Inflation Reduction Act Direct Loan Payments and New 1099 Forms

APRIL 17, 2023

Contact Information

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This webinar is for educational purposes only and does not constitute tax advice. The instructor does not speak for the USDA.

BACKGROUND


UNITED STATES
DEPARTMENT OF AGRICULTURE
JAMIE L. WHITTEN FEDERAL BUILDING
USDA VISITORS CENTER

Background

- In section 22006 of the Inflation Reduction Act (IRA)—signed into law August 16, 2022—Congress authorized USDA to provide financial assistance to **financially distressed borrowers of direct and guaranteed FSA loans**.
- In October of 2022, payments were made on behalf of these groups.
  - Payments were made on behalf of **direct loan borrowers** who were more than 60 days delinquent.
    - The IRA funds made these **accounts current** and **paid the next installment due**.

- *If you received this relief, you should have received an information letter last fall and tax forms this year.*

- **Background**
  - Absent an exclusion in the law, agricultural payments made to farmers by the government are subject to ordinary income tax and self-employment tax.
  - ***No provision in the Inflation Reduction Act excluded these loan payments from taxation.***

▪ Background

- IRA funds were also used to provide relief to **guaranteed loan** borrowers.
  - These borrowers also received tax forms at the beginning of 2023.
- ***The information in this webinar does not apply to guaranteed loan borrowers.***
- *At this time, the guaranteed loan borrower may continue to rely on the original 1099-G reporting their loan relief payment.*
  - *The relief is taxable income, generally subject to SE tax.*
    - *Borrowers may deduct any associated interest.*

☐ VOID ☐ CORRECTED

PAYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no. USDA		1 Unemployment compensation $ 2 State or local income tax refunds, credits, or offsets $	OMB No. 1545-0120 Form **1099-G** (Rev. January 2022) For calendar year 20 22	**Certain Government Payments**
PAYER'S TIN	RECIPIENT'S TIN	3 Box 2 amount is for tax year	4 Federal income tax withheld $	**Copy 1** **For State Tax Department**
RECIPIENT'S name Direct Loan Borrower		5 RTAA payments $	6 Taxable grants $	
Street address (including apt. no.) 123 FSA Way		7 Agriculture payments $ 100,000	8 Check if box 2 is trade or business income ▶ ☐	
City or town, state or province, country, and ZIP or foreign postal code Arlington, OK 74864		9 Market gain $		
Account number (see instructions)		10a State OK	10b State identification no.	11 State income tax withheld $ $

Form **1099-G** (Rev. 1-2022) www.irs.gov/Form1099G Department of the Treasury - Internal Revenue Service

CHANGING FORMS (AND WHY)

Form 1099-G

- Federal, state, or local governments must file a Form 1099-G (and provide it to the taxpayer) if they made payments of:
  - Unemployment compensation
  - State or local income tax refunds, credits, or offsets
  - Reemployment trade adjustment assistance (RTAA) payments
  - Taxable grants
  - Agricultural payments

- They also file this form if they received payments on a Commodity Credit Corporation (CCC) loan.

▪ Form 1099-G

- In early 2023, recipients of IRA loan relief received a **Form 1099-G**, specifying the amount of the loan payment made on the borrower's behalf. This amount was reported in addition to any other government payments made to the borrower.

☐ VOID ☐ CORRECTED

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Account number (see instructions)	10a State: OK / 10b State identification no.	11 State income tax withheld $ $	

Form **1099-G** (Rev. 1-2022) www.irs.gov/Form1099G Department of the Treasury - Internal Revenue Service

Form 1099-G

- Many recipients of the 1099-G may have **already filed** their 2022 income tax returns, reporting the IRA payments as income on their Schedule F and paying the associated tax. **The tax filing deadline for individuals was yesterday, April 18, 2023.**

3a	Cooperative distributions (Form(s) 1099-PATR) .	3a		3b	Taxable amount . . .	3b	
4a	Agricultural program payments (see instructions) .	4a	100,000	4b	Taxable amount . . .	4b	100,000
5a	Commodity Credit Corporation (CCC) loans reported under election					5a	
b	CCC loans forfeited	5b		5c	Taxable amount . . .	5c	
6	Crop insurance proceeds and federal crop disaster payments (see instructions):						

Tax Options

- For most producers, the relief was helpful. The benefit of the loan payment outweighed the burden of the associated tax.
- For some, however, the tax associated with the “phantom” loan payment income is a burden they cannot meet. They do not have the cash flow and they cannot secure financing to pay the tax.
- USDA and Treasury/IRS have been exploring options to lessen this burden.

Payments Re-Characterized as COD

- To provide recipients with ***additional tax options***, the USDA has re-characterized the **direct farm loan relief payments** originally reported on the 1099-G as ***<u>cancelation of debt (COD)</u>***.
  - This ***may*** allow some direct loan borrowers to exclude some or all of the payment made of their behalf from gross income on their 2022 income tax return.

New Forms Were Sent

- Recipients of the direct loan relief received letters, along with **two** new tax forms: **a corrected 1099-G** and a **Form 1099-C**.

