Student Loan Repayment Program
Questions and Answers

General

Q1. What is the student loan repayment program?

A1. Under 5 U.S.C. 5379, agencies are authorized to establish a program under which they may agree to repay certain types of Federally insured student loans as a recruitment or retention incentive for highly qualified personnel.

Q2. Are employees entitled to a student loan repayment?

A2. No. An agency has discretionary authority to repay certain types of Federally insured student loans as a recruitment or retention incentive for highly qualified candidates or current employees.

Q3. How does a candidate or current employee go about applying for a student loan repayment?

A3. Current Federal employees or potential candidates may contact their current or potential employing agency for further information. Each participating agency must develop a plan that describes how the agency will implement the student loan repayment program.

Q4. What is the maximum amount of a student loan repayment?

A4. For any one individual, an agency may agree to provide student loan repayment benefits of up to $10,000 per calendar year, subject to a cumulative maximum of $60,000 per employee.

Q5. Who receives the actual loan repayment check?

A5. The employing agency makes student loan payments directly to the loan holder. Student loan payments are not paid to employees.

Q6. May an agency make a loan repayment for a student loan that was previously repaid by the employee?

A6. No. An agency may not make a loan repayment for a student loan that was previously repaid by the employee. (See 5 U.S.C. 5379(b)(3).) Student loan repayments may be paid only for outstanding student loans.

Q7. May an agency agree to repay any future student loans accrued by an employee?

A7. No. An agency may agree only to make payments on those student loans taken out prior to the student loan repayment agreement. (See 5 U.S.C. 5379(b)(1).)

Q8. May an agency offer student loan repayment benefits in addition to existing bonuses and incentives?

A8. Agencies may offer student loan repayment benefits in conjunction with recruitment and relocation bonuses and retention allowances. Agencies may also use student loan repayment benefits in conjunction with a physicians' comparability allowance (PCA). However, 5 CFR 595.105(e) requires that the amount of the PCA be reduced by the amount of the student loan repayment.

Q9. May an agency offer a student loan repayment benefit to recruit an individual from another Federal agency?

A9. The intent of this authority is to help agencies recruit individuals for Federal service, not for agencies to compete with one another for employees. Thus, agencies should not use this authority to recruit current Federal employees from other agencies.

Q10. May an agency offer a student loan repayment benefit to retain an employee likely to leave for a position in another Federal agency?

A10. Agencies may not offer to repay a student loan for an employee who is likely to leave for any position in any branch of the Federal Government. (See 5 CFR 537.105(c).)

Employee Eligibility

Q11. Who is eligible to receive student loan repayment benefits?

A11. Any employee (as defined in 5 U.S.C. 2105) who is highly qualified is eligible to receive a student loan repayment, except those employees who currently occupy or will occupy a position excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character (e.g., employees serving under Schedule C appointments). Under 5 CFR 537.104, agencies may offer loan repayment benefits to--

- Temporary employees who are serving on appointments leading to conversion to term or permanent appointments;
- Term employees with at least 3 years left on their appointment;
- Permanent employees (including part-time employees); and
- Employees serving on excepted appointments with conversion to term, career, or career conditional appointments (including, but not limited to, Career Intern or Presidential Management Intern appointments).

Q12. Are employees not covered by the General Schedule (GS) pay system eligible for student loan repayment benefits?

A12. Yes. The Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398) amended 5 U.S.C. 5379 to remove the limitation that only employees covered by the GS pay system were eligible for student loan repayment benefits. All "highly qualified" personnel, regardless of job series, including Senior Executive Service members, Federal Wage System employees, and employees covered by administratively determined pay systems, are eligible unless specifically excluded by law or regulation.

Q13. May a parent who bears a PLUS loan obligation for his son or daughter qualify for loan repayment benefits under the student loan repayment program?

A13. The statute authorizing this program states that this incentive is to be used for employees of a given agency who have outstanding student loans. Thus, if the employee has a PLUS loan for his or her child, the employee would be eligible. However, if a PLUS loan is held by an employee’s parent, the employee is not eligible for loan repayment benefits for the parent’s PLUS loan.

Q14. Are employees who have defaulted on their student loans eligible for this program?

