

Part III - Administrative, Procedural, and Miscellaneous

Clarification of Troubled Asset Relief Program funds under section 597

Notice 2008-101

The purpose of this notice is to provide clarification on the treatment under section 597 of the Internal Revenue Code (Code) of amounts furnished to a financial institution pursuant to the Troubled Asset Relief Program (TARP) of the Emergency Economic Stabilization Act of 2008, Div. A of Pub. Law No. 110-343 (EESA), which was enacted on October 3, 2008.

Unless and until guidance is issued by the Department of the Treasury and the Internal Revenue Service to the contrary, no amount furnished by the Department of the Treasury to a financial institution pursuant to the TARP established by the Secretary under EESA will be treated as the provision of Federal financial assistance within the meaning of section 597 of the Code and the regulations thereunder. Any future contrary guidance will not apply to transactions with the Department of the Treasury, or to securities issued by financial institutions to the Department of the Treasury, prior to the publication of that guidance, or pursuant to written binding contracts entered into prior to that date.

Except with respect to the treatment of amounts furnished pursuant to TARP as

expressly described in this notice, no inference should be drawn from this notice regarding the treatment under section 597 of the Code or the regulations thereunder of any other program or payments.