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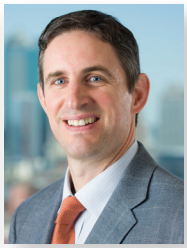
For Federal Student Loan Debt, What You Owe Is Less Important Than What You Know

"The most important loan to pay is your student loan. It's more important than your mortgage, car and credit card payments. You cannot discharge student loan debt in the majority of cases."
— *Suze Orman, personal finance expert*

"I invested all my money in debt."
— *Hamish Linklater, actor and writer*


Neil S. Sader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It's no secret that for several decades the cost of a college degree has increased at a much higher rate than the consumer price index. In fact, since 1985, overall consumer prices have increased at a rate of 115 percent, while the price of pursuing a college degree has risen by almost 500 percent in the same period. *("College Costs Out of Control," Steve Odland, March 24, 2012, former chairman and CEO of Office Depot, Inc., and Autozone, Inc., and adjunct professor at Lynn University)*

In response to the runaway costs of earning a college degree, students and families are resorting to student loans as a primary means to pay for undergraduate and graduate degrees. The result is that each graduating class finds it owes more in student loan debt than prior classes. For example, in 2014, the average student graduated with a student debt load of approximately $33,000, while students from the class of 2015 incurred an average of $35,000 in student debt. *("Class of 2015 has the most student debt in U.S. history," Jillian Berman, Market Watch, May 9, 2015)*

The good news is when it comes to repaying student loan debt, the amount you owe is less important than what you know. Given the variety of income-based repayment and loan forgiveness options available for federal student loans, both parents and students would be wise to research available options or get in touch with an attorney specializing in student loan debt.

A great starting point for repayment options and loan forgiveness programs is the National Student Loan Data System, which is the central database for student aid run by the U.S. Department of Education. To reach the site, go to nslds.ed.gov, where you will be prompted to enter a username and password. This will allow you to access information concerning your federal student loans. You will be able to determine the types of loans you have, e.g. Perkins Loans, William D. Ford Direct Loans, Stafford, or Federal Family Education Loans (FFEL) to name a few. The website will also identify the lender and servicer for your loan(s), the account balance(s), and whether you have consolidated some or all of your loans. The loan servicer information is important because that is who you will want to contact to discuss consolidation and income-based repayment plans. Please note, if you log onto the website and do not see loan information, it means you likely have private or state-issued student loans. In that case, you will need to contact your private lender or state entity to discuss potential repayment or forgiveness options.

Whether your federal student loans qualify for an income-based repayment plan depends on the status of your loan. If your loan is in default and/or you have an active wage garnishment, you will not be able to consolidate your loans or enter into a repayment plan. To fix this problem, you need to rehabilitate your loan, which can be done by contacting

the collection agency that is suing you or garnishing your income. You will be given a set amount to pay each month during the rehabilitation period which, once completed, will result in your loan being removed from default status. This will enable you to pursue consolidation and an income-based repayment plan.

To apply for an income-based repayment plan, you will need to provide proof of income in the form of paystubs and tax returns. At our firm, we ask clients to bring in six months of paystubs and their two most recent federal and state tax returns. Application forms for the various repayment plans can be obtained from the U.S. Department of Education's website, or you can contact the agency via phone to discuss available options with a representative. If you opt to hire an attorney specializing in student loan issues, you will need to complete a third-party authorization form so your attorney can discuss your loans and repayment options with Department of Education employees.

Once approved for an income-based repayment plan, you will need to make the required number of payments (either for 20 or 25 years depending on the type of loan involved) and, at the end of your repayment plan, you will be able to have your remaining student loan debt forgiven, regardless of the amount owed.

Currently, you do have to report forgiven student loans on your taxes, though it is possible in the future that Congress will pass legislation that removes any tax liability for forgiven student loan debt. Since most people in income-based repayment plans will not be in a position to complete their plans until well into the future, it is likely they will never have to cope with the current tax consequences of loan forgiveness. Consequently, borrowers should focus on the benefits of lowering their monthly payments to an affordable amount through income based repayment plans rather than focus on potential tax consequences once their debt is forgiven.

For borrowers with federal loans with government jobs, an attractive option is the Public Service Loan Forgiveness program. Before pursing this program, you should ensure your employer qualifies as a public service or governmental entity (such as teachers, nonprofit employees, government workers), that you work at least 30 hours per week, and that you are a W2 employee as opposed to an independent contractor. The program forgives any remaining student loan debt once a debtor makes 120 monthly payments during the time he or she worked in the public sector. The great thing about this program is that there are no tax consequences for forgiven debt. Once you've made your 120th payment, you will need to send in proof of payment information, and employment verification for each employer during the time you worked in the public sector.

Borrowers with federal student loans also can seek debt relief through administrative discharges. Administrative discharges may be granted upon proof that a former student has died, or has been declared to have a total and permanent disability by a doctor with a medical license issued in the United States. If a discharge is sought for a temporary permanent disability, the government will review tax returns for three years after the discharge is granted to ensure the borrower has not experienced a significant increase in income. Other administrative discharge options are school-related and can stem from a school closing before a student earned his or her degree, or where a school falsely certifies a student's qualifications for admission. Students also can pursue administrative discharges for unpaid refunds, i.e. the student never received the loan proceeds and the school failed to refund said proceeds to the federal government, or where someone forged a student's name onto loan documents.

While the above remedies are by no means exhaustive, they provide a good starting point for borrowers who want to lower their monthly payments, avoid default and ultimately discharge their student loan debt. Regardless of loan type, the worst thing a borrower can do is go in default or sign up for repeated forbearances. These have the short-term benefit of putting payments off to a later date, but have the long-term disadvantage of interest accruing during the forbearance period, which only increases the outstanding loan balance. Knowledge truly is power and can help informed borrowers to significantly reduce their student debt burden. P