A14. The student loan repayment authority itself does not preclude payments for employees who have defaulted on their student loans. However, agencies may exclude them by so specifying in their agency plans.

Q15. What types of academic degrees and/or levels are covered by the student loan repayment program?

A15. The types of academic degrees and/or levels covered by the program are not specified in law. Agencies are encouraged to tailor their plans to recruit highly qualified candidates and/or retain highly qualified employees in their current positions. Therefore, an agency may specify the types of degrees and levels necessary to attain this goal.

Q16. Is a degree, diploma, or certificate required for the candidate or employee to qualify for student loan repayment benefits?

A16. The law does not require that a candidate or employee earn a degree, diploma, or certificate to be eligible for a student loan repayment benefit. However, an agency may require a degree, diploma, or certificate as part of its individual agency plan. Agencies are encouraged to tailor their plans to fit their specific needs.

Loan Eligibility

Q17. What types of student loans are eligible for payment under this authority?

A17. A student loan is eligible if it is made, insured, or guaranteed under parts B, D, or E of title IV of the Higher Education Act of 1965 or is a health education assistance loan made or insured under part A of title VII or part E of title VIII of the Public Health Service Act.

Q18. What are examples of the loans that qualify under the student loan repayment program?

A18. Loans made or insured under the Higher Education Act of 1965 include the following:
Federal Family Education Loans (FFEL)

- Subsidized Federal Stafford Loans
- Unsubsidized Federal Stafford Loans
- Federal PLUS Loans
- Federal Consolidation Loans

William D. Ford Direct Loan Program (Direct Loans)

- Direct Subsidized Stafford Loans
- Direct Unsubsidized Stafford Loans
- Direct PLUS Loans
- Direct Subsidized Consolidation Loans
- Direct Unsubsidized Consolidation Loans

Federal Perkins Loan Program

- National Defense Student Loans (made before July 1, 1972)
- National Direct Student Loans (made between July 1, 1972, and July 1, 1987)
- Perkins Loans (made after July 1, 1987)

Loans made or insured under the Public Health Service Act include the following:

- Loans for Disadvantaged Students (LDS)
- Primary Care Loans (PCL)
- Nursing Student Loans (NSL)
- Health Professions Student Loans (HPSL)
- Health Education Assistance Loans (HEAL)

Q19. Are loans that were purchased or sold by the original holder eligible for payment?

A19. Loans purchased or sold by the original holder are eligible for payment, assuming the other conditions of the regulations are met.

Agency Plans

Q20. Who may approve a student loan payment?

A20. Under 5 CFR 537.103, each agency must establish a plan that designates the officials who are authorized to review and approve offers of student loan repayment benefits. Agencies should use approval delegations similar to those used for other recruitment and retention incentives.

Q21. May an agency tailor its student loan repayment plan to include candidates with specific skills or in a certain job occupation?

A21. Agencies may tailor their student loan repayment plan as they see fit in order to facilitate the recruitment and retention of highly qualified personnel.

Procedures for Making Payments

Q22. Is an agency required to make loan payments in one lump sum?

A22. Agencies are not required to make loan payments in one lump sum. In fact, making a loan payment in one lump sum to the loan holder on behalf of the employee accelerates the employee's tax liability and may increase the resulting tax burden. (See Questions and Answers on Tax Liability.)

Q23. Are agencies responsible for any late fees assessed by the loan holder if the agency student loan payment is not received on time?

A23. Agencies are not responsible for late fees assessed by the holder of a candidate's or employee's student loan. Agencies should state this in their agency plans and/or in the service agreements with employees. Agencies should, to the extent possible, ensure that the timing of their payment to the loan holder coincides with the date the loan payment is due.

Q24. Are student loan payments subject to the aggregate limitation on pay under 5 U.S.C. 5307?

A24. No. Student loan payments are not subject to the aggregate limitation under 5 U.S.C. 5307. The aggregate limitation on pay applies to direct payments made to the employee, whereas student loan payments are paid to the loan holder on behalf of the employee.

Q25. Are student loan repayment benefits subject to employment taxes?

