

## **Basic Principles**

- IRC § 61(a)(12) provides that "income from discharge of indebtedness" is includable in gross income.
- IRC § 108(a)(1) provides generally that gross income does not include COD income if:
  - the discharge occurs in a bankruptcy case, or
  - the discharge occurs when taxpayer is insolvent.



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## **General Types of Liabilities**

- Recourse liability:
  - The taxpayer is personally liable for repayment of the debt.
  - The lender may pursue collection on all or part of the outstanding balance in the event of default.
- Nonrecourse liability:
  - The taxpayer is not personally liable.
  - The lender cannot pursue the taxpayer for any outstanding balance in the event of default.



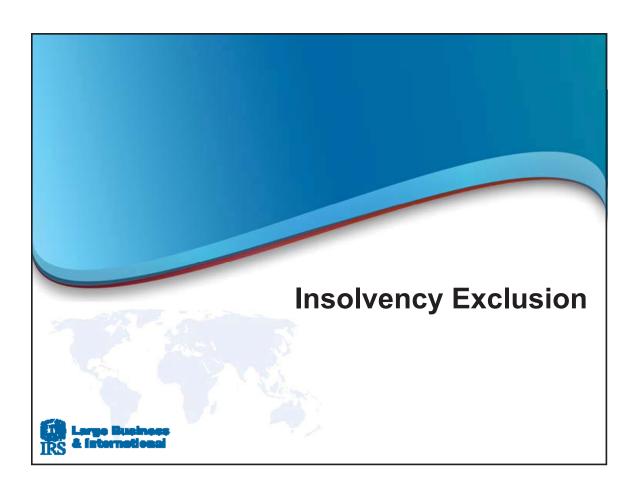
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## Partner or Partnership Bankruptcy Example

- XYZ Partnership files for Chapter 11 bankruptcy on December 4, 2012. At the time of filing, XYZ is insolvent. As part of the final bankruptcy order \$100,000 of XYZ's debts are discharged
- This result in \$100,000 of COD income to XYZ.
- Any available exclusion is determined at the partner level.
  - This may result in one partner excluding all or part of the COD income while another partner may pay tax on his allocable share of the COD income.



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Title search: Issues in Partnership Discharge of Indebtedness - IRC  $\S 108$ 

Also available as part of the eCourse 2017 Biennial Parker C. Fielder Oil and Gas Tax eConference

First appeared as part of the conference materials for the  $14^{\text{th}}$  Biennial Parker C. Fielder Oil and Gas Tax Conference session "Select Tax Issues for Distressed Companies"