; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–116826–97]

RIN 1545–AW01

Deduction for Interest on Qualified Education Loans

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and requests to videoconference the public hearing.

SUMMARY: This document contains proposed regulations relating to the deduction for interest paid on qualified education loans. The proposed regulations reflect changes to the law made by the Taxpayer Relief Act of 1997, the Internal Revenue Service Restructuring and Reform Act of 1998, and the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999. The proposed regulations affect taxpayers who pay interest on qualified education loans. This document also provides notice that a public hearing will be held on the proposed regulations and that persons outside the Washington, DC, area who wish to testify at the hearing may request that the IRS videoconference the hearing to their sites.

DATES: Written or electronically generated comments must be received by April 21, 1999. Requests to videoconference the hearing to other sites must be received by March 22, 1999.

ADDRESSES: Send submissions to CC:DOM:CORP:R (REG–116826–97), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–116826–97), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the ''Tax Regs'' option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.ustreas.gov/prod/tax__regs/comments. html. The IRS will publish the time and date of the public hearing and the locations of any videoconferencing sites in an announcement in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, contact John P. Moriarty, (202) 622–4950 (not a toll-free number); concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, contact Michael L. Slaughter (202) 622–7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1). Section 202 of the Taxpayer Relief Act of 1997 (Pub. L. 105–34 (111 Stat. 778) (TRA 97)) added section 221 of the Internal Revenue Code to allow a deduction from gross income for certain interest paid on qualified education loans. On November 17, 1997, the IRS published Notice 97–60 (1997–46 I.R.B. 8) to provide guidance on the higher education tax incentives enacted by TRA 97, including the deduction for interest paid on qualified education loans. Section 6004(b) of the Internal Revenue Service Restructuring and Reform Act of 1998 (Pub. L. 105–206 (112 Stat. 685)) (RRA 98) and section 4003(a) of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Pub. L. 105–277 (112 Stat. 2681)) (Omnibus Act 99) made technical amendments to section 221. TRA 97 also added section 6050S to the Internal Revenue Code, which requires the filing of information returns by certain persons who receive payments of interest that may be deductible as interest on a qualified education loan. In 1998, the IRS published two notices describing the information returns that are required under section 6050S for 1998 and 1999. On January 20, 1998, the IRS published Notice 98–7 (1998–3 I.R.B. 54), which describes the information reporting required under section 6050S for 1998. On November 16, 1998, the IRS published Notice 98–54 (1998–46 I.R.B. 25), which modified Notice 98–7 to reflect a technical amendment made by RRA 98 and extended the application of Notice 98–7, as so modified, to information reporting required under section 6050S for 1999.

Explanation of Provisions

Section 221 allows taxpayers who are legally obligated to pay interest on qualified education loans a federal income tax deduction for their interest payments. The deduction is an adjustment to gross income and, therefore, is available to eligible taxpayers regardless of whether they itemize deductions.

The deduction is limited to $2,500 for taxable years beginning after 2000. For taxable years 1998, 1999 and 2000, the limits are $1,000, $1,500 and $2,000, respectively. Consistent with the income limitations in section 221(b)(2), the proposed regulations provide that the deduction is phased-out for taxpayers with modified adjusted gross income between $40,000 and $55,000 ($60,000 and $75,000 for taxpayers filing a joint return) for the taxable year. For taxable years beginning after 2002, these amounts will be adjusted for inflation.

No deduction under section 221 is allowed in a taxable year to an individual who is properly claimed as a dependent on another taxpayer's federal income tax return for the taxable year. In addition, a taxpayer who is married as of the end of a taxable year is allowed a deduction under section 221 only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

Consistent with section 221(e)(1), the proposed regulations define a *qualified*

education loan to mean any indebtedness incurred by the taxpayer solely to pay qualified higher education expenses on behalf of a student enrolled at least half-time in a program leading to a degree, certificate, or other recognized educational credential. The student must be the taxpayer, the taxpayer's spouse, or the taxpayer's dependent at the time the indebtedness is incurred. In addition, the qualified higher education expenses must be incurred within a reasonable period of time before or after the indebtedness is incurred. The requirement that the indebtedness be incurred solely to pay qualified higher education expenses was added by RRA '98. Accordingly, *mixed use* loans are not qualified education loans. Similarly, revolving lines of credit (e.g., credit card debt) generally are not qualified education loans, unless the borrower uses the line of credit solely to pay qualified higher education expenses.