A25. Yes. Although a student loan payment is paid directly to the loan holder on behalf of the employee, the payment is nonetheless includible in the employee's gross income and wages for Federal employment tax purposes. Consequently, the agency must withhold and pay employment taxes from either the employee's regular wages, the loan payment, or a separate payment made by the employee. The applicable employment taxes include Federal income taxes withheld from wages (and, where appropriate, State and local income taxes) and the employee's share of social security and Medicare taxes. Tax withholdings must be deducted or applied at the time any loan payment is made. (See 5 CFR 537.106(a).) The agency may choose among several different methods for withholding taxes. (See Questions and Answers on Tax Liability.) Please note the implications of deducting taxes directly from a gross loan payment. For example, if the agency has approved a student loan repayment benefit of $10,000 and the employee's tax deductions are $3,000, then the agency will make a loan payment of $7,000. The full $10,000 counts toward the maximum limitations described in question #4.

Q26. What options are available to agencies for easing the tax liability on a recipient of the student loan repayment benefits?

A26. Agencies have several options for easing the tax liability on their employees. (See 5 CFR 537.106 and Questions and Answers on Tax Liability.)

Q27. Are agencies responsible for reporting their student loan payments to the Internal Revenue Service?

A27. Yes. Agencies must report to the IRS the amount of student loan benefits they have provided to an employee. (See Questions and Answers on Tax Liability.)

Service Agreements

Q28. What is the minimum period of service an agency may require an employee to fulfill in order to receive student loan repayment benefits?

A28. A service requirement must be set for a period of time not less than 3 years. (See 5 U.S.C. 5379(c)(1)(A).) Agencies may require service agreements of more than 3 years.

Q29. When does the service requirement begin?

A29. Agencies should specify the beginning date of the service requirement in the candidate's or employee's service agreement. The service requirement begins at the time specified in the service agreement, but may begin no earlier than the time the service agreement is signed. For example, an agency could make the student loan repayment benefits contingent on an employee's completion of a basic training program. In this example, the employee enters Federal service and completes a 90-day training course. The service agreement may state that, if the employee successfully completes the course, the service requirement begins at that time.

Q30. May the service requirement be prorated according to the dollar amount of the student loan repayment benefit offered?

A30. The minimum service requirement is established in statute and may not be prorated.

Q31. Is an employee required to reimburse the paying agency for student loan repayment benefits received if he or she leaves the paying agency for another Federal agency before completion of the service requirement?

A31. Under these circumstances, the employee is not required by law to reimburse the paying agency unless specified in the service agreement. (See 5 U.S.C. 5379(c)(2) and 5 CFR 537.109(d)(2).)

Q32. If an employee leaves the paying agency for another Federal agency before completion of the service requirement, is the gaining agency obligated to offer loan repayment benefits and/or continue making loan payments?

A32. No. The gaining agency is not obligated to make any loan payments previously agreed to by another agency.

Employee Reimbursements

Q33. If an employee does not satisfy the terms of the service agreement, how much of the total amount of payment is he or she required to reimburse the paying agency?

A33. If an employee voluntarily separates from Federal service and does not complete the terms of the service agreement, he or she is obligated to reimburse the paying agency for the full amount of the loan repayment benefits provided (gross before any tax deductions from the loan payment). For example, if an employee's agreement states that he or she will receive $10,000 per year for 3 years, and the employee leaves with 6 months remaining on the service agreement after receiving $25,000 in loan repayment benefits, the employee must reimburse the paying agency for $25,000.

Q34. If an employee fails to complete the service requirement because of disability retirement or leaves Federal service because of a disabling condition, is he or she still subject to the reimbursement requirements?

A34. Any employee who does not satisfy the terms of the service agreement is required to reimburse the Government for all loan payments received. However, agencies may waive recovery if they determine it to be against equity and good conscience or contrary to the public interest. (See 5 U.S.C. 5379(c)(3) and 5 CFR 537.109.)

Q35. What is meant by "against equity and good conscience"?

A35. Agencies are responsible for making their own determination regarding what this term means. In doing so, agencies should take into account consistency, fairness, and the cost to taxpayers of recovering monies owed to the Government.

Agency Reports and Records

Q36. What are the requirements for agency reports on the use of the student loan repayment program?

