



AGRICULTURAL LAW AND TAXATION BRIEFS

DEPARTMENT OF AGRICULTURAL AND CONSUMER ECONOMICS, UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN

NON-STARLINK FARMER LITIGATION: WHERE IS MY SETTLEMENT PAYMENT? HOW MUCH IS IT? WHAT DO I DO WHEN IT ARRIVES? HOW IS IT TAXED?

By D. L. Uchtmann and Gary Hoff*

Synopsis: Over 72,000 successful farmer-claimants will soon receive their shares of a Net Settlement Fund of about \$75 million. Most Corn Loss claimants will receive about \$2.88 for each eligible corn acre finally approved. Payment will come as a Prepaid Visa™ Direct Card that can be used to obtain a 10% discount at Tractor Supply Company stores or in other ways. Farm operators must account to “share” landlords and others with a legal interest in the corn harvest (a related article addresses in detail the operator’s duty to account). Receiving a settlement payment has tax consequences as described herein.

Introduction

Over 72,000 farmer-claimants will soon be receiving their respective shares of a Net Settlement Fund approximating \$75 million, pursuant to Judge Moran’s September 2 “Settlement Distribution Order” in the Non-StarLink Farmer Litigation. See www.non-starlinkfarmerssettlement.com. This article discusses the status of this payout, how the Prepaid Visa™ Direct Cards may be used, the responsibility of a farmer-claimant to account to any share landlord or others, and the tax implications of the payout.

Status of Payout Estimated at \$2.88/Acre

The claims of 72,076 “Corn Loss” claimants – nearly 95% of those filing such claims – were approved in whole or in part by Judge Moran in his September 2 order. These successful “Corn Loss” claims represent 25,802,252 corn acres, about 36% of the 72.4 million corn acres harvested in 2000.

The August 23 balance in the Net Settlement Fund was \$76,859,221.53. However, the sum available for distribution to “Corn Loss” claimants was determined after first paying farmer’s “Property Damage” claims, taxes on fund income, and other fees/expenses approved Sept. 2. Corn Loss claimants are expected to receive about \$2.88 for each corn acre as *finally* approved.

Each successful claimant will first receive a notification letter identifying the exact amount of Claimant’s settlement and explaining that payment will be sent as a Prepaid Visa™ Direct Card. A copy of the letter is attached. As soon as possible thereafter (the notice letter says within 2 weeks), the Direct Cards, themselves, will be sent by Bank One. ***Don’t throw your prepaid card away by mistake!!!***

Using the Prepaid Visa™ Direct Card

The value stored on a Prepaid Visa™ Direct Card is the Farm Operator’s share of the total settlement. For “Corn Loss” claims, it is based on the eligible corn acres included in the claim. The prepaid Direct Cards will be usable for the actual cash value stored on the card wherever Visa Debit cards are accepted. They also will be redeemable in cash at banking institutions, subject to the bank’s normal fee for such transactions. When used at a Tractor Supply Co. store, the user will receive an additional 10% discount (subject to certain restrictions). Details will accompany your notice letter.

Watch for any time limitations for using the cards, such as an expiration date within 365 days after the card was issued. Such a time limit was described in the Settlement Enhancement Program as proposed (see www.non-starlinkfarmerssettlement.com).



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Each Farm Operator's Responsibility to Account to "Share" Landlords or Others

Successful Farm Operator - Claimants have a responsibility to account to any persons who may have had a "legal, contractual, sharing, ownership or other legal interest" in their corn harvest or acreage for any payment received from the Net Settlement Fund. This responsibility is set forth in Paragraph 22.e (beginning on Page 20) of the court-approved Stipulation of Settlement available on the Non-StarLink Farmer Litigation website (<http://www.non-starlinkfarmerssettlement.com>). *A detailed discussion of this duty is available at http://www.farmdoc.uiuc.edu/legal/articles/ALTBS/ALTB_04-13/ALTB_04-13.pdf*

Examples: If Landlord A were entitled to 50% of the year 2000 corn as rent, he would be entitled to 50% of the Operator's settlement payment for Farm A. If Landlord B were entitled to one-third of the crop as rent, she would be entitled to one-third of the settlement payment for Farm B. In both cases, Operator would make the appropriate payment to the landlord, including an explanation. If Landlord C "cash rented" Farm C to Operator, and Landlord C had no interest in the crop grown, then Landlord C would not be entitled to any share of Operator's settlement payment for Farm C.