☐ VOID ☒ CORRECTED

PAYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.
USDA

1 Unemployment compensation
$

2 State or local income tax refunds, credits, or offsets
$

OMB No. 1545-0120
Form **1099-G**
(Rev. January 2022)
For calendar year 20 22

Certain Government Payments

PAYER'S TIN | RECIPIENT'S TIN

3 Box 2 amount is for tax year

4 Fed
$

RECIPIENT'S name
Direct Loan Borrower

5 RTAA payments
$

6 Tax
$

Street address (including apt. no.)
123 FSA Way

7 Agriculture payments
$ 0

8 Ch tra inc

City or town, state or province, country, and ZIP or foreign postal code
Arlington, OK 74864

9 Market gain
$

10a State
OK

10b State identification no.

Account number (see instructions)

Form **1099-G** (Rev. 1-2022) www.irs.gov/Form1099G Dep

☐ CORRECTED (if checked)

CREDITOR'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.
USDA-FSA

1 Date of identifiable event
10/2022

2 Amount of debt discharged
$ 100,000

3 Interest, if included in box 2
$

OMB No. 1545-1424
Form **1099-C**
(Rev. January 2022)
For calendar year 20 22

Cancellation of Debt

CREDITOR'S TIN | DEBTOR'S TIN

4 Debt description
FSA Direct Loan

Copy B
For Debtor

This is important tax information and is being furnished to the IRS. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if taxable income results from this transaction and the IRS determines that it has not been reported.

DEBTOR'S name
Direct Loan Borrower

Street address (including apt. no.)
123 FSA Way

5 If checked, the debtor was personally liable for repayment of the debt . . . . ☒

City or town, state or province, country, and ZIP or foreign postal code
Arlington, OK 74864

Account number (see instructions)

6 Identifiable event code

7 Fair market value of property
$

Form **1099-C** (Rev. 1-2022) (keep for your records) www.irs.gov/Form1099C Department of the Treasury - Internal Revenue Service

Corrected 1099-G

- The **corrected 1099-G** *backs out* the **direct loan payment** reported on the original 1099-G.

☐ VOID ☒ CORRECTED

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City or town, state or province, country, and ZIP or foreign postal code Arlington, OK 74864		9 Market gain $		
		10a State OK	10b State identification no.	11 State income tax withheld $ $
Account number (see instructions)				

Form **1099-G** (Rev. 1-2022) www.irs.gov/Form1099G Department of the Treasury - Internal Revenue Service

Corrected 1099-G Does Not Back Out Other Payments

- If the original 1099-G reported an **additional government program payment** or a payment for a **guaranteed FSA loan**, that amount will remain on the corrected 1099-G.

- ***Example***: *Siena's original agricultural payment in Box 7 of the 1099-G was $55,000. This included a $45,000 IRA payment, and a $10,000 payment from the ERP.*

Corrected 1099-G Does Not Back Out Other Payments

- Siena's corrected 1099-G retains the $10,000 ERP payment, but backs out the $45,000 IRA payment. She also received a new Form 1099-C showing $45,000 as debt discharged.

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City or town, state or province, country, and ZIP or foreign postal code Arlington, OK 74864	9 Market gain $		
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Form **1099-G** (Rev. 1-2022) www.irs.gov/Form1099G Department of the Treasury - Internal Revenue Service

Form 1099-C

- A lender must issue a Form 1099-C if they forgive, discharge, or cancel more than $600 in debt. Discharged debt is usually income, but **special exceptions** apply.

CORRECTED (if checked)

CREDITOR'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.

1 Date of identifiable event

2 Amount of debt discharged
$

3 Interest, if included in box 2
$

OMB No. 1545-1424

Form **1099-C**

(Rev. January 2022)

For calendar year
20 ____

Cancellation of Debt

CREDITOR'S TIN

DEBTOR'S TIN

DEBTOR'S name

Street address (including apt. no.)

City or town, state or province, country, and ZIP or foreign postal code

Account number (see instructions)