A36. Before January 1st of each year, agencies must submit a written report to the Office of Personnel Management (OPM) stating when the agency made student loan payments on behalf of an employee during the previous fiscal year (see 5 CFR 537.110). Under 5 U.S.C. 5379(h)(1), each report must include--

1. The number of employees selected to receive benefits;
2. The job classifications of the employees selected to receive benefits; and
3. The cost to the Federal Government of providing these benefits.

OPM will use this information in its annual report to Congress on the agencies' use of the student loan repayment program.

Q37. What records must an agency maintain?

A37. Each agency must keep a record of each student loan repayment determination and make such records available for review upon OPM's request. Records may be destroyed after 3 years or after OPM formally evaluates the program, whichever comes first.

Student Loan Repayment Program
Questions and Answers on Tax Liability

The following Questions and Answers are provided by the Internal Revenue Service (IRS). For further guidance/clarification on these issues, agency representatives may contact IRS (Federal, State and Local Governments) at (202) 283-9665.

Employer's Tax, Withholding, and Reporting Obligations

Q1: If an agency repays the student loan incurred by an agency employee, is the repayment includible in the employee's gross income and in wages for Federal employment tax purposes?

A1. Yes. The repayment is includible in the employee's gross income and in wages for Federal employment tax purposes, notwithstanding the agency's repayment of the loan directly to the lender.

Q2: What are the Federal employment tax obligations of an agency that repays a student loan incurred by an agency employee?

A2: The agency must–

1. Pay the employer's share of social security and Medicare taxes on the loan repayment;
2. Withhold and pay Federal income tax withholding (and appropriate State and local income tax withholding) on the loan repayment;
3. Withhold and pay the employee's share of social security and Medicare taxes on the loan repayment; and
4. Report the loan repayment and taxes withheld and paid as required under Federal law and applicable State and local laws.

Q3: How must an agency report the repayment of a student loan incurred by an agency employee?

A3: The loan repayment must be reported as wages in Box 1 of Form W-2, Wage and Tax Statement, and as Medicare wages in Box 5 of Form W-2. If wages paid to an agency's employee are subject to social security taxes, the repayment is also reported as social security wages in Box 3 of Form W-2. The repayment is includible in social security wages, however, only to the extent that the repayment together with other wages previously paid during the calendar year does not exceed the social security wage base for that year.

Q4: How does a Federal employee report the repayment of a student loan by his or her employer?

A4: The repayment is reported as wages on line 7 of Form 1040 or, alternatively, on line 1 of Form 1040EZ.

Calculation of Employment Taxes

Q5: How does an agency calculate the amount of employment tax withholding due with respect to a loan repayment?

A5: One of two methods may be used–(1) the regular method or (2) the flat rate method. These methods apply because the loan repayments are supplemental wages paid in addition to regular wages. These two methods are described below and, more specifically, in Publication 15, Circular E, Employer's Tax Guide.

Q6: How does an agency calculate the amount of employment tax withholding due on supplemental wages (such as the loan repayment) under the regular method?

A6: To use this method the agency follows these steps:

1. The Federal agency calculates the correct amount of employment tax withholding on all wages paid during the payroll period by treating the supplemental wages and the regular wages as a single wage payment for the payroll period.
2. The Federal agency calculates the correct amount of employment tax withholding on the regular wages paid to the employee during the payroll period.
3. The Federal agency subtracts the amount determined in step 2 from the amount determined in step 1 to calculate the amount of any employment tax withholding due with respect to the supplemental wages.

Q7. How does an agency calculate the amount of employment tax withholding due on supplemental wages under the flat rate method?

A7. The correct amount of income tax withholding is calculated by taking a flat 25 percent of the supplemental wages. Social security tax and Medicare tax withholding are calculated at the usual rates and are in addition to the 25 percent income tax withholding.

Q8. When may an agency use the flat rate method of withholding on supplemental wages?

A8. The flat rate method of withholding on supplemental wages may be used if income taxes have been withheld from the regular wages of the employee. Consequently, if income taxes have been withheld from an employee's regular wages, an agency may use the flat rate method to determine the correct amount of income tax to be withheld with respect to the loan payment. The resulting employment taxes may be withheld from either the employee's regular wages, the loan repayment, or a separate tax payment made by the employee. (See Questions 10, 12, and 15.)

