Section 108 Exclusions

Was the debt canceled as a result of bankruptcy?

Yes

COD Income is excludable under IRC §108(a)(1)(A)

"Tax attributes" to be reduced after determining the tax liability for the current year, in this order:
- Net operating loss (current year & carryovers)
- General business credit (current yr. & carryovers)
- Minimum tax credit carryover to subsequent year
- Capital loss carryover (current yr. & carryovers)
- Basis of property (IRC §1017)
- Passive activity loss carryover from current year
- Foreign tax credit carryovers to or from current yr.

Claim exclusion on Form 982 and reduce "tax attributes"

No

Was the taxpayer insolvent at the time the debt was canceled?

Yes

COD Income is excludable under IRC §108(a)(1)(B) to the extent of the taxpayer's insolvency

Other notes:
- Bankruptcy exclusion takes precedence over all others
- Insolvency exclusion takes precedence over farm/QRPI
- Insolvency is determined right before debt is canceled
- Taxpayer may elect to reduce basis first
- No COD income for discharged interest if deductible

No

Was the debt "Qualified Farm Indebtedness"?

Yes

COD Income is excludable under IRC §108(a)(1)(C)

No

Was the debt "Qualified Real Property Business Indebtedness"?

Yes

COD Income is excludable under IRC §108(a)(1)(D)

Notes for QRPI exclusion:
- Exclusion is limited to excess of acquisition debt over FMV of property
- Rental property is business property
- Available only for acquisition debt
- Must make election on Form 982
- If gain, it's ordinary to extent of exclusion

Claim exclusion on Form 982 and reduce basis of property

No

Was the debt "Qualified Principal Residence Indebtedness"?

Yes

COD Income is excludable under IRC §108(a)(1)(E)

Notes for QPRI exclusion:
- See limitations and rules under IRC §108(h)
- Available only for acquisition debt
- Non-acquisition debt is treated as discharged first
- Exclusion is limited to $2 million
- Must make election on Form 982

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