

For: State and County Offices

New Average Adjusted Gross Income (AGI) Limitation Provisions

Approved by: Deputy Administrator, Farm Programs



1 Overview

A New AGI Provisions

The Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246) made changes to the average AGI provisions. There are now 3 average AGI limitations that are applicable to the commodity, price support, disaster, and conservation programs. The new average AGI limitations will be implemented for 2009 and subsequent program years.

B Purpose

This notice provides information and instructions for:

- applying AGI limitations for 2009-2012 programs, including CRP, GRP, and ECP contracts approved on or after October 1, 2008

Note: Notice CRP-623 provided interim authority and forms for CRP contracts that could otherwise be approved on or after October 1, 2008.

- a worksheet for calculating average AGI limitations
- using CCC-926
- updating 2009 web-based eligibility AGI certifications/COC determinations.

2 New Average AGI Limitations for 2009-2012 Programs

A Average AGI

The average AGI limitations for payment eligibility are applied per:

- natural person
- legal entity.

Disposal Date	Distribution
May 1, 2009	State Offices; State Offices relay to County Offices

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2 New Average AGI Limitations for 2009 (Continued)

B Who Must Submit AGI Certification

Each of the following, when directly or indirectly requesting benefits subject to AGI provisions, **must** certify to AGI compliance for payment eligibility:

- natural persons
- legal entities
- **all** interest holders, stockholders, or members of a legal entity

Note: Members of a church, or a charitable or non-profit organization, are **not** required to provide an AGI statement because the members do **not** hold an ownership interest.

- **all** members of a joint operation or general partnership

Note: Joint operations or general partnerships are **not** considered legal entities for AGI compliance certification purposes.

- BIA on behalf of individual Native Americans or Indians represented.

C Three AGI Limitations

The AGI limitations are as follows.

IF average adjusted gross...	THEN the person or legal entity is INELIGIBLE for...
nonfarm income exceeds \$500,000	all commodity, price support, and disaster assistance program benefits. Note: A person or legal entity with average adjusted gross nonfarm income that exceeds \$500,000 is not eligible for marketing loan gains and LDP payments. However, the person or entity is eligible for marketing assistance loans, but the loans must be repaid at principal plus interest, or commodity certificates may exchanged for the loan collateral.
farm income exceeds \$750,000	direct payments under DCP.
nonfarm income exceeds \$1 million	all conservation program benefits, unless 66.66 percent or more of the average AGI was derived from activities related to farming, ranching, and forestry operations.

Note: AGI provisions in effect on September 30, 2008, continue to apply for CRP contracts, ECP agreements, and GRP contracts and easements.

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3 Determining Average AGI for 2009 and Subsequent Years

A Determining Average AGI

The average AGI for a person or legal entity is the average of AGI, or comparable measure, of the person or legal entity for the 3 taxable years preceding the most immediately preceding complete taxable year of the year for which benefits are requested. Taxable losses are included in the average.

The determination of average AGI for a person or legal entity that did **not** have taxable income in 1 or more tax years, or a legal entity that is **not** required to file a Federal tax return, will be averaged by the number of years for which there was taxable income.

B Determining Average Adjusted Gross Farm Income

The average adjusted gross **farm** income is the average of the adjusted gross farm income of the person or legal entity over the 3 taxable years preceding the most immediately preceding complete taxable year.

C Determining Average Adjusted Gross Nonfarm Income

The average adjusted gross **nonfarm** income is the difference between the average AGI and the average adjusted gross farm income.

D Reference Guides for the Determining AGI and Amounts

The following is a quick reference guide for determining AGI.

AGI for a:

- person is found on a specific line on IRS Form 1040
- trust or estate is the total income and charitable contributions reported to IRS
- corporation is the total of the final taxable income and any charitable contributions reported to IRS
- limited liability company, limited liability partnership, or similar entity is the total income from trade or business activities plus guaranteed payments to the members as reported to IRS
- tax-exempt organization is the unrelated business taxable income excluding any income from non-commercial activities as reported to IRS.

The following is a quick reference for determining AGI amounts.

Average AGI
minus the
Average Adjusted Gross Farm Income
equals the
Average Adjusted Gross Nonfarm Income

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4 Definitions and Calculations

A Expanded Definition of Farm Income

The definition of farm income has been expanded as follows.