Income Tax Consequences – Q and A

1. *Is the "settlement amount" taxable income, and if so, how is it reported?*

Answer: Yes, the settlement amount is taxable. Its purpose is to reimburse farmers for lost revenue. It will be reported on the tax form where grain sales are reported.

2. *If the Farm Operator receives the card in 2004 but does not use the card until January 2005, can the farmer defer the income recognition until 2005?*

Answer: No. Since the value is available to the farmer in 2004, under the doctrine of constructive receipt, it is taxable in 2004.

3. *If the Farm Operator uses the card to make farm purchases, must she still report the income?*

Answer: Yes, the Operator must report the income, but she is also entitled to take a deduction for the purchases as long as they qualify as ordinary and necessary expenses under Internal Revenue Code §162.

4. *Tenant Farm Operator receives a settlement for year 2000 corn acres. The farm lease calls for Landlord to receive 50% of the corn crop. Is the settlement payment to be shared with Landlord, and if so, how do Tenant and Landlord report the portion paid to Landlord?*

Answer: Farm Operators filed claims in behalf of all persons with an interest in the crop. A Farm Operator with a share lease must pay Landlord for Landlord's share, according to the court-approved settlement agreement. The Operator-tenant will report 100% of the settlement payment as income. A deduction will then be taken on the tax return for the "net" portion paid to Landlord. Landlord should report the "net" payment received from Operator in the same way he reports income from the sale of his crops.

5. *Is the 10% enhanced value of the card (created by the 10% Tractor Supply Co. discount) reported as income?*

Answer: No. But, for his business-related purchases, farmer can only deduct the actual amounts paid after receiving the discount.

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NON-STARLINK FARMERS CLASS ACTION SETTLEMENT

Non-StarLink Farmer Litigation
c/o The Garden City Group, Inc.
Claims Administrator
P.O. Box 9000 #6075
Merrick, N.Y. 11566-9000

Month 00, 2004

[FIRST NAME] [LAST NAME]
[ADDRESS]
[CITY], [STATE] [ZIP]

Dear Class Member,

On May 8, 2003, the United States District Court for the Northern District of Illinois issued final approval of the Non-StarLink Farmer Litigation class action settlement pursuant to Rule 23(e) of the Federal Rules of Civil Procedure.

In connection with your approved claim in the class action settlement of the Non-StarLink Farmer Litigation, you will receive [SETTLEMENT AMOUNT].

This amount represents your share of the Settlement Fund. This distribution was calculated in accordance with the terms and conditions of the Settlement Agreement approved by the United States Courthouse, Chicago, Illinois, on May 8, 2003, as outlined in the Notice of Settlement previously sent to you. More information on the settlement can be found online at <http://www.non-starlinkfarmerssettlement.com>.

This distribution from the Settlement Fund is being made to you as the "Farm Operator" for the relevant corn and/or acres for which you submitted an eligible claim. The "Farm Operator" is considered to be the person or entity who runs the farm by making the day-to-day decisions in connection with operation of the farm. You are responsible for accounting to any persons or entities who may have had a legal, contractual, sharing, ownership or other legal interest in the corn harvest or acreage used to harvest corn for this distribution from the Settlement Fund.

In connection with the settlement value enhancement program approved by the Court, you will receive your distribution via a Prepaid Visa® Direct Card. When you use your Direct Card at any Tractor Supply Company store, you will enjoy a 10% discount off your full purchase (please see coupon enclosed with your Direct Card for details).

Your Direct Card can be used everywhere Visa Debit cards are accepted. See the enclosed brochure for more information.

When your Direct Card arrives in the next two weeks, please activate your account by calling the number on the sticker affixed to the front of the card. **You will be prompted for your unique verification number.**

Once you have completed that process, your Direct Card will be ready for use.

Sincerely,
Claims Administrator