
Executive Action on Student Loan Discharges Affects Many Beneficiaries New Bill Would Alleviate Tax Consequences of "Total and Permanent Disability" Discharges

On April 12, 2016, President Obama announced an executive action to identify and notify approximately 387,000 Social Security disability program beneficiaries of their potential eligibility to have outstanding student loan balances discharged on the basis of "total and permanent disability" (TPD). A press release about the action is at <http://www.ed.gov/news/press-releases/us-department-education-acts-protect-social-security-benefits-borrowers-disabilities>. The action to notify and inform individuals was taken as part of implementing the Administration's Student Aid Bill of Rights of 2015 (<https://www.whitehouse.gov/the-press-office/2015/03/10/fact-sheet-student-aid-bill-rights-taking-action-ensure-strong-consumer->).

The Department of Education began sending letters out to notify individuals of their possible eligibility April 18 and will continue to do so on a rolling basis until all individuals identified by the Social Security Administration as potentially eligible have been notified. The letters inform individuals that they might be eligible for the student loan discharge and provides information regarding how to apply. The process for applying for the discharge has also been simplified to make it easier for the people who have been identified.

The only disability beneficiaries who will receive notice of their eligibility for TPD discharge are those who SSA has deemed "Medical Improvement Not Expected" (MINE). Beneficiaries are classified as MINE, Medical Improvement Possible, or Medical Improvement Expected for the purposes of scheduling Continuing Disability Reviews, but the Department of Education also takes MINE status as proof that an individual is eligible for a TPD discharge. Other people with student loan debt may also be eligible for TPD discharges, but they would have to submit additional proof to request discharge and the process will not be as streamlined. General information about eligibility and applying for student loan TPD discharges can be found at <https://www.disabilitydischarge.com/>.

The Department of Education cannot automatically grant a loan discharge because of the potential tax consequences and possible impact on eligibility for certain non-Social Security benefits (e.g. premium

subsidies under the Affordable Care act) of having the loans discharged. Some disability beneficiaries may not want to apply for a TPD discharge because under current law, the amount of student loans being discharged are counted as income for the tax year in which the discharge is granted and reported to the Treasury Department. Although SSDI benefits can no longer be garnished to pay back student loans if they are discharged, SSDI benefits can be garnished to pay for the taxes on the amount of the loans that were discharged.

President Obama's Fiscal Year 2017 budget proposal contained a legislative proposal to no longer count student loan discharges based on the TPD provision as income for tax purposes. In addition, on April 14, 2016, Senators Coons (D-DE), King (I-ME), and Portman (R-OH) introduced S. 2800, the "Stop Taxing Death and Disability Act of 2016," which would make discharged student loan debt no longer counted as taxable income. For more information about S. 2800, visit <http://tinyurl.com/jfjhu3>. NOSSCR has joined its colleagues in the disability community in supporting this legislation (<http://c-c-d.org/fichiers/Stop-Taxing-Death-and-Disability-Act-Sign-on-letter-final4-16.pdf>).

Beneficiaries may contact you after they receive a letter from the Department of Education. If they do, it would be prudent to make them aware of the potential tax consequences of the discharge and inform them they might want to consult a tax professional before proceeding. In addition, you can visit <https://nosscr.org/ssdi-student-loans> for some practice tips on assisting individuals considering applying for student loan discharge under this provision.