4 Debt description

5 If checked, the debtor was personally liable for repayment of the debt . . . .

6 Identifiable event code

7 Fair market value of property
$

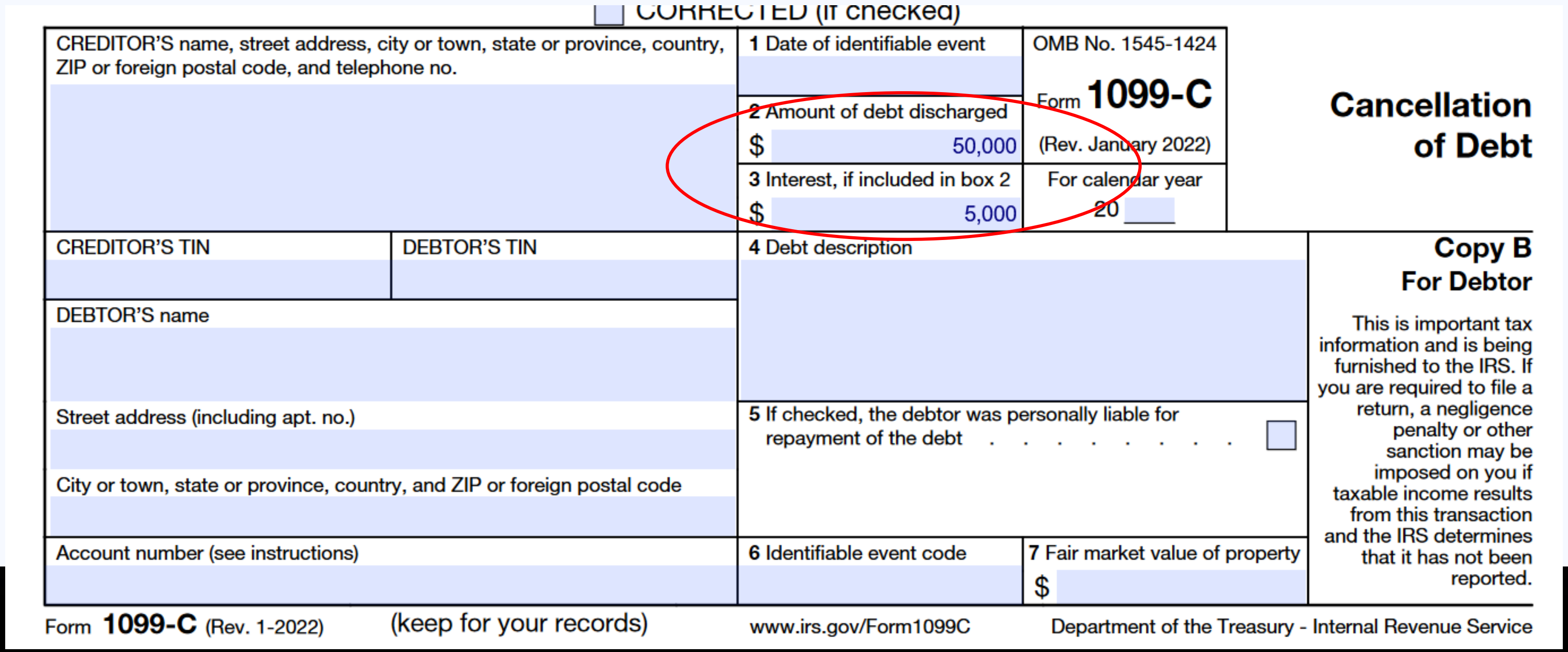
Copy B
For Debtor

This is important tax information and is being furnished to the IRS. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if taxable income results from this transaction and the IRS determines that it has not been reported.

Form **1099-C** (Rev. 1-2022) (keep for your records) www.irs.gov/Form1099C Department of the Treasury - Internal Revenue Service

Form 1099-C

- The new **Form 1099-C from USDA** reports the IRA direct loan payment as ***discharged debt***. This reporting *may* provide some recipients with the ability to exclude the payment or a portion of the payment from income on their 2022 return.



CORRECTED (if checked)

CREDITOR'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.

1 Date of identifiable event

2 Amount of debt discharged
$ 50,000

3 Interest, if included in box 2
$ 5,000

OMB No. 1545-1424

Form **1099-C**

(Rev. January 2022)

For calendar year 20 ____

Cancellation of Debt

CREDITOR'S TIN

DEBTOR'S TIN

DEBTOR'S name

Street address (including apt. no.)

City or town, state or province, country, and ZIP or foreign postal code

Account number (see instructions)

4 Debt description

5 If checked, the debtor was personally liable for repayment of the debt . . . .

6 Identifiable event code

7 Fair market value of property
$

Copy B
For Debtor

This is important tax information and is being furnished to the IRS. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if taxable income results from this transaction and the IRS determines that it has not been reported.

Form **1099-C** (Rev. 1-2022) (keep for your records) www.irs.gov/Form1099C Department of the Treasury - Internal Revenue Service

What Does This Mean?

- Everyone receiving these new forms has options that should be discussed with a tax professional ***as soon as possible***. These options depend upon whether you have already filed your return and paid your tax due.

CANCELATION OF DEBT

Special Tax Provision for Cancelation of Debt

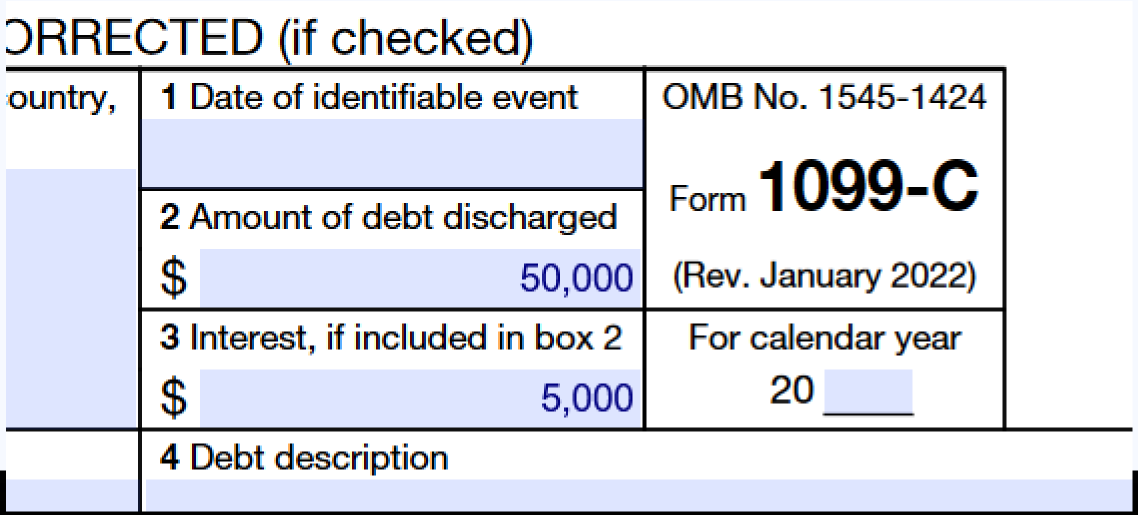
- Section 108 of the Internal Revenue Code (tax law) contains several provisions allowing some individuals to **exclude or defer cancelation of debt** from gross income on the 2022 return.
- It is possible that the following exclusions may apply to some FSA direct loan borrowers who have received the loan payment relief.
  - **Insolvency**
  - **Qualified Farm Indebtedness**

