



Debt Forgiveness Opportunities for Farmers Facing Disabilities

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Foster Swift Agricultural Law Update

December 11, 2014

PRACTICE AREAS

Agri-Business

An unexpected disability, whether from injury or illness, presents unique hardships for farmers, whose livelihoods often depend on their ability to undertake manual labor and their capacity to manage a business. A disability can also bring significant financial hardship, as a farmer can lose all income potential and still be saddled with substantial debt service obligations.

Under certain circumstances, a farmer who faces a disability or incompetency, including mental incapacity, can apply for forgiveness of debt owed to the U.S. Department of Agriculture's Farm Service Agency. Under FSA's debt settlement provisions, a farmer can apply for cancellation of a debt, and the debt "may" be cancelled if three requirements are met:

- The Agency employee in charge of the account furnishes a report and favorable recommendation concerning the cancellation.
- There is no known security for the debt and the debtor has no other assets from which the debt could be collected.
- The debtor is unable to pay any part of the debt and has no reasonable prospect of being able to do so.

This option is available only for "nonjudgment" debts (i.e., FSA has not sued the farmer and obtained a judgment in court). If the farmer is unable to act, then the application may be made by a guardian, executor, or administrator. The application should be supported by documentation of the disability or incompetency. Also, as noted in the requirements above, any collateral securing the debt must be liquidated before the balance can be cancelled. Even if all of the requirements are met, cancellation remains in the discretion of the FSA.

If you or someone you know might benefit from this debt forgiveness option, please contact an attorney to determine whether the debt is eligible for cancellation and to obtain assistance in making an application to the FSA.



Laura J. Genovich practices bankruptcy and creditors' rights law in the Grand Rapids office. Laura has represented farmers in bankruptcy cases and also serves as the Chapter 12 (Farm and Family Fisherman) Bankruptcy Trustee for the Western District of Michigan.