Withholding of Employment Taxes

Q9: What methods may an agency use to withhold income taxes and the employee's share of social security and Medicare taxes (employment taxes) when the agency repays a student loan incurred by an employee?

A9: An agency may use any of the following methods. Different methods may be used for different groups of employees. The agency may–

- Withhold employment taxes from regular wages paid to the employee as described in Question 10;
- Withhold employment taxes from the loan repayment as described in Question 12; or
- Require a separate tax payment from the employee as described in Question 15.

Withholding from Regular Wages

Q10: How does an agency withhold and pay employment taxes from regular wages paid to an employee?

A10: To use this method, the agency must–

1. Determine the correct amount of employment tax withholding on all wages paid to the employee during the payroll period, including both the loan repayment and regular wages. (The agency may use either the regular method described in Question 6 or the flat rate method described in Question 7 to calculate the correct amount of employment tax withholding on the loan repayment);
2. Deduct the total amount of employment tax withholding from the employee's regular wages; and
3. Deposit the amounts withheld and report them on Form 941, Employer's Quarterly Federal Tax Return, and Form W-2 in accordance with normal depositing and reporting procedures.

Q11: What if the agency does not process its own payroll but, instead, contracts with another agency to process its payroll?

A11: The agency making the loan repayment is responsible for transmitting the necessary information to the payroll agency and for ensuring that the withholding is properly implemented. If the agency processing the payroll is unable or unwilling to implement withholding, the agency repaying the loan must use one of the alternative withholding methods listed in Question 9.

Withholding from Loan Repayment

Q12: How does the agency withhold employment taxes directly from a loan repayment?

A12: To use this method, the agency must–

1. Calculate the correct amount of employment tax withholding on the loan repayment using one of two methods–the regular method described in Question 6 or the flat rate method described in Question 7;
2. Deduct the amount of employment tax withholding from the loan repayment; and
3. Deposit the amounts withheld and report the employment tax withholding and wages on Forms 941 and W-2 in accordance with normal deposit and reporting procedures.

Q13: May an agency that deducts the amount of employment tax withholding from loan repayments repay the $10,000 annually that is permitted?

A13: No. The deduction for employment tax withholding reduces the maximum loan repayment.

Q14: If an agency deducts the amount of employment tax withholding from the gross loan repayment, is the amount of the employment tax withholding and the net loan repayment includible in the employee's gross income and in wages for Federal employment tax purposes?

A14: Yes. However, the amount of income tax withheld is credited against the employee's income tax liability for the year.

Withholding from Separate Tax Payment

Q15: What are the obligations of an agency that requires employees to pay the agency an amount equal to employment tax withholding before the agency repays a student loan?

A15: An agency is obligated to pay amounts required to be withheld from an employee's wages even if those amounts are not actually withheld. Federal tax law requires agencies, like other employers, to withhold employment taxes from employees' wages. The repayment of student loans, however, may be subject to such terms, limitations, or conditions as the agency and the employee may mutually agree. Consequently, an agency's repayment of the student loan may be made contingent on an employee's payment of employment taxes (including income taxes and the employee's portion of social security and Medicare taxes) to the agency. In this case, to fulfill its tax obligations, the agency must–

1. Determine the correct amount of employment tax withholding on the loan repayment using either the regular method described in Question 6 or the flat rate method described in Question 7;
2. Obtain a check or other payment from the employee for the amount determined above;
3. Make the loan repayment and deposit and report on Form 941 an amount equal to the payment received from the employee in accordance with normal deposit and reporting procedures; and
4. Report the income, social security, and Medicare tax components paid by the employee in the appropriate boxes of Form W-2. These amounts are not included as income or wages in Boxes 1, 3, and 5 of Form W-2.

Q16: May an agency treat the loan repayment as a noncash fringe benefit and use the withholding rules applicable to noncash fringe benefits?

A16: No. The rules for withholding on noncash fringe benefits do not apply to an employer's repayment of an employee's loan obligation.