But First Consider Interest

- Under section 108, farmers don’t recognize income from the discharge of indebtedness **if the payment of that debt would have entitled to farmer to a deductible expense.**
- This means that COD for any portion of the debt arising from interest **is not income**.

But First Consider Interest…

- The IRA payments were made for interest and principal due and owing under the direct and guaranteed FSA loans.
- The new 1099-C reports the **total amount** of the debt relief in Box 2.
  - It should break out the amount paid for interest in Box 3.



ORRECTED (if checked)

ountry,

1 Date of identifiable event	OMB No. 1545-1424
2 Amount of debt discharged $ 50,000	Form **1099-C** (Rev. January 2022)
3 Interest, if included in box 2 $ 5,000	For calendar year 20 ____
4 Debt description	

But First Consider Interest

- If you reported the amount shown on your original Form 1099-G as income, you were entitled to the deduct any amount of that payment attributable to interest as an expense on your Schedule F.
- If you file your 2022 return using the new Form 1099-C, you should **exclude from income** the payment amount attributable to interest.

Interest Example

- Jorge received a Form 1099-C reporting a $50,000 IRA payment as **discharge of indebtedness**.
- $5,000 of that payment was reported as interest that was due on the direct FSA loan.
- Before Jorge considers whether he has additional options to exclude this payment from income under Section 108, **he may automatically exclude the $5,000 from income**.
- He will then consider whether the remaining $45,000 may be excluded under several special Section 108 provisions.

Special Tax Provision for Cancelation of Debt

Once the otherwise deductible portion of the payment (interest) is excepted, borrowers must then determine whether one of two key exceptions may exclude the remaining COD from income.

1. The borrower must first determine whether the **insolvency exception applies**.
2. If any amount is not excluded because of insolvency, the borrower, must then determine if the **qualified farm indebtedness** exclusion applies.

Section 108 also includes exclusions for **bankruptcy** and **qualified real property**, exceptions not discussed here.

Insolvency

- Section 108 says that cancelation of debt is **not included in gross income** to the extent a non-bankrupt debtor was **insolvent** when the debt was forgiven.
- Insolvency exists to the extent your liabilities were greater than the fair market value of your assets immediately before the debt was discharged (in this case in October 2022).

Liabilities – FMV Assets = Insolvency

Resources

- **Page 16 of IRS Publication 225**, Farmer's Tax Guid, also *provides helpful information about cancelation of debt for farmers.*

Cancellation of Debt

This section explains the general rule for including canceled debt in income and the exceptions to the general rule. For more information on canceled debt, see Pub. 4681.

TIP *Under section 1106 of the CARES Act, an eligible recipient of a Paycheck Protection Program loan is eligible for forgiveness of indebtedness for all or a portion of the stated principal amount of a covered loan if certain conditions are satisfied (qualifying forgiveness); in addition, the forgiven debt isn't taxable. See Announcement 2020-12.*

General Rule

Generally, if your debt is canceled or forgiven, other than as a gift or bequest to you, you must include the canceled amount in gross income for tax purposes. Report the canceled amount on Schedule F if you incurred the debt in your farming business. If the debt is a nonbusiness debt, report the canceled amount as "Other in-

amount you owe for the accounting services. How you treat the canceled debt depends on your method of accounting.

- Cash method—You don't include the canceled debt in income because payment of the debt would have been deductible as a business expense.
- Accrual method—You include the canceled debt in income because the expense was deductible when you incurred the debt.

