

Gulf Oil Spill

Overview and Guidance for Assisting Taxpayers Impacted by the Gulf Oil Spill

for VITA/TCE Program Participants



What's Covered in These Slides?

- **Oil spill payments overview**
- **Tax consequences of payments**
- **Volunteer certification levels**
- **VITA/TCE volunteer considerations**
- **Types of payments & tax treatments**
- **Guidance for addressing potential issues**
- **IRS technical resources**

Refer to Publication 4873-A: Gulf Oil Spill Questions and Answers for in-depth technical information



Oil Spill Payments Overview

- **Individuals and businesses received payments for damages resulting from the April 20, 2010, Deepwater Horizon incident**
- **Gulf Coast Claims Facility (GCCF) administers the claims program and makes payments to claimants**
- **The claims program ends in August 2013**
- **Some payments are taxable and in the scope of VITA/TCE**



Tax Consequences of Payments

- **According to current law, BP or GCCF payments for lost income are taxable.**
 - If the payments are made to compensate for lost wages of an employee, the payments will be subject to income tax, but not subject to Social Security and Medicare taxes
 - If the payments are made to compensate for lost income from a trade or business, the payments will be subject to income tax and subject to self-employment tax
- **The law treats compensation for lost wages or income differently for tax purposes than compensation for physical injuries or property loss, which generally are nontaxable**



Volunteer Certification Levels

- **Volunteer preparers assisting taxpayers with oil spill payments must be certified and provide assistance within the scope of their training as follows:**
 - Basic – Replacement of lost wages
 - Intermediate - Items covered in Basic as well as replacement of lost business income and payments for services related to cleanup
 - Advanced, Military or International – Items covered in Basic & Intermediate and payments for property damage



Volunteer Considerations

- Residents of Florida, Louisiana, Mississippi, Alabama and other states received payments
- Show empathy - consider the impact of this situation and the current economy on the taxpayer
- Assistance can be provided to small business and self-employed individuals falling within the scope of the VITA/TCE program
- Check [irs.gov](https://www.irs.gov) keyword "Gulf Oil Spill" for the latest tools and resources



Payments & Tax Treatment

Reason for Payment	Tax Treatment
Lost wages or income	Taxable
Property damage	Non-taxable (if payment does not exceed basis in property)
Physical injury	Non-taxable

Payments for:

Lost Wages – Tax Treatment

- Payments to an individual to compensate for lost wages as an **employee** (reported on Form 1099-MISC, box 3):
 - Should be reported on Form 1040, line 21
 - Will not be wages for the purposes of Social Security and Medicare taxes because it is not an actual payment for employment within the meaning of the law



Payments for:

Lost Income – Tax Treatment

- Payments to self-employed individuals or small business owners for lost income from their trade or business (reported on Form 1099-MISC, box 3):
 - Include the amount of the payment in gross receipts on Form 1040 Schedule C or C-EZ
 - Include net profit or loss from Schedule C or C-EZ on Form 1040 Schedule SE to calculate self-employment tax



Payments for:

Property Damage – Tax Treatment

- **Payment less than adjusted basis**

- Payments received for property damage that do not exceed the taxpayer's adjusted basis in the property are not required to be included in gross income
- Adjusted basis is reduced by the amount of the payment. Refer to Publication 551
- Taxpayer may be able to claim a casualty loss (out of scope). See Pub 4873-A for discussion of this issue

- **Payment exceeds adjusted basis**

- Payments that exceed the taxpayer's adjusted basis in the property will result in a gain for federal income tax purposes. Refer to a professional tax preparer



Payments for:

Services – Tax Treatment

- **Payments for services provided in cleanup effort**
 - Payments relating to the Vessels of Opportunity Program, shoreline cleanup, restoration and other spill-related work
 - As a self-employed individual or independent contractor
 - Reported on Form 1099-MISC, Box 7
 - Include the amount in gross receipts on Form 1040 Schedule C or Schedule C-EZ.
 - Include net profit or loss from Schedule C or C-EZ on Form 1040 Schedule SE to calculate self-employment tax
 - As an employee
 - Reported on Form W-2
 - Include on Form 1040, Line 7



Potential Oil Spill Issues

- **The next four slides contain guidance for VITA/TCE in addressing the following issues:**
 - No taxpayer identification number (SSN/ITIN)
 - Balance due returns
 - Penalty for underpayment of estimated tax
 - Special assistance for taxpayers experiencing a hardship
 - Taxpayers treated for tax purposes as independent contractors, but who believe they should be employees

How to Address Potential Issues

- **Individuals without a TIN**

- Individuals with a filing requirement but not eligible for a SSN should apply for an ITIN
- Complete tax return following “Apply for an ITIN” guidance in Pub 4012, Volunteer Resource Guide
- Taxpayer should submit the return to IRS along with a completed Form W-7
- Taxpayers who are eligible for, but do not have, a Social Security card should be referred to the Social Security Administration



How to Address Potential Issues

- **Balance due returns**
 - Refer to Pub 4012, Volunteer Resource Guide, tab 12
 - Discuss payment options with taxpayers
- **Penalty for underpayment of estimated tax**
 - Form 2210 is out of scope for the VITA/TCE program
 - If a penalty is owed, IRS will notify the taxpayer



How to Address Potential Issues

- **Taxpayers experiencing a hardship**

- Taxpayers should contact **IRS Gulf oil spill** dedicated line: **866-562-5227**
- Taxpayer must self-identify as being affected by the spill
- Those experiencing economic hardship and seeking help resolving tax problems that have not been resolved through normal channels may call the **Taxpayer Advocate** at: **877-777-4778**



How to Address Potential Issues

- **Taxpayers treated for tax purposes as independent contractors, but who believe they should be employees**
 - Refer taxpayer to Pub 1779: Independent Contractor or Employee brochure for a discussion of this issue
 - Taxpayer may file Form SS-8: Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding
 - Taxpayer **should not delay filing the tax return** or responding to a request for payment while waiting for determination



Oil Spill Background Information

- **Payments have been made for the following:**
 - Removal and cleanup costs
 - Damage to real or personal property
 - Lost earnings or profits
 - Loss of subsistence use of natural resources
 - Physical injury or death
- **Filing deadline for Final Payments:
August 22, 2013**



Oil Spill Technical Resources

- **Gulf Oil Spill Information Center:** www.irs.gov
keyword: Gulf Oil Spill
- **Publication 334-Tax Guide for Small Business (For Individuals Who Use Schedule C or C-EZ)**
- **Publication 551: Basis of Assets**
- **Publication 547: Casualties, Disasters and Thefts**
- **Publication 584: Casualty, Disaster and Theft Loss Workbook**
- **Publication 1779: Independent Contractor or Employee**
- **Publication 4012: VITA/TCE Volunteer Resource Guide**
- **Publication 4873: The Gulf Oil Spill and Your Taxes**
- **Publication 4873-A: Gulf Oil Spill: Questions and Answers**
- **Publication 4899: Gulf Oil Spill Decision Tree**
- **Instructions for Form 1099-MISC**
- **Instructions for Form 1040**

