CollegeSavings
FOUNDATION

February 27, 2013

[DELIVERED VIA ELECTRONIC MAIL]

Internal Revenue Service
Attn: CC:PA:LPD:PR (REG-130507-11)
Courier's Desk
1111 Constitution Avenue, NW
Washington, D.C. 20224

Re: Comments on Proposed Regulations under IRC Section 1411

Dear Sir or Madam:

We are writing on behalf of the College Savings Foundation to respond to the request for comment on the proposed regulations under Internal Revenue Code (IRC) section 1411 regarding the 3.8% net investment income tax imposed on certain individuals, estates, and trusts (the "Proposed Regulation").[1]

The College Savings Foundation (CSF) is a Washington, D.C.-based not-for-profit organization whose mission is to help American families achieve their education savings goals. A primary focus of CSF is building public awareness of and providing public policy support for 529 plans -- an increasingly vital college savings vehicle. CSF's members include states, investment managers, law firms, accounting and consulting firms, and non-profit agencies that participate in the sponsorship or administration of 529 college savings plans.

CSF appreciates this opportunity to express its support for the manner in which the Proposed Regulations and the preamble to the Proposed Regulations would treat Qualified Tuition Programs (under IRC section 529) and Coverdell Education Savings Accounts (under IRC section 530), and their respective designated beneficiaries. The treatment that you have proposed for 529 plans, Coverdell accounts, and their beneficiaries will eliminate unnecessary complexity and will ensure that those programs can continue helping American families save and pay for college.

[1] 77 Fed. Reg. 72612 (Dec. 5, 2012).

Specifically, CSF urges that the final regulations continue to follow the statement in the preamble indicating that a designated beneficiary who receives a distribution from a 529 plan or Coverdell account (*i.e.*, both tax-exempt trusts) will not be liable for the net investment income tax on the distribution because the distribution is tax-exempt income, regardless of whether the distributed amount may be comprised of items of net investment income. Further, CSF agrees that even in those situations where the designated beneficiary of a 529 plan or Coverdell account may be liable for income tax on a distribution from such plan, it would be virtually impossible to determine whether the distribution from the 529 plan or Coverdell account is gross income from items that constitute net investment income. This is because the amounts held in these plans have accumulated over many years with no separate accounting or tracking of the types of investments that were made.

CSF also urges that the final regulations include the conclusion set forth in Prop. Treas. Reg. §1.1411-3(b)(4) that tax-exempt trusts under subtitle A are not subject to the net investment income tax, which would include trusts supporting 529 plans and Coverdell accounts. Finally, CSF supports the statement in the preamble to the Proposed Regulations that the "exclusion applies even if such trust may be subject to tax under section 511 on its unrelated business taxable income (and even if the trust's unrelated business taxable income is comprised of net investment income)."

Again, we thank you for the opportunity to express our support for the proposed regulations under IRC section 1411 as they relate to 529 plans and Coverdell accounts, and their respective designated beneficiaries. If we may provide any additional information or answer any questions, please contact Kathy Hamor at (703) 351-5091.

Sincerely,

Roger Michaud

Roger Michaud
Chairman,
College Savings Foundation