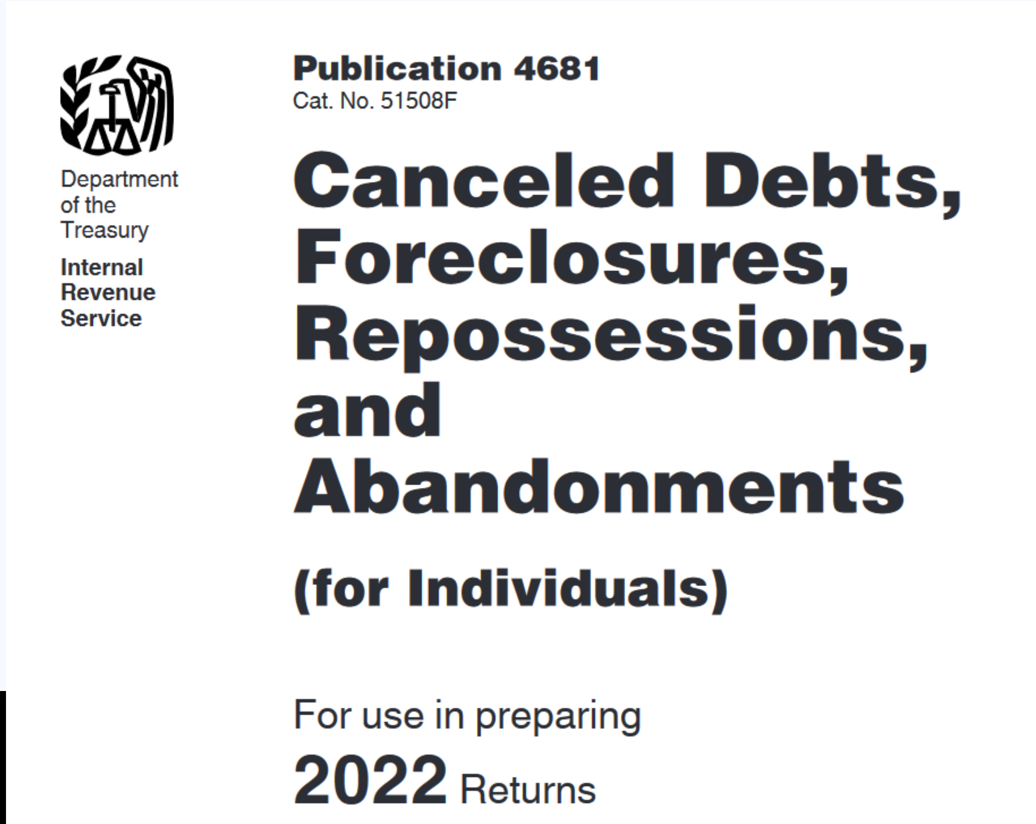
Exclusions

Don't include canceled debt in income in the following situations.

1. The cancellation takes place in a bankruptcy case under title 11 of the U.S. Code.
2. The cancellation takes place when you're insolvent.
3. The canceled debt is a qualified farm debt.
4. The canceled debt is a qualified real property business debt (in the case of a taxpayer other than a C corporation). See

Resources

- **IRS Publication 4681**, *Canceled Debts, Foreclosures, Repossessions, and Abandonments,* includes an insolvency worksheet and provides instructions for the insolvency calculation.


Department of the Treasury
Internal Revenue Service

Publication 4681
Cat. No. 51508F

Canceled Debts, Foreclosures, Repossessions, and Abandonments

(for Individuals)

For use in preparing

2022 Returns

Insolvency

- Your liabilities include all personal and business debt immediately before the cancelation.

Insolvency Worksheet

Keep for Your Records

Date debt was canceled (mm/dd/yy)		
Part I. Total liabilities immediately before the cancellation (don't include the same liability in more than one category)		
	Liabilities (debts)	**Amount Owed Immediately Before the Cancellation**
1.	Credit card debt	$
2.	Mortgage(s) on real property (including first and second mortgages and home equity loans) (mortgage(s) can be on main home, any additional home, or property held for investment or used in a trade or business)	$
3.	Car and other vehicle loans	$
4.	Medical bills owed	$
5.	Student loans	$
6.	Accrued or past-due mortgage interest	$
7.	Accrued or past-due real estate taxes	$
8.	Accrued or past-due utilities (water, gas, electric, etc.)	$
9.	Accrued or past-due childcare costs	$
10.	Federal or state income taxes remaining due (for prior tax years)	$
11.	Judgments	$
12.	Business debts (including those owed as a sole proprietor or partner)	$
13.	Margin debt on stocks and other debt to purchase or secured by investment assets other than real property	$
14.	Other liabilities (debts) not included above	$
15.	**Total liabilities immediately before the cancellation. Add lines 1 through 14.**	$

Insolvency – All Assets (*Includes* Exempt Assets ☹)

Part II. Fair market value (FMV) of assets owned immediately before the cancellation (don't include the FMV of the same asset in more than one category)		
	Assets	**FMV Immediately Before the Cancellation**
16.	Cash and bank account balances	$
17.	Real property, including the value of land (can be main home, any additional home, or property held for investment or used in a trade or business)	$
18.	Cars and other vehicles	$
19.	Computers	$
20.	Household goods and furnishings (for example, appliances, electronics, furniture, etc.)	$
21.	Tools	$
22.	Jewelry	$
23.	Clothing	$
24.	Books	$
25.	Stocks and bonds	$
26.	Investments in coins, stamps, paintings, or other collectibles	$
27.	Firearms, sports, photographic, and other hobby equipment	$
28.	Interest in retirement accounts (IRA accounts, 401(k) accounts, and other retirement accounts)	$
29.	Interest in a pension plan	$
30.	Interest in education accounts	$
31.	Cash value of life insurance	$
32.	Security deposits with landlords, utilities, and others	$
33.	Interests in partnerships	$
34.	Value of investment in a business	$
35.	Other investments (for example, annuity contracts, guaranteed investment contracts, mutual funds, commodity accounts, interests in hedge funds, and options)	$
36.	Other assets not included above	$
37.	**FMV of total assets immediately before the cancellation. Add lines 16 through 36.**	$

Insolvency Calculation

Part III. Insolvency		
38.	**Amount of insolvency.** Subtract line 37 from line 15. If zero or less, you aren't insolvent.	$

- Cancelation of debt can generally be excluded from your 2022 income **up to the amount of insolvency** showing on line 38 of the IRS worksheet.