Consistent with section 221(e)(1), the proposed regulations provide that a loan made by an individual who is related to the borrower, within the meaning of section 267(b) or 707(b)(1), is not a qualified education loan. For example, a loan from a parent or grandparent of the borrower is not a qualified education loan. In addition, consistent with a technical amendment to section 221(e) contained in the Omnibus Act '99, the proposed regulations provide that loans made under any qualified employer plan (within the meaning of section 72(p)(4)) or made pursuant to any contract referred to in section 72(p)(5) are not qualified education loans. The proposed regulations also provide that loans that are not issued or guaranteed as part of a federal postsecondary education loan program nonetheless may be qualified education loans.

The proposed regulations provide that whether or not qualified higher education expenses are paid within a reasonable period of time before or after the indebtedness is incurred depends on all the facts and circumstances. However, the proposed regulations provide two safe harbors. The first safe harbor treats any education loan that is issued as part of a federal postsecondary education loan program as meeting the reasonable period requirement. The second safe harbor treats qualified higher education expenses as paid or incurred within a reasonable period of time before or after the indebtedness is incurred if the expenses relate to a particular academic period and the proceeds of the loan are disbursed within a period that begins 60 days prior to the start of that academic period and ends 60 days after the end of that academic period. The proposed regulations do not require actual tracing of loan proceeds to the payment of qualified higher education expenses.

The proposed regulations define an *eligible educational institution* by reference to section 25A to mean any college, university, vocational school, or other postsecondary educational institution that is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088) as in effect on August 5, 1997, and certified by the U.S. Department of Education to be eligible to participate in a student aid program administered by that department. This category includes generally all accredited public, nonprofit, and proprietary postsecondary institutions. Consistent with section 221(e)(2), the proposed regulations provide that, for purposes of the qualified education loan interest deduction, eligible educational institutions also include institutions that conduct an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training.

Qualified higher education expenses are generally the same as the cost of attendance as determined by the eligible educational institution for purposes of calculating a student's financial need, in accordance with section 472 of the Higher Education Act of 1965, 20 U.S.C. 1087ll, as in effect on August 4, 1997. Such expenses generally include tuition, fees, room, board, books, equipment, and other necessary expenses, such as transportation. However, for purposes of calculating qualified higher education expenses, the amount of such expenses must be reduced by educational assistance that the student receives and excludes from gross income under section 117 (qualified scholarships), section 127 (employer-provided educational assistance), section 135 (redemption of U.S. savings bonds), and section 530 (distributions from education IRAs). In addition, such expenses must be reduced by a veterans' or member of the armed forces' educational assistance allowance under chapter 30, 31, 32, 34 or 35 of title 38 United States Code, or under chapter 1606 of title 10, United States Code, and any other educational assistance that is excludable from the student's gross income (other than as a gift, bequest, devise or inheritance within the meaning of section 102(a)).

The qualified education loan interest deduction generally is available only for interest payments made during the first 60 months in which interest payments are required on the qualified education loan. The proposed regulations provide that the 60-month period commences with the month in which a loan first enters mandatory repayment status and continues to elapse regardless of whether payments are actually made, unless the repayment period is suspended for a period of deferment or forbearance. The 60-month period may expire at different times for different loans of the same borrower.

The date on which a qualified education loan enters repayment status is determined by reference to the loan agreement or the federal regulations governing the applicable federal postsecondary education loan program.

The proposed regulations provide that a deduction is allowed for a payment of interest that was required to be made in one month but that actually is made in a subsequent month prior to the expiration of the 60-month period. A deduction is not allowed for a payment of interest that was required to be made in one month but that actually is made in a subsequent month after the expiration of the 60-month period.

The proposed regulations provide that a qualified education loan and all refinancings of that loan are treated as a single loan for purposes of calculating the 60-month period.

