

To: RISE Rulemaking Committee
From: Ashley Naporlee and Tamar Hoffman
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Memo: **Proposal to Prorate RAP Payment for Married Borrowers Filing Jointly**

The Repayment Assistance Plan (RAP) was designed to create a repayment option that ensures that borrowers who make regular payments towards their student loan balance see their balance decline over time. Under the plan, as designed by the OBBBA, borrowers' monthly student loan payments are a percentage of their income, with the percentage determined by their income bracket.

Congress' intention is that higher-earning borrowers pay a larger proportion of their income towards their federal student debt, as they have more means available to do so. However, in order to fairly accomplish this objective for all borrowers, including those who are married and file their taxes jointly, payments under RAP, as in the case of IBR, must be not only based on the joint income but also must be prorated to reflect each spouse's share of the couple's total loan debt if both spouses have student loan debt. Otherwise, married borrowers filing jointly will in effect pay a much higher proportion of their income towards their student loan debt than contemplated by the OBBBA. This has the effect of unfairly burdening married borrowers filing jointly and creating a strong marriage disincentive. It is, in short, a marriage penalty.

For example: Mary and Joe are married and file their taxes jointly. Mary earns \$70,500 (AGI) per year as a nurse, and Joe earns the same as a teacher. Each has a federal student loan debt of \$50,000. They do not have any dependents.

- If RAP does not adjust Mary and Joe's payments as a proportion of their total student loan debt as a couple—as in the current proposed regulatory language—then Mary and Joe's payments will be determined as follows:
 - Total household AGI is \$141,000, which means that both Mary and Joe's payments will be 10% of their total household AGI. This means that each spouse will have a monthly payment of \$1,175 $[(10\% \text{ of } \$141,000)/12]$, and that as a couple, they will need to pay **\$2,350 towards student loans per month**. This means that the married couple will actually have to pay the equivalent of 20% of their total household income.
 - This \$2,350 is the equivalent to what a single borrower who earns \$282,000—four times what either Mary or Joe make—would have to pay per month. Another way to look at it would be that they would each be paying 20% of their actual earnings $(\$1,175 \times 12 / \$70,500)$ which is not consistent with the payment formula in the OBBBA.
 - If Mary and Joe were not married or otherwise filed their taxes separately, then they would only pay \$411 each per month (7% of their individual income), or

\$822 total—about one-third of their total student loan bill when they file as married filing jointly.

- If RAP does adjust Mary and Joe’s payments as a proportion of their total student loan debt as a couple—as in the IBR program— then Mary and Joe’s payments will be determined as follows:
 - Total household AGI is \$141,000, which means that both Mary and Joe’s payments will be 10% of their total household AGI. This means that each spouse will have a monthly payment of \$1,175 *before* adjustment. Because each spouse has half the debt load for the couple, the total payment of each spouse will be adjusted by 50%, and will amount to \$587.50 per month, and **\$1,175 total for the couple**. In short, the total payment for the married couple will be 10% of their total household income.
 - While the total payment under this scenario is still higher than it would be if Mary and Joe were not married or otherwise filed separately, the difference is not nearly as dramatic as it would be if RAP did not adjust their payments as proportional to their student loan debt as a couple.
 - The payment adjustment should apply to the IDR applicant even if the spouse chooses to repay in a different payment plan (i.e., if Mary is the applicant, she can choose the RAP plan and get the married borrower adjustment even if Joe chooses to pay in a different IDR plan (if eligible) or the Standard Repayment plan).

In order to ensure that the RAP plan as contemplated by Congress is properly implemented and does not inadvertently impose a massive marriage penalty by placing married borrowers filing jointly in the position of making student loan payments in amounts that are the equivalent of the payments of single borrowers in a much higher income bracket, the regulations must adjust RAP payments for each spouse’s proportion of the debt load. To do so, we propose the following changes to the regulatory text, which we have highlighted and added in red:

§ 685.209:

(e) Treatment of income and loan debt –

...

(2) Loan debt.

(i) For the **Repayment Assistance Plan**, REPAYE, IBR, and PAYE plans, the spouse's eligible loan debt is included for the purposes of adjusting the borrower’s monthly payment amount as described in paragraph (g) of this section if the spouse's income is included in the calculation of the borrower’s monthly payment amount in accordance with paragraph (e)(1) of this section.

...

(g) Adjustments to monthly payment amounts.

(1) Monthly payment amounts calculated under paragraphs (f)(1) through (3) and (f)(5) of this section will be adjusted in the following circumstances:

(i) In cases where the spouse's loan debt is included in accordance with paragraph (e)(2)(i) of this section, the borrower's payment is adjusted by—

(A) Dividing the outstanding principal and interest balance of the borrower's eligible loans by the couple's combined outstanding principal and interest balance on eligible loans; and

(B) Multiplying the borrower's payment amount as calculated in accordance with paragraphs (f)(1) through (3) and (f)(5) of this section by the percentage determined under paragraph (g)(1)(i) of this section.