

IRS Guidance will Impact IRS Form 1098 Reporting by Financial Institutions

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The Internal Revenue Service (“IRS”) has issued new guidance with respect to the deductibility of a mortgage insurance premium (“MIP”) paid by an individual borrower to a financial institution or other lender for tax years 2018 through 2020. This change will impact the IRS reporting obligations for financial institutions.

Borrowers can treat the premiums paid for qualified mortgage insurance during tax years 2018 through 2020 as home mortgage interest. Qualified mortgage insurance is mortgage insurance provided by the Department of Veterans Affairs, the Federal Housing Administration, the Rural Housing Service and private mortgage insurance (as defined in section 2 of the Homeowners Protection Act of 1998, as in effect on December 20, 2006).

The guidance addresses certain questions regarding the reporting and deductibility of MIP following the reinstatement of the MIP deduction retroactively to 2018 under legislation signed into law by President Trump in December 2019. The MIP deduction continues in effect through the 2020 tax year.

Pursuant to this new guidance, lenders that receive MIP payments are required to report such amounts that aggregate \$600 or more from an individual (or sole proprietorship) in Box 5 on Form 1098 during the tax year. For tax year 2019, lenders should file and furnish a Form 1098 according to the usual due dates, including the amount of MIP paid in Box 5. The IRS guidance states that lenders who, prior to the issuance of this new guidance, furnished Form 1098 to borrowers for the 2019 tax year without including a reportable MIP payment should send corrected statements that include it. Requests by lenders for extensions to file or furnish their Form 1098s should be submitted to the IRS in accordance with the specifications in the General Instructions for Certain Information Returns (“General Instructions”), which is available [here](#).

Although lenders are not required to issue corrected Form 1098s to report MIP paid by borrowers for the 2018 tax year, the IRS encourages lenders to make the information available to borrowers. Further, the agency strongly recommends that lenders file corrected Form 1098s for 2018 to report the MIP to avoid IRS inquiries about deductions taken by borrowers that do not match the corresponding information in the Form 1098 filed by the lender. The IRS will accept corrected Forms 1098 on paper or electronically, according to the specifications in the General Instructions, for 2018.

For tax year 2020, lenders should report the MIP paid by a borrower in Box 5 of Form 1098 and file and furnish it according to the specifications in the Instructions for Form 1098 and the General Instructions.

The IRS guidance is available [here](#). If you have any questions regarding this advisory, please feel free to contact Joseph D. Simon at (516) 357-3710 or via email at jsimon@cullenllp.com, Elizabeth A. Murphy at (516) 296-9154, or via email at emurphy@cullenllp.com, Deirdre Mitacek at (516) 296-9136 or via email at dmitacek@cullenllp.com, or Mandy Xu at (516) 357-3850 or via email at mxu@cullenllp.com.

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- Banking and Financial Services

Attorneys

- Joseph D. Simon
- Elizabeth A. Murphy
- Deirdre M. Mitacek