- If there is **no insolvency**, this exception will not apply. If there is partial insolvency, the exception will apply only up to the amount of the insolvency.

Form 982 - Insolvency Reporting

- If you are **insolvent**, then you will check the box on line 1b of **Form 982** and enter the amount of the COD that does not exceed the insolvency amount on line 2.
  - **This amount <u>will not be included as income</u> on the 2022 return.**

Form **982**
(Rev. March 2018)
Department of the Treasury
Internal Revenue Service

Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Basis Adjustment)
▶ Attach this form to your income tax return.
▶ Go to *www.irs.gov/Form982* for instructions and the latest information.

OMB No. 1545-0046
Attachment Sequence No. **94**

Name shown on return	**Identifying number**

Part I **General Information** (see instructions)

1	Amount excluded is due to (check applicable box(es)):		
a	Discharge of indebtedness in a title 11 case		☐
b	Discharge of indebtedness to the extent insolvent (not in a title 11 case)		☒
c	Discharge of qualified farm indebtedness		☐
d	Discharge of qualified real property business indebtedness		☐
e	Discharge of qualified principal residence indebtedness (**Caution:** See instructions before checking this box if debt was discharged after 2017.)		☐
2	Total amount of discharged indebtedness excluded from gross income	**2**	45,000

Form 982 – Reduction of Tax Attributes

- The insolvency exclusion does not *usually* allow you to permanently avoid tax liability for the canceled debt.
- Rather, it may **defer the liability** by restricting future tax benefits (ex. Basis in assets is reduced so you have less depreciation in the future).
- The purpose of Form 982 is to **reduce those tax attributes**.

Form **982**
(Rev. March 2018)
Department of the Treasury
Internal Revenue Service

Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Basis Adjustment)
▶ Attach this form to your income tax return.
▶ Go to *www.irs.gov/Form982* for instructions and the latest information.

OMB No. 1545-0046
Attachment Sequence No. **94**

Name shown on return | Identifying number

Example

- Bryan's 1099-C reports $120,000 of discharged debt, $20,000 of which was attributable to interest.
- Bryan and his tax professional determine that Bryan was insolvent before the discharge and that his amount of insolvency was $150,000.

- Bryan will report $100,000 ($120,000 - $20,000 of interest) on line 2 of Form 982 and check the box on line 1b. This amount is **excluded** from his 2022 gross income under the insolvency exception.
- Bryan must complete Part II of Form 982 to reduce his tax attributes.

Reduction of Tax Attributes

- The order of the tax attributes or benefits that must be reduced depends upon the specific exclusion under which the discharge qualifies.
- Generally, borrowers qualifying for the **insolvency exclusion** must reduce the following tax benefits (but not below zero) in the order listed on the next slide.

Reduction of Tax Attributes for Insolvency

1. NOLs and NOL carryovers for year of discharge
2. General business credit carryover (reduced by 33.3 cents for each dollar of excluded canceled debt)
3. Minimum tax credit available as of the following tax year (reduced by 33.3 cents for each dollar of excluded canceled debt)
4. Net capital loss and capital loss carryovers for year of discharge
5. **Basis Reduction of Property** (**including personal use property**)
6. Passive activity loss and carryovers from year of discharge
7. Foreign tax credit carryover to or from the year of discharge

Order of Reducing the Basis of Property

1. Real property used in your trade or business or held for investment if it secured the canceled debt.
2. Personal property used in your trade or business or held for investment (other than inventory and accounts and notes receivable) if it secured the canceled debt.
3. Any other property used in your trade or business or held for investment (other than inventory, accounts receivable, notes receivable, and real property held for sale to customers in the ordinary course of business)

Order of Reducing the Basis of Property

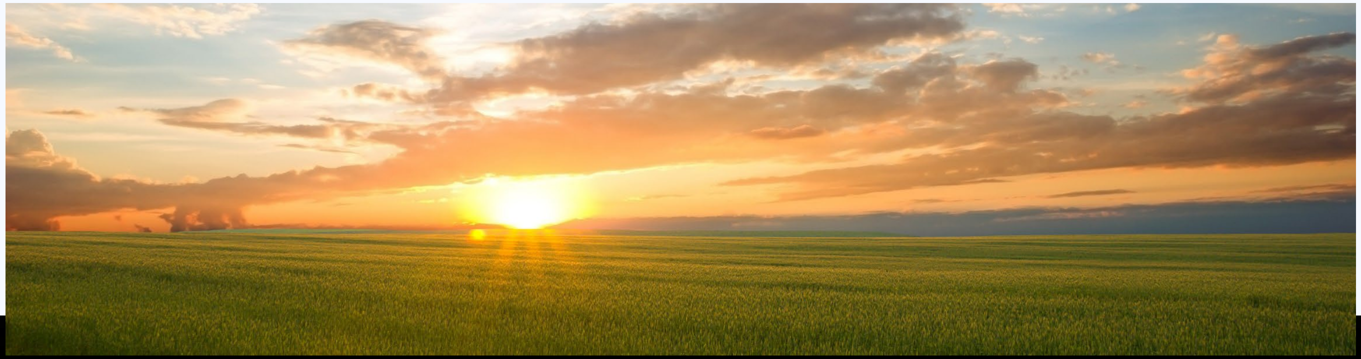
4. Inventory, accounts receivable, notes receivable, and real property held primarily for sale to customers in the ordinary course of business.
5. Personal-use property (property not used in your trade or business nor held for investment)

