



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF POSTSECONDARY EDUCATION

THE ASSISTANT SECRETARY

FP-06-15

Subject: Payment of Special Allowance on Loans Made or Acquired with Funds From a Tax-Exempt Obligation

Summary: This letter clarifies the applicability of the interim final regulations published by the Department on August 9, 2006 as they relate to the payment of SAP at the 9.5 percent minimum return rate for certain loans made or acquired by a lender using funds from a tax-exempt obligation.

Dear Colleague:

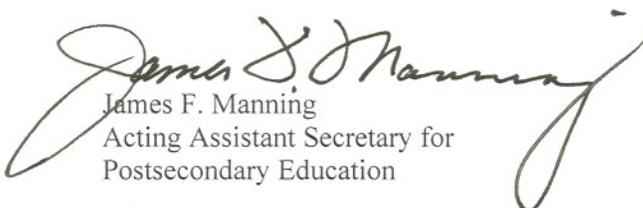
Prior to the publication of the interim final regulation on August 9, 2006, the regulatory provisions governing Special Allowance Payments (SAP) in the Federal Family Education Loan (FFEL) Program at 34 CFR 682.302 had not been updated since 1994, other than to reflect a statutory change in 1993 that eliminated the payment of SAP at the 9.5 percent minimum return rate for loans acquired with funds from tax exempt obligations originally issued on or after October 1, 1993. Thus, the regulations in place prior to the issuance of the August 9, 2006 regulations did not reflect SAP guidance issued by the Department since 1993 nor did they reflect changes made to the SAP provisions of the Higher Education Act (HEA) by the Taxpayer-Teacher Protection Act of 2004 (TTPA) (Pub. L. 108-409) or by the Higher Education Reconciliation Act of 2005 (HERA) (Pub. L. 109-171). Significantly, the Department had provided guidance in Dear Colleague Letters numbered L-93-161, L-93-163, L-96-186, FP-05-01, and FP-06-01.

The interim final regulations, which are summarized in an attachment to this letter, were written to describe the new requirements contained in the TTPA and HERA as well as to explain the requirements that were in effect under the Higher Education Act (HEA) as in effect prior to the enactment of the TTPA, under prior regulations, and under Department policy guidance.

The interim final regulations became effective on September 8, 2006. These regulations apply directly to transactions that occur on or after that date. With regard to transactions that occurred before September 8, 2006, the Department will apply the requirements regarding eligibility for SAP as stated in the HEA, in the regulations as they existed prior to September 8, 2006, and in the Dear Colleague Letters cited above.

We thank you for your cooperation.

Sincerely,


James F. Manning
Acting Assistant Secretary for
Postsecondary Education