

**DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224**

March 30, 2012

Number: **2012-0025**
Release Date: 6/29/2012

CONEX-108962-12

UIL: 165.00-00

The Honorable Pat Roberts
Ranking Member, Committee on
Agriculture, Nutrition and Forestry
United States Senate
Washington, DC 20510

Dear Senator Roberts:

Thank you for the letter of February 27, 2012, from you and Senator Debbie Stabenow. You asked that we provide guidance to former customers of _____, so they can comply with their federal tax filing obligations.

Your letter indicated that many of the former customers had not yet received Forms 1099 indicating the activity within their accounts for the year. We understand that the trustees subsequently issued these forms, and that the former customers should have received them by March 23, 2012. The Forms 1099 the former customers received generally should give them the information they need to file their returns by the April 17 due date for calendar-year taxpayers.

Based on your correspondence, many of your constituents are apparently farmers or fisherman for tax purposes. The tax law provides that farmers and fisherman can avoid a penalty for failure to pay the proper amount of estimated tax during the year by filing their return by March 1, along with one estimated tax payment. Recognizing that many taxpayers received their 1099s after March 1, 2012, we recently announced that farmers and fishermen whom the _____ bankruptcy affected can ask to have estimated tax penalties waived. We also provided instructions on how to request this waiver.

You also asked about the rules under the tax law that would allow customers to claim a loss for the unrecovered funds in their accounts. In general, a taxpayer can take a deduction for any loss sustained during the taxable year that is not compensated for by insurance or other means. A taxpayer can claim a loss when and to the extent that no reasonable prospect of recovery exists as of the end of the tax year (section 165 of the Internal Revenue Code). In the event of a reasonable prospect of recovery, the loss is suspended until the amount of the loss becomes reasonably certain. As we understand it, the trustee was actively pursuing additional recoveries as of the end of 2011. To the extent that a former customer could still receive recoveries from the efforts underway at the end of the year, the law would not allow a loss deduction for 2011. Depending on how the facts develop, the former customer could be eligible to claim losses in future tax years.

We are closely following the developments in this matter, including the liquidation proceedings the trustee is conducting. As further information develops, we will consider providing additional guidance to assist customers.

I hope this information is helpful. I am also writing to Senator Stabenow. If you have questions, please contact me or have your staff contact

Sincerely,

Douglas H. Shulman

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Chair, Committee on Agriculture,
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United States Senate
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