

DEPARTMENT OF THE TREASURY

OFFICE OF PUBLIC AFFAIRS

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Treasury and IRS Clarify Tax Treatment of USDA Tobacco Payments to Quota Holders

WASHINGTON- Today the Treasury Department and IRS provided guidance that explains how payments to tobacco quota holders (owners) under the Tobacco Transition Payment Program (TTPP) are to be treated for federal income tax purposes.

Under the American Jobs Creation Act of 2004, the Department of Agriculture (USDA) will begin making payments to owners and in exchange for ending the tobacco marketing quotas and related price support programs. The tax treatment of these payments generally follows the precedent of the peanut program.

A tobacco quota is considered an interest in land, so payments for quotas generally will be taxed at the capital gains rate. Payments to an owner will result in a gain if the payments are more than the owner's adjusted basis in the quota, and will result in a loss if the payments are less than the owner's adjusted basis. The guidance explains how to determine the adjusted basis, how to determine whether a portion of the payments is treated as interest, and how to determine whether the gain or loss is ordinary or capital.

An owner may postpone reporting the gain or loss from the termination of a quota by entering into a like-kind exchange if the owner complies with the requirements of § 1031 of the Internal Revenue Code.

The amount received by an owner under the TTPP in a taxable year will be reported by the USDA on Form 1099-S, Proceeds From Real Estate Transactions, if the amount is \$600 or more. The amount representing interest paid in a taxable year to an owner generally will be reported by the USDA on Form 1099-INT, Interest Income, if the interest is \$600 or more.

The TTPP also provides for payments to tobacco producers. The Treasury Department and IRS expect to issue subsequent guidance regarding the treatment of those payments for federal income tax purposes.

A copy of the guidance is attached.

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