
**Information Reporting for
Discharges of Indebtedness:
Waiver of Penalties in Certain
Circumstances for Foreign
Financial Entities**

Notice 96-61

This notice extends the scope of the penalty relief granted in the preamble to the final Income Tax Regulations under § 6050P of the Internal Revenue Code relating to the reporting of discharges of indebtedness (61 F.R. 262, January 4, 1996).

Section 6050P requires an information return to be filed by an applicable entity, including an applicable financial entity, which discharges the indebtedness of any person if the amount discharged is \$600 or more. Section 6050P(c)(2) provides that an applicable financial entity includes any financial institution described in § 581 or 591(a), any credit union, and any other corporation which is a direct or indirect subsidiary of such entity but only if, by virtue of being affiliated with the entity, the corporation is subject to supervision and examination by a Federal or State agency which regulates such other entities.

Section 1.6050P-1(d) of the regulations provides certain exceptions from the reporting requirements. Section 1.6050P-1(d)(4) reserves guidance as to the circumstances under which the reporting requirements will not apply to the discharge of indebtedness of foreign

debtors held by foreign branches of U.S. financial institutions. Section 1.6050P-1(d)(4)(ii) identifies the criteria that must be met in order to treat indebtedness held by a foreign branch of a U.S. financial institution as being within the scope of the reserved guidance.

The preamble to the final regulations states, in part, that “the IRS and Treasury are continuing to study the issue of whether reporting is necessary in the case of foreign debtors whose debt is discharged by foreign branches of U.S. financial institutions. Accordingly, pending the issuance of further guidance, no penalties will be imposed if an applicable financial entity fails to report a discharge of indebtedness of a foreign debtor by a foreign branch of the entity.”

After issuance of the final regulations, commentators requested that the penalty relief described in the preamble to the final regulations also apply to indebtedness held by foreign offices or branches of foreign financial institutions that are applicable financial entities under § 6050P(c)(2)(C).

The Internal Revenue Service has determined that, pending the issuance of further guidance, the relief granted in the preamble should be extended, as suggested by commentators. To accomplish this, the regulations will be amended to delete the word “U.S.” from the heading of § 1.6050P-1(d)(4) and the introductory text in § 1.6050P-1(d)(4)(ii). Furthermore, no penalties will be imposed if a foreign office or branch of a foreign applicable financial entity fails to report a discharge of indebtedness of a foreign debtor described in § 1.6050P-1(d)(4)(ii) after giving effect to the preceding sentence.

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