Consistent with section 221(d), as amended by RRA '98, the proposed regulations provide special rules for calculating the 60-month period for consolidated loans or collapsed loans. These rules generally mirror the guidance contained in Notice 98–7 and provide that the 60-month period begins on the most recent date on which any of the underlying loans entered repayment status. See Conf. Rep. No. 599, 105th Cong., 2d Sess., at 339 (1998).

If a qualified education loan entered repayment status prior to January 1, 1998 (the effective date of section 221), the taxpayer is not entitled to deduct any interest paid during that portion of the 60-month period occurring prior to January 1, 1998. A deduction is allowed only for interest due and paid during that portion, if any, of the 60-month period remaining after December 31, 1997.

General tax principles apply in determining what is deductible interest for purposes of section 221. However, to assist taxpayers, the proposed regulations specifically provide that loan origination fees and capitalized interest are *interest* and are deductible under section 221 as the stated principal amount of the qualified education loan is repaid.

Proposed Effective Date

These regulations are proposed to be effective for interest paid after the date they are published in the **Federal Register** as final regulations. Taxpayers may rely on these proposed regulations for guidance pending the issuance of final regulations. If, and to the extent, future guidance is more restrictive than the guidance in these proposed regulations, the future guidance will be applied without retroactive effect.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and, because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rules and on how they can be made easier to understand. All comments will be available for public inspection and copying.

A public hearing will be scheduled in the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The IRS recognizes that persons outside the Washington, DC, area may also wish to testify at the public hearing through videoconferencing. Requests to include videoconferencing sites must be received by March 22, 1999. If the IRS receives sufficient indications of interest to warrant videoconferencing to a particular city, and if the IRS has videoconferencing facilities available in that city on the date the public hearing is to be scheduled, the IRS will try to accommodate the requests.

The IRS will publish the time and date of the public hearing and the locations of any videoconferencing sites in an announcement in the **Federal Register**.

Drafting Information.

The principal author of these regulations is John P. Moriarty of the Office of the Assistant Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.221–1 also issued under 26 U.S.C. 221(d). * * *

Par. 2. Section 1.221–1 is added under the undesignated centerheading ''Additional Itemized Deductions For Individuals'' to read as follows:

§ 1.221–1 Deduction for interest on qualified education loans.

(a) *In general.* An individual taxpayer is allowed a deduction under section 221 from gross income for certain interest paid during the taxable year on a qualified education loan. The deduction is allowed only with respect to interest paid on a qualified education loan during the first 60 months that interest payments are required under the terms of the loan. See paragraph (e) of this section for rules relating to the 60-month rule.

(b) *Eligibility*—(1) *Taxpayer must be legally obligated to make interest payments.* A taxpayer is allowed a deduction under section 221 only if the taxpayer is legally obligated to make interest payments under the terms of the qualified education loan.

(2) *Claimed dependents not eligible*—(i) *In general.* An individual is not allowed a deduction under section 221 for a taxable year if the individual is a dependent (as defined in section 152) for whom a deduction under section 151 is claimed on another taxpayer's federal income tax return for the same taxable year (or, in the case of a fiscal year taxpayer, the taxable year beginning in the same calendar year as the individual's taxable year).

(ii) *Examples.* The following examples illustrate the rules of this paragraph (b):

Example 1. Student not claimed as dependent. Student A pays $750 of interest on qualified education loans during 1998. Student A's parents do not claim her as a dependent for 1998. Assuming all other relevant requirements are met, Student A may deduct the $750 of interest paid in 1998 under section 221.

Example 2. Student claimed as dependent. Student B pays $750 of interest on qualified education loans during 1998. Only Student B is legally obligated to make the payments. Student B's parent claims him as a dependent and a deduction under section 151 is allowed with respect to Student B in computing the parent's 1998 federal income tax. Neither Student B nor Student B's parent may deduct the $750 of interest paid in 1998 under section 221.

(3) *Married taxpayers.* If a taxpayer is married as of the close of the taxable year, a deduction under this section is allowed only if the taxpayer and the taxpayer's spouse file a joint return for that taxable year.

