



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

OFFICE OF THE CHIEF COUNSEL

March 29, 2012

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CONEX-109955-12

UIL: 165.00-00

Dear _____ :

I am responding to your letter to Secretary Geithner and Commissioner Shulman dated February 16, 2012. You asked that we provide guidance to former customers of _____. You also wrote that many of these former customers had not yet received Forms 1099 from _____ on their trading activity during the year.

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.

Many of _____ former customers 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. If you have questions, please contact ,
Identification Number , at .

Sincerely,

John P. Moriarty
Chief, Branch 1
Office of Associate Chief Counsel
(Income Tax and Accounting)