



FmHA AN No. 3019 (1951-S)

June 7, 1994

SUBJECT: Income Tax Liability Resulting from Debt
Writedown

TO: State Directors, District Directors and County
Supervisors

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to provide general guidance on how to consider a borrower's submission of estimated tax liability in the calculation of debt writedown. Farmers Home Administration's (FmHA) County Supervisors should consider the effects of income tax liability resulting from debt writedown in the processing of debt restructuring offers.

The intended outcome is to insure that County Supervisors use reasonable estimates of tax liability in farm plans and DALR\$ programs.

COMPARISON WITH PREVIOUS AN:

Also, refer to FmHA AN 2890 (1924-B) issued on October 20, 1993, as to the treatment of income taxes on Form FmHA 431-2.

IMPLEMENTATION RESPONSIBILITIES:

FARMERS HOME ADMINISTRATION'S PERSONNEL SHOULD NOT GIVE TAX ADVICE TO BORROWERS. SINCE MOST FmHA PERSONNEL HAVE LIMITED KNOWLEDGE OF TAX LAWS, BORROWERS SHOULD BE REFERRED TO PROFESSIONAL TAX CONSULTANTS FOR ADVICE.

As stated in Exhibit F of Subpart S of Part 1951, debt writedown may result in added Federal income tax liability to the borrower. The Internal Revenue Service treats forgiven debt as taxable income under certain conditions. A borrower offered writedown on Exhibit F may submit an estimate of Federal income tax attributable to debt writedown, so the County Supervisor can more accurately determine the

EXPIRATION DATE: May 31, 1995

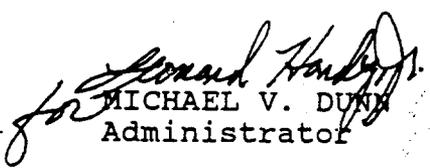
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Instruction 1951-S



feasibility of the borrower's farm plan. Documentation supporting the tax estimate must accompany the estimate. The County Supervisor may accept the estimate only if the following conditions are met:

1. No estimate will be accepted which exceeds 36 percent for individuals, or 34 percent for corporations, of the principal debt written down. These percentages represent the 1994 maximum tax rates for the majority of FmHA borrowers. If the borrower's taxable income is greater than \$115,000 for single individuals, \$140,000 for married individuals and \$10 million for corporations, you should check with your local IRS office for tax rates.
2. No estimate will be accepted which includes tax on interest debt written down.
3. Consideration of the tax estimate will not delay FmHA's 90-day response time to the borrower.
4. The estimate is supported by documentation from a licensed tax preparer.

If the estimate is accepted, the County Supervisor and the borrower will change the farm plan accordingly and rerun DALR\$ to determine if additional writedown is necessary or whether net recovery buyout should be offered instead. If the estimate is not accepted, the borrower still may accept FmHA's offer of writedown within the 45 days as specified on Exhibit F.


MICHAEL V. DUNN
Administrator

Sent by electronic mail on 6-10-94 at 7:42 by GSS. The State Director should advise other personnel as appropriate.