(c) *Maximum deduction.* In any taxable year, the amount allowed as a deduction under section 221 may not exceed the amount determined in accordance with the following table:

Taxable year beginning in:	Maximum deduction
1998	$1,000
1999	1,500
2000	2,000
2001 and thereafter	2,500

(d) *Limitation based on modified adjusted gross income*—(1) *In general.* The deduction allowed under section 221 is phased out ratably for taxpayers with modified adjusted gross income between $40,000 and $55,000 ($60,000 and $75,000 for married individuals who file a joint return). Taxpayers with modified adjusted gross income of $55,000 or above (or $75,000 or above for joint filers) are not allowed a deduction under section 221.

(2) *Modified adjusted gross income defined.* The term *modified adjusted gross income* means the adjusted gross income (as defined in section 62) of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933 (relating to income earned abroad or from certain U.S. possessions or Puerto Rico). Adjusted gross income must be determined under this section after taking into account the exclusions, deductions and limitations provided for by sections 86 (social security and tier 1 railroad retirement benefits), 135 (redemption of qualified U.S. savings bonds), 137 (adoption assistance programs), 219 (deductible IRA contributions) and 469 (limitation on passive activity losses and credits).

(3) *Inflation adjustment.* For taxable years beginning after 2002, the amounts in paragraph (d)(1) of this section will

be increased for inflation occurring after 2001 in accordance with section 1(f)(3). If any amount adjusted under this paragraph (d)(3) is not a multiple of $5,000, the amount will be rounded to the next lowest multiple of $5,000.

(e) *60-month rule*—(1) *General rule.* A deduction for interest paid on a qualified education loan is allowed only for payments made during the first 60 months that interest payments are required on the loan. The 60-month period begins on the date the qualified education loan first enters repayment status and ends 60 months later, unless the period is suspended for periods of deferment or forbearance within the meaning of paragraph (e)(3) of this section. The 60-month period continues to elapse regardless of whether the required interest payments are actually made. The date on which the qualified education loan first enters repayment status is determined under the terms of the loan agreement or, in the case of a loan issued or guaranteed under a federal postsecondary education loan program, under applicable federal regulations. For special rules relating to loan refinancings, consolidated loans, and collapsed loans, see paragraph (h)(1) of this section.

(2) *Loans that entered repayment status prior to January 1, 1998.* In the case of any qualified education loan that entered repayment status prior to January 1, 1998, no deduction is allowed under section 221 for interest paid during the portion of the 60-month period described in paragraph (e)(1) of this section that occurred prior to January 1, 1998. A deduction is allowed only for interest due and paid during that portion, if any, of the 60-month period remaining after December 31, 1997.

(3) *Periods of deferment or forbearance.* The 60-month period described in paragraph (e)(1) of this section is suspended for any period when interest payments are not required on a qualified education loan because the borrower has been granted deferment or forbearance (including postponement in anticipation of cancellation). However, in the case of a qualified education loan that is not issued or guaranteed under a federal postsecondary education loan program, the 60-month period will be suspended under this paragraph (e)(3) only if the borrower satisfies one of the conditions for deferment or forbearance established by the U.S. Department of Education for federal student loan programs under Title IV of the Higher Education Act of 1965, such as half-time study at a postsecondary educational institution, study in an approved graduate fellowship program or in an approved rehabilitation program for the disabled, inability to find full-time employment, economic hardship, or the performance of services in certain occupations or federal programs. The 60-month period is not suspended if, under the terms of the loan—

(i) Interest continues to accrue while the loan is in deferment or forbearance; and

(ii) The taxpayer has the option of paying the interest currently or requesting that the interest be capitalized, and the taxpayer elects to make current interest payments.

(4) *Late payments.* A deduction is allowed for a payment of interest that was required to be made in one month but that actually is made in a subsequent month prior to the expiration of the 60-month period. A deduction is not allowed for a payment of interest that was required to be made in one month but that actually is made in a subsequent month after the expiration of the 60-month period.