Reduction of Tax Attributes for Insolvency

- The basis reduction applies to the basis of the property the borrower held **at the beginning of the taxable year** following the year of discharge (January 2023).
- The reduction in basis ($ for $) **cannot be more than** the amount by which the total basis of property exceeds the borrower's total liability, as calculated **immediately after the discharge**.
  - **Note**: Instead of reducing attributes in this order, debtors can elect to reduce the basis of depreciable property held at the beginning of 2023 before reducing other tax attributes.
    - If the borrower takes advantage of this option, the limitation above does not apply.

Recapture is Possible

- If basis is reduced to offset COD, the reduction will be treated as a depreciation deduction subject to **ordinary income recapture** upon sale or exchange.
- Property that is not section 1245 property will be treated as section 1245 property.
  - This applies to farmland, which is not subject to depreciation and otherwise not subject to recapture.



Qualified Farm Indebtedness

- If you were not insolvent or the amount of discharged debt exceeds insolvency, the **qualified farm indebtedness exception** may apply. To qualify, the following requirements must be met:
  - The debt was incurred directly in connection with your operation of the trade or business of farming
  - 50% or more of your total gross receipts for 2019, 2020, and 2021 were from the **trade or business of farming**

Qualified farm indebtedness is incurred to finance the production of agricultural products (including timber) or livestock or farm business debt secured by farmland or farmland and equipment used in agricultural production.

Qualified Farm Indebtedness Limitation

- The amount of COD **excluded from income** under the qualified farm indebtedness exception cannot exceed the sum of:
  - Your adjusted tax attributes AND
  - The total adjusted basis of qualified property you held at the beginning of 2023

  - **Anything over this amount is taxable income**.

Qualified Farm Indebtedness Limitation

- This limitation defers the recognition of income by spreading it out over the depreciable lives of the farmer's business assets.
- If there are insufficient attributes to reduce, **the income is recognized.**
  - **Note**: Solvent farmers only have a **deferral**, where as insolvent farmers may have complete forgiveness if their insolvency exceeds the value of their tax attributes.

Reduction of Tax Attributes for Qualified Farm Indebtedness (Similar, but Different)

- NOLs and NOL carryovers for year of discharge
- General business credit carryover (reduced by 33.3 cents for each dollar of excluded canceled debt)
- Minimum tax credit available as of the following tax year (reduced by 33.3 cents for each dollar of excluded canceled debt)
- Net capital loss and capital loss carryovers for year of discharge
- **Basis Reduction of “Qualified Property”**
- Passive activity loss and carryovers from year of discharge
- Foreign tax credit carryover to or from the year of discharge

Reduction of Tax Attributes for Qualified Farm Indebtedness

- **Qualified property** = property used or held for use in the trade or business or **for the production of income (includes rental property)**. Basis must be reduced in this order:
  1. Depreciable property
  2. Land used in farming
  3. Any remaining qualified property
- If basis is reduced through the reduction of tax attributes, the reduction will be treated as a depreciation deduction subject to **ordinary income recapture** upon sale or exchange.
  - This applies to farmland, which is not subject to depreciation and otherwise not subject to recapture.

Example

- Jeralyn was a **solvent** farm direct loan borrower. She had $150,000 of debt discharged by the IRA payment.
- Jeralyn owns farmland with a basis of $900,000.
- Under the qualified farm indebtedness provision, Jeralyn reduces the basis of her farmland by $150,000 and excludes the IRA payment from income.
- If Jeralyn later sells her farmland, she must **recapture the $150,000 as ordinary income**.
- If she sells it in an installment sale, the recapture is triggered in the year of the installment agreement is made.

Reduction of Tax Attributes for Qualified Farm Indebtedness

- If you are able to exclude discharge of indebtedness from income under the Qualified Farm Indebtedness exception, check the box on line 1c on Form 982 and report the amount of the exclusion on line 2.

Form **982**

(Rev. March 2018)
Department of the Treasury
Internal Revenue Service

Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Basis Adjustment)

▶ Attach this form to your income tax return.

▶ Go to *www.irs.gov/Form982* for instructions and the latest information.

OMB No. 1545-0046

Attachment Sequence No. **94**

Name shown on return | **Identifying number**

Part I **General Information** (see instructions)

1 Amount excluded is due to (check applicable box(es)):

a Discharge of indebtedness in a title 11 case . . . ☐

b Discharge of indebtedness to the extent insolvent (not in a title 11 case) . . . ☐

c Discharge of qualified farm indebtedness . . . ☒

d Discharge of qualified real property business indebtedness . . . ☐

e Discharge of qualified principal residence indebtedness (**Caution:** See instructions before checking this box if debt was discharged after 2017.) . . . ☐

2 Total amount of discharged indebtedness excluded from gross income . . . **2** 35,000

Reduction of Tax Attributes for Qualified Farm Indebtedness

- If a portion of income was also excluded for insolvency, the amounts are totaled on line 2.

