USDA Discrimination Settlement Payments

(10/01/2009)
(04/29/2013)

1. The United States Department of Agriculture (USDA) paid a cash settlement and granted loan cancellation to about 15,000 African American farmers pursuant to a settlement approved in 1999. The settlement resulted from a discrimination suit brought against the USDA by the farmers.

2. Taxpayers may use terms other than "USDA" when communicating about these claims. Some of the other terms frequently used are:
   - Pigford vs. Glickman
   - Pigford vs. Veneman
   - Black Farmers Suit/Settlement cases

**NOTE:** These are NOT African- American Reparation Claims. See IRM 21.6.6.3.1, African-American Reparation Claims, for more information.

3. **NOTE:** For Keepseagle/Native American claims, see (6).

4. For 99% of the claimants, the settlement amounts fell into three categories:
   - $50,000 cash payment
   - Forgiveness of the principal and interest on certain debts (amounts varied by claimant)
   - A payment toward tax equal to 25% of the total of the $50,000 payment and the forgiveness of the debt principal (but not the interest).

5. Most taxpayers received these payments over a period of two years (the cash payment and the debt forgiveness occurred in one year) and the tax payment was remitted to IRS in the following year. The cash payment and the tax payment (the 25% amount) are taxable income. The forgiveness of debt principal is generally taxable income, but may be excludable under certain circumstances. For example, the forgiveness of debt interest is generally not taxable income if a taxpayer uses the cash method of accounting and would have been able to deduct the payment of such interest. If the taxpayer uses the cash method of accounting, the taxpayer must report the tax payment (the 25% payment) as taxable income for the year when the payment was applied to the taxpayer's account.

6. The payment of tax (25% payment):
   a. Must be claimed as an estimated tax payment for the tax year the settlement/debt forgiveness was received.
   b. The estimated tax payment is made directly to IRS by the USDA on behalf of the taxpayer.
   c. Since the taxpayers did not make this payment, they may forget to claim the credit on their return.
   d. Identify the payment by the unique Document Locator Number (DLN) of 52217 or 43217 (013/014) 9XX.
   e. If the farmer does not claim the estimated tax payment, the tax module will show a J - Freeze. See IRM 21.5.6.4.19, J -- Freeze.

**PROCEDURES TO FOLLOW ON THESE ACCOUNTS ONLY:**

If You receive a contact from a reference to a taxpayer
And Pigford Settlement
Then Complete Form 4442, Inquiry Referral, and refer the case to Kansas City. Include a day and evening telephone for the taxpayer. Fax to Kansas City P&A, Teresa Olsen, at 816–292–6276. Input a STAUP.

AND

The taxpayer did not receive credit for a
7. In 2011, the USDA reached a settlement in the Keepseagle v. Vilsack class action lawsuit. The lawsuit claimed the USDA discriminated against Native Americans by denying them equal access to credit in the USDA Farm Loan Program.

8. Taxpayers may use terms other than "USDA" when communicating about these claims. Some of the other terms frequently used are:

- Keepseagle v. Vilsack
- Native American Settlement Case

9. Keepseagle settlements were divided into two categories:

- Track A - claimants received an award of up to $50,000 plus an additional 25% in withholding (for a total of up to $62,500)
- Track B - claimants received up to $250,000 with no income tax withheld
- Track A and Track B - claimants may have also received debt forgiveness

10. Both groups of farmers were issued a Form 1099-MISC, Miscellaneous Income, along with an instructional notice prepared by a third party (not the IRS) advising the farmer how to correctly report the settlement.

11. Farmers who had debt forgiveness received a Form 1099–C, Cancellation of Debt.

12. Farmers must file a return to receive a refund.

13. Refer to the table below to work these cases:

<table>
<thead>
<tr>
<th>If ...</th>
<th>And ...</th>
<th>Then ...</th>
</tr>
</thead>
<tbody>
<tr>
<td>This is a USDA Cash Settlement payment.</td>
<td>The taxpayer reports only the settlement income (no expenses) on Schedule F, Line 10. The farmer is engaged in the business of farming.</td>
<td>Treat settlement payment as farm income. Report payment on Line 10 &quot;Other Income&quot; of the Schedule F, Profit or Loss From Farming (identify the payment as &quot;USDA Settlement&quot;). Farmers receiving this payment may benefit from filing Schedule J Income Averaging for Farmers and Fishermen. This amount is not subject to Self-Employment Tax.</td>
</tr>
<tr>
<td>This is a loan cancellation of: debt principal for cash or accrual taxpayers, or debt interest for accrual taxpayers.</td>
<td>The taxpayer reports only the loan cancellation on Schedule F, Line 10 (no expenses). The farmer was engaged in the business of farming. The farmer was insolvent at the time the loan was cancelled or if</td>
<td>This cancellation of debt is considered farm income. Report the amount on Line 10 of Schedule F and identify as &quot;USDA Settlement.&quot; Farmers receiving this payment may benefit from filing Schedule J (Form 1040). This amount is not subject to Self-Employment Tax. Loan cancellation amounts may qualify for exclusion. Refer to Publication 908, Bankruptcy Tax Guide, and Publication 225, Farmer's Tax Guide, for exclusion criteria. File</td>
</tr>
</tbody>
</table>
the loan was
qualified farm
debt.

Form 982, Reduction of Tax Attributes Due to Discharge of Indebtedness, with the Form 1040, U.S. Individual Income Tax Return, to claim the exclusion.

Report the payment amount on Form 1040 as an estimated tax payment.

Note: Advise the taxpayer to report this payment as farm income on Schedule F, Line 10. Payment is reported in the year the payment was received by IRS. The taxpayer will receive a Form 1099 MISC showing the payment as miscellaneous income for tax year 2008.

If the taxpayer is no longer engaged in farming, the miscellaneous income can be reported on Line 21 of the Form 1040 with a notation USDA Settlement Payment, Black Farmer, Pigford Suit, etc.

CAUTION: engaged in farming, the miscellaneous income can be reported on Line 21 of the Form 1040 with a notation USDA Settlement Payment, Black Farmer, Pigford Suit, etc.

The farmer was engaged in the business of farming in the year of receipt.

This income is subject to Self- Employment Tax. Note: The farmer may benefit from filing Schedule J. If there is a refund due, the farmer may choose to apply all or part of the refund to the subsequent year tax return as an estimated payment.

PIGFORD CLAIMS ONLY

This 25% tax payment received January 2008 for tax year 2007 is considered taxable farm income for tax year 2008. These payments are posted as TC 660s (estimated Tax Payment).

Report the payment amount on Form 1040 as an estimated tax payment.

Note: Advise the taxpayer to report this payment as farm income on Schedule F, Line 10. Payment is reported in the year the payment was received by IRS. The taxpayer will receive a Form 1099 MISC showing the payment as miscellaneous income for tax year 2008.

If the taxpayer is no longer engaged in farming, the miscellaneous income can be reported on Line 21 of the Form 1040 with a notation USDA Settlement Payment, Black Farmer, Pigford Suit, etc.

CAUTION: engaged in farming, the miscellaneous income can be reported on Line 21 of the Form 1040 with a notation USDA Settlement Payment, Black Farmer, Pigford Suit, etc.

The farmer was engaged in the business of farming in the year of receipt.

This income is subject to Self- Employment Tax. Note: The farmer may benefit from filing Schedule J. If there is a refund due, the farmer may choose to apply all or part of the refund to the subsequent year tax return as an estimated payment.