(5) *Examples.* The following examples illustrate the rules of this paragraph (e). In the examples, assume that the institution is an eligible educational institution, the loan is a qualified education loan, and the student is legally obligated to make interest payments under the terms of the loan:

Example 1. Payment prior to 60-month period. Student C obtains a loan to attend College V. The terms of the loan provide that interest accrues on the loan while C earns his undergraduate degree but that C is not required to begin making payments of interest until six full calendar months after he graduates. Nevertheless, C voluntarily pays interest on the loan while attending College V. C is not allowed a deduction for interest paid while attending College V because the payments were made during a month prior to the start of the 60-month period.

Example 2. Deferment option not exercised. The facts are the same as *Example 1,* except that Student C makes no payments on the loan while C is enrolled at College V. C graduates in June, 1999 and is required to begin making monthly payments of principal and interest on the loan in January, 2000. The 60-month period described in paragraph (e)(1) of this section begins in January, 2000. In August, 2000, C enrolls in graduate school on a full-time basis. Under the terms of the loan, C may apply for deferment of the loan payments while C is enrolled in graduate school. However, C elects not to apply for deferment and continues to make monthly payments on the loan during graduate school. Assuming all other relevant requirements are met, C may deduct interest paid on the loan during the 60-month period beginning in January, 2000, including interest paid while C was enrolled in graduate school, but elected not to defer payment.

Example 3. Late payment, within 60-month period. The facts are the same as *Example 2,* except that, after the loan enters repayment status in January, 2000, Student C makes no interest payments until March, 2000. In March, 2000, C pays interest required to be paid for the months of January, February, and March, 2000. Assuming all other relevant requirements are met, C is allowed a deduction for the interest paid in March for the months of January, February, and March because the interest payments were required under the terms of the loan and were paid within the 60-month period, even though the January and February interest payments may be late.

Example 4. Late payment during deferment but within 60-month period. The terms of Student D's qualified education loan require her to begin making monthly payments of interest on the loan in January, 2000. The 60-month period described in paragraph (e)(1) of this section begins in January, 2000. D fails to make the required interest payments for the months of November and December, 2000. In January, 2001, D enrolls in graduate school on a half-time basis. Under the terms of the loan, D is eligible for deferment of the loan payments due while D is enrolled in graduate school. The deferment is granted effective January 1, 2001. In March, 2001, while the loan is in deferment, D pays the interest due for the months of November and December, 2000. Assuming all other relevant requirements are met, D is allowed a deduction for interest paid in March, 2001 for the months of November and December, 2000 because the interest payments were made paid prior to the expiration of the 60-month period, even though the November and December interest payments were late and were made while the loan was in deferment.

Example 5. 60-month period. The facts are the same as *Example 4* except that Student D graduates from graduate school in December, 2004 and is required to begin making monthly payments of interest on the loan in June, 2005. As of January, 2001, when the loan entered deferment status, 12 months of the 60-month period had elapsed (January–December, 2000). As of June, 2005, when the loan re-enters repayment status, there are 48 months remaining in the 60-month period for that loan.

Example 6. 60-month period. The terms of Student E's qualified education loan require him to begin making monthly payments of interest on the loan in November, 1999. The 60-month period described in paragraph (e)(1) of this section begins in November, 1999. In January, 2000, E enrolls in graduate school on a half-time basis. As permitted under the terms of the loan, E applies for deferment of the loan payments due while E is enrolled in graduate school. While awaiting formal notification from the lender that his request for deferment has been granted, E pays interest due for the month of January, 2000. In February, 2000, E receives notification from the lender that deferment has been granted, effective as of January 1, 2000. Assuming all other requirements are met, E is allowed a deduction for interest paid in January, 2000, prior to his receipt of the notification, even though the deferment

was granted retroactive to January 1, 2000. As of February, 2000, there are 57 months remaining in the 60-month period for that loan.

