



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
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OFFICE OF
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The Honorable Charles E. Grassley
Ranking Member
Committee on Finance
United States Senate
Washington, DC 20510

Dear Senator Grassley:

I am responding to your letter of January 10, 2011, to Secretary Tom Vilsack and Secretary Timothy Geithner. You inquired about the tax treatment of commissions paid to crop insurance agents under the new Standard Reinsurance Agreement (SRA) that the Risk Management Agency (RMA) of the Department of Agriculture administers.

Mr. William J. Murphy, Administrator of the RMA, has already responded on behalf of Secretary Vilsack. The RMA indicated that crop insurance agents may be required to repay some of their initial commissions if a readjustment occurs in a later year because of the new SRA compensation limits. Such compensation arrangements are not unusual. In many types of business transactions, parties enter into compensation arrangements where the amount of a person's compensation is readjusted in a subsequent year based on information that is not available until after the end of the year of the initial payment.

Generally, a payment for services, such as a commission, is income to the recipient at the time that he or she has dominion and control over the payment. A taxpayer on the cash receipts and disbursements method of accounting generally must include items of income in the year they are actually received. Section 451(a) of the Internal Revenue Code (the Code). A taxpayer must report an item of income in the year received even if he or she may be required to repay the amount later. *North American Oil Consolidated v. Burnet*, 286 U.S. 417, 424 (1932). If a taxpayer reports income in the year received and has to repay some of it in a subsequent year due to a readjustment, the taxpayer generally can deduct the amount repaid in the year of repayment under section 162 of the Code.

I hope this information is helpful. If I can be of further assistance, please contact me at
or at .

Sincerely,

George J. Blaine
Associate Chief Counsel
(Income Tax and Accounting)