Part I **General Information** (see instructions)

1	Amount excluded is due to (check applicable box(es)):		
a	Discharge of indebtedness in a title 11 case		☐
b	Discharge of indebtedness to the extent insolvent (not in a title 11 case)		☒
c	Discharge of qualified farm indebtedness		☒
d	Discharge of qualified real property business indebtedness		☐
e	Discharge of qualified principal residence indebtedness (**Caution:** See instructions before checking this box if debt was discharged after 2017.)		☐
2	Total amount of discharged indebtedness excluded from gross income	**2**	65,000

Reduction of Tax Attributes for Qualified Farm Indebtedness

Part II **Reduction of Tax Attributes.** You must attach a description of any transactions resulting in the reduction in basis under section 1017. See Regulations section 1.1017-1 for basis reduction ordering rules, and, if applicable, required partnership consent statements. (For additional information, see the instructions for Part II.)

Enter amount excluded from gross income:

4	For a discharge of qualified real property business indebtedness applied to reduce the basis of depreciable real property	**4**	
5	That you elect under section 108(b)(5) to apply first to reduce the basis (under section 1017) of depreciable property	**5**	
6	Applied to reduce any net operating loss that occurred in the tax year of the discharge or carried over to the tax year of the discharge	**6**	
7	Applied to reduce any general business credit carryover to or from the tax year of the discharge	**7**	
8	Applied to reduce any minimum tax credit as of the beginning of the tax year immediately after the tax year of the discharge	**8**	
9	Applied to reduce any net capital loss for the tax year of the discharge, including any capital loss carryovers to the tax year of the discharge	**9**	
10a	Applied to reduce the basis of nondepreciable and depreciable property if not reduced on line 5. *DO NOT use in the case of discharge of qualified farm indebtedness*	**10a**	
b	Applied to reduce the basis of your principal residence. *Enter amount here ONLY if line 1e is checked*	**10b**	
11	For a discharge of qualified farm indebtedness applied to reduce the basis of:		
a	Depreciable property used or held for use in a trade or business or for the production of income if not reduced on line 5	**11a**	
b	Land used or held for use in a trade or business of farming	**11b**	

Reduction of Tax Attributes for Qualified Farm Indebtedness

- **Note**: Any basis reduction occurs a the beginning of the taxable year following the taxable year in which the discharge occurs.

Reporting Income from 1099-C

- If a portion of your canceled debt is **not excluded from income** under the insolvency exception or the qualified indebtedness exception, report that amount as income on line 8 of Schedule F.

7	Custom hire (machine work) income	**7**	
8	Other income, including federal and state gasoline or fuel tax credit or refund (see instructions)	**8**	10,000
9	**Gross income.** Add amounts in the right column (lines 1c, 2, 3b, 4b, 5a, 5c, 6b, 6d, 7, and 8). If you use the accrual method, enter the amount from Part III, line 50. See instructions	**9**	

WHAT ARE MY OPTIONS?

What if I Have <u>Already Filed My 2022 Return?</u>

- Contact your tax professional and provide them with the new forms **and the letter**. The letter is <u>very important</u> as it explains the reason for the forms and the options available.
- If you determine that you do not qualify or do not wish to exclude this discharge of debt from income, **<u>YOU DO NOT NEED TO AMEND YOUR RETURN</u>**.
- IRS will not require an amendment to consider the 1099-C. They are aware of this issue.

What if I Have <u>Already Filed My 2022 Return?</u>

- If you determine that you do qualify to exclude some of the discharge of indebtedness from income, you may <u>**FILE AN AMENDED RETURN**</u>, including the proper forms, to exclude the income.
- *You should seek advice immediately regarding this issue. Some elections must be made within 6 months of the due date of the return.*

What if I Filed an Extension for My 2022 Return?

- You should work with your tax professional and provide them with the new forms **and the letter**.
- You will determine whether you qualify for relief.
- Your return will be due October 16, 2023.

Will I Now Be Ineligible for Future USDA Loans and Programs?

- The assistance provided by IRA does not trigger ineligibility under the statutory provision that prohibits FSA from making direct and guaranteed loans to anyone who has received prior debt forgiveness.
- **Applying a Section 108 exclusions will not affect your eligibility for future USDA loan programs.**

Do These Options Apply to Anyone Who Received IRA Loan Relief?

- No. Only **direct loan borrowers** received the Form 1099-C. Guaranteed loan borrowers must continue to report the amount shown on Form 1099-G as income.

Are There Any Tools to Help with Tax Liability?

- Work with your tax adviser to consider several options, including:
  - Depreciation and Section 179 options
  - Income Averaging potential

What if I Can't Pay?

- You may qualify for a payment plan or installment agreement with the IRS.
- Visit https://www.irs.gov/taxtopics/tc202 to learn more about payment plans.

- Do not avoid filing your return because you cannot pay. The penalties will increase.

Do I Have Any Other Options?

- Borrowers may retroactively decline IRA payments. Those wishing to do so, **should consult with an expert to ensure they understand the impact of this option**.
- To decline, they may contact their local office or the FSA Call Center at Center at 1-877-508-8364 before December 31, 2023.