Example 7. Reduction of 60-month period for months prior to January 1, 1998. The first payment on a qualified education loan is due on January 1, 1997. Thereafter, interest is required to be paid on a monthly basis. The 60-month period for this loan begins on January 1, 1997. However, no deduction is allowed for interest paid by the borrower prior to January 1, 1998, the effective date of section 221. Assuming all other relevant requirements are met, the borrower may deduct interest due and paid on the loan during the 48 months beginning on January 1, 1998 (unless such period is extended for periods of deferment or forbearance under paragraph (e)(3) of this section).

(f) *Definitions*—(1) *Eligible educational institution.* In general, an *eligible educational institution* means any college, university, vocational school or other post-secondary educational institution that is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on August 5, 1997, and is certified by the U.S. Department of Education to be eligible to participate in student aid programs administered by the Department, as described in section 25A(f)(2). In addition, for purposes of this section, an eligible educational institution also includes an institution that conducts an internship or residency program leading to a degree or certificate awarded by an institution, a hospital, or a health care facility that offers postgraduate training.

(2) *Qualified higher education expenses*—(i) *In general. Qualified higher education expenses* means the cost of attendance (as defined in section 472 of the Higher Education Act of 1965, 20 U.S.C. 1087ll, as in effect on August 4, 1997), at an eligible educational institution, reduced by the amounts described in paragraph (f)(2)(ii) of this section. Consistent with section 472 of the Higher Education Act of 1965, 20 U.S.C. 1087ll, the cost of attendance is determined by the eligible educational institution and includes tuition and fees normally assessed a student carrying the same academic workload, an allowance for room and board, and an allowance for books, supplies, transportation and miscellaneous expenses of the student.

(ii) *Reductions.* Qualified higher education expenses must be reduced by any amount paid to or on behalf of a student with respect to such expenses that is—

(A) A qualified scholarship that is excludable from income under section 117;

(B) A veterans' or member of the armed forces' educational assistance allowance under chapter 30, 31, 32, 34 or 35 of title 38, United States Code, or under chapter 1606 of title 10, United States Code;

(C) Employer-provided educational assistance that is excludable from income under section 127;

(D) Any other educational assistance that is excludable from gross income (other than as a gift, bequest, devise, or inheritance within the meaning of section 102(a));

(E) Any amount excluded from gross income under section 135 (relating to the redemption of United States savings bonds); or

(F) Any amount distributed from an education individual retirement account described in section 530 and excluded from gross income.

(3) *Qualified education loan*—(i) *In general. Qualified education loan* means indebtedness incurred by a taxpayer solely to pay qualified higher education expenses that are—

(A) Incurred on behalf of a student who is the taxpayer, the taxpayer's spouse, or a dependent (as defined in section 151) of the taxpayer at the time the indebtedness is incurred;

(B) Paid or incurred within a reasonable period of time before or after the indebtedness is incurred. Qualified higher education expenses that are paid with the proceeds of education loans that are part of a federal postsecondary education loan program are deemed to meet this requirement. For other loans, except as provided in paragraph (f)(3)(ii) of this section, what constitutes a reasonable period of time is determined based on all the relevant facts and circumstances; and

(C) Attributable to education provided during an academic period, as described in section 25A and the regulations thereunder, when the student is an eligible student as defined in section 25A(b)(3) (requiring that the student be a degree candidate carrying at least one-half the normal full-time workload).

(ii) *Reasonable period safe harbor.* For purposes of paragraph (f)(3)(i)(B) of this section, qualified higher education expenses are treated as paid or incurred within a reasonable period of time before or after the indebtedness is incurred if the expenses relate to a particular academic period and the loan proceeds are disbursed within a period that begins 60 days prior to the start of that academic period and ends 60 days after the end of that academic period.

(iii) *Related party.* A loan made by a person who is related to the borrower, within the meaning of section 267(b) or 707(b)(1), is not a qualified education loan. For example, a parent or grandparent of the borrower is a related person. In addition, a loan made under any qualified employer plan as defined in section 72(p)(4) or under any contract referred to in section 72(p)(5) is not a qualified education loan.

(iv) *Not federally issued or guaranteed.* A loan does not have to be issued or guaranteed under a federal postsecondary education loan program to be a qualified education loan.

(4) *Examples.* The following examples illustrate the rules in this paragraph (f):

Example 1. Eligible educational institution. University Z is a postsecondary educational institution described in section 481 of the Higher Education Act of 1965. University Z has completed the necessary paperwork and has been certified by the U.S. Department of Education as eligible to participate in federal financial aid programs administered by the Department, although University Z chooses not to participate. University Z is an eligible educational institution.

Example 2. Qualified education loan. Student F borrows money from a commercial bank to pay qualified higher education expenses related to his enrollment on a half-time basis in a graduate program at an eligible educational institution. All the loan proceeds are used to pay qualified higher education expenses incurred within a reasonable period of time after the indebtedness is incurred. The loan is not federally guaranteed. The commercial bank is not related to Student F within the meaning of section 267(b) or 707(b)(1). The fact that Student F's loan is not federally issued or guaranteed does not prevent the loan from being a qualified education loan within the meaning of section 221.

Example 3. Qualified higher education expenses. Student G receives a $3,000 qualified scholarship for the 1999 Fall semester, that is excludable from F's gross income under section 117. Student G receives no other forms of financial assistance with respect to the 1999 Fall semester. Student G's cost of attendance for the Fall semester, as determined by Student G's eligible educational institution for purposes of calculating a student's financial need in accordance with section 472 of the Higher Education Act, is $16,000. For the 1999 Fall semester, Student G has qualified higher education expenses of $13,000 (the cost of attendance as determined by the institution ($16,000) reduced by the qualified scholarship proceeds excludable from gross income ($3,000)).

Example 4. Qualified education loan. Student H signs a promissory note for a loan on August 15, 1999, to pay for qualified higher education expenses for the 1999 Fall and 2000 Spring semesters. On August 20, 1999, loan proceeds are disbursed by the lender to Student H's college and credited to H's account to pay qualified higher education expenses for the 1999 Fall semester, that begins on August 23, 1999. On January 25, 2000, additional loan proceeds are disbursed by the lender to Student H's college and credited to H's account to pay qualified higher education expenses for the 2000 Spring semester, that began on January 10,

2000. Student H's qualified higher education expenses for the two semesters are paid within a reasonable period of time, as the first loan disbursement was made within 60 days prior to the start of the Fall 1999 semester and the second loan disbursement was made during the Spring 2000 semester.

Example 5. Mixed-use loans. Student I signs a promissory note for a loan which is secured by I's personal residence. Part of the loan proceeds will be used to pay for certain improvements to I's residence and part of the loan proceeds will be used to pay qualified higher education expenses of I's spouse. Because the loan is not incurred by I solely to pay qualified higher education expenses, the loan is not a qualified education loan.

(g) *Denial of double benefit.* No deduction is allowed under this section for any amount for which a deduction is allowed under another provision of Chapter 1 of the Internal Revenue Code.

(h) *Special rules*—(1) *60-month limitation*—(i) *Refinancing.* A qualified education loan and all refinancings of that loan are treated as a single loan for purposes of calculating the 60-month period described in paragraph (e)(1) of this section.

(ii) *Consolidated loans.* A consolidated loan is a single loan that refinances more than one qualified education loan of a borrower. For consolidated loans, the 60-month period described in paragraph (e)(1) of this section begins on the most recent date on which any of the underlying loans entered repayment status and includes any subsequent month in which the consolidated loan is in repayment status.

(iii) *Collapsed loans.* A collapsed loan is two or more qualified education loans of a single borrower that are treated as a single qualified education loan for loan servicing purposes and are not separately accounted for by the lender or servicer. For a collapsed loan, the 60-month period described in paragraph (e)(1) of this section begins on the most recent date on which any of the underlying loans entered repayment status and includes any subsequent month in which any of the underlying loans is in repayment status.

(2) *Loan origination fees and capitalized interest*—(i) *In general.* Loan origination fees (other than any fees for services) and capitalized interest are interest and are deductible under this section.

(ii) *Capitalized interest defined. Capitalized interest* means any accrued and unpaid interest on a qualified education loan that is capitalized by the lender (in accordance with the terms of the loan) and added to the outstanding principal balance of the qualified education loan.

(iii) *Allocation of payments.* Loan origination fees and capitalized interest are deemed to be paid by the taxpayer when principal is repaid on the qualified education loan. Accordingly, the taxpayer may deduct the portion of a stated principal payment that is treated as the payment of any loan origination fees or capitalized interest on the loan. See §§ 1.446–2(e) and 1.1275–2(a) for rules on how to allocate payments between interest and principal. In general, under these rules, a payment (regardless of its label) is treated first as a payment of interest to the extent of the interest that has accrued and remains unpaid as of the date the payment is due, second as a payment of any loan origination fees or capitalized interest, until such amounts have been reduced to zero, and third as a payment of principal.

(3) *Examples.* The following examples illustrate the rules of this paragraph (h):

Example 1. Refinancing. Student J obtains a qualified education loan to pay for an undergraduate degree at an eligible educational institution. After graduation, Student J is required to make monthly interest payments on the loan beginning in January 2000. Student J makes the required interest payments for 15 months. In April 2001, Student J borrows money from another lender to be used exclusively to repay the first qualified education loan. The new loan requires interest payments to start immediately. At the time Student J is required to make interest payments on the new loan there are forty five months remaining of the original 60-month period referred to in paragraph (e)(1) of this section.

Example 2. Collapsed loans. To finance his education, Student K obtains four separate qualified education loans from Lender B. The loans enter repayment status on different dates. After all of Student K's loans have entered repayment status, Lender B informs Student K that all four loans will be transferred to Lender C. Following the transfer, Lender C treats the loans as a single loan for loan servicing purposes; Lender C sends Student K a single statement that shows the total principal and interest, and does not keep separate records with respect to each loan. The 60-month period described in paragraph (e)(1) of this section begins on the most recent date on which any of Student K's four loans entered repayment status.

Example 3. Capitalized interest. Interest on Student L's qualified education loan accrues while Student L is in school, but Student L is not required to make any payments on the loan until six months after he graduates. At that time, all accrued but unpaid interest is capitalized by the lender and is added to the outstanding principal amount of the loan. Thereafter, Student L is required to make monthly payments of interest and principal on the loan. For purposes of section 221, interest includes both stated interest and capitalized interest. Therefore, in determining the total amount of interest paid on the qualified education loan during the 60-month period described in paragraph (e)(1) of this section, Student L may deduct any principal payments that are treated as payments of capitalized interest under paragraph (h)(4) of this section.

(i) *Effective date.* This section applies to interest due and paid after December 31, 1997, on a qualified education loan.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

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DEPARTMENT OF THE INTERIOR

Office of Hearings and Appeals

Minerals Management Service

30 CFR Parts 208, 241, 242, 243, 250, and 290

43 CFR Part 4

RIN 1010–AC21

Meeting on Proposed Rule—Appeals of MMS Orders

AGENCY: Office of Hearings and Appeals and Minerals Management Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The Office of Hearings and Appeals (OHA), the Bureau of Indian Affairs and the Minerals Management Service (MMS) published a proposed rule in the **Federal Register** on January 12, 1999 (64 FR 1930), to amend the procedures for appeals of MMS orders and other related matters.

OHA and MMS will hold a public meeting to discuss the proposed rule and receive public comments. We invite interested parties to attend and participate in this meeting.

DATES: The meeting will be held on Tuesday, February 16, 1999, from 9:00 a.m. until 4:00 p.m.; Central Standard Time.

ADDRESSES: The meeting will be held at MMS's Houston Compliance Division Office, in Room 104, at 4141 North Sam Houston Parkway East, Houston, TX 77032.

FOR FURTHER INFORMATION CONTACT: Ms. Dixie Lee Pritchard, Houston Compliance Division Office, Minerals Management Service, 4141 North Sam Houston Parkway East, Houston, TX 77032; telephone (713) 546–4419; fax numbers (713) 546–6011; e-Mail Dixie.Lee.Pritchard@mms.gov or David S. Guzy, Chief, Rules and Publications Staff, Royalty Management Program, Minerals Management Service, P.O. Box 25165, MS 3021, Denver, CO 80225–