Average adjusted gross farm income of a person or legal entity includes income or benefits derived from or related to the following.	
Income Related to Livestock and Crops	Other Types of Income
Production of livestock, including but not limited to:	The sale of land that has been used for agriculture.
<ul style="list-style-type: none"> • cattle, sheep, goats, swine • elk, reindeer, bison, deer • horses • poultry • fish and other aquaculture products used for food • honeybees. 	The sale of easements and development rights to: <ul style="list-style-type: none"> • farmland, ranchland, or forestry land • water or hunting • environmental benefits.
The feeding, rearing, or finishing of livestock.	The rental or lease of land or equipment used for farming, ranching or forestry operations, including water or hunting rights.
Products produced by or derived from livestock.	
Production of crops, specialty crops, and unfinished raw forestry products.	Any payment or benefit, including benefits from risk management practices, crop insurance indemnities, and catastrophic risk protection plans.
The processing, packing, storing, shedding, and transporting of farm, ranch, and forestry commodities, including renewable energy.	Payments and benefits authorized under any program made applicable to payment eligibility and payment limitation rules.
	Production of farm-based renewable energy.
Any other activity related to farming, ranching, or forestry as determined by the Deputy Administrator.	
Any income reported on IRS Schedule F or other schedule used by the person or legal entity to report income from farming, ranching, or forestry operations to IRS.	
The sale of equipment to conduct farm, ranch, or forestry operations and the provision of production inputs and services to farmers, ranchers, foresters, and farm operations, if the average adjusted gross farm income is at least 66.66 percent of the average AGI.	

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4 Definitions and Calculations (Continued)

B Worksheet for Calculating Average AGI for 2009 and Subsequent Years

Use the following worksheet to calculate the average AGI for a person or legal entity.

Step	Action	Result
1	Enter the total AGI (both nonfarm and farm) for the 3 complete taxable years preceding the most immediately preceding complete taxable year of the year for which program benefits are requested. <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;">Year _____ _____ _____</div> <div style="text-align: center;">Amount \$ _____ _____ _____</div> </div>	
2	Total the dollar amounts in step 1.	\$
3	Calculate the average AGI by dividing the result of step 2 by the number of years in step 1.	\$
4	Enter AGI for the same 3 years in step 1 that was derived from all activities related to farming, ranching, and forestry operations. <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;">Year _____ _____ _____</div> <div style="text-align: center;">Amount \$ _____ _____ _____</div> </div>	
5	Total the dollar amounts in step 4.	\$
6	Calculate the average adjusted gross farm income by dividing the result of step 5 by the number of years in step 4.	\$
7	Calculate the average adjusted gross nonfarm income by subtracting the result of step 6 from the result of step 3.	\$
8	Calculate the percentage of the average adjusted gross farm income from the average AGI by dividing the result of step 6 by the result of step 3, and multiply by 100.	%
	If step 8 is 66.66% or greater , and the person or legal entity has income for equipment sales or input services, go to step 13; otherwise, go to step 9.	
	Determination	Eligible
9	If the result of step 7 is \$500,000 or less, the person or legal entity is eligible for all commodity, MILC, marketing loan gains, LDP payments, disaster assistance, and conservation program benefits, unless step 6 resulted in ineligibility for direct payments.	<input type="checkbox"/> YES <input type="checkbox"/> NO
10	If the result of step 6 is \$750,000 or less, the person or legal entity is eligible for direct payments under DCP.	<input type="checkbox"/> YES <input type="checkbox"/> NO
11	If the result of step 7 is \$1 million or less, the person or legal entity is eligible for all conservation program payments .	<input type="checkbox"/> YES <input type="checkbox"/> NO
12	If the result of step 7 exceeds \$1 million, but the result of step 8 is at least 66.66%, the person or legal entity is eligible for all conservation program payments .	<input type="checkbox"/> YES <input type="checkbox"/> NO

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4 Definitions and Calculations (Continued)

B Worksheet for Calculating Average AGI for 2009 and Subsequent Years (Continued)

Step	Action	Result
13	Enter the total AGI derived from equipment sales and input services for the 3 complete taxable years preceding the most immediately preceding complete taxable year of the year for which program benefits are requested. <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;">Year</div> <div style="text-align: center;">Amount</div> </div> <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <div style="text-align: center;">_____</div> <div style="text-align: center;">\$ _____</div> </div> <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <div style="text-align: center;">_____</div> <div style="text-align: center;">_____</div> </div> <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <div style="text-align: center;">_____</div> <div style="text-align: center;">_____</div> </div>	
14	Total the dollar amounts in step 13.	\$
15	Calculate the average AGI from equipment sales and input services by dividing the result of step 14 by the number of years in step 13.	\$
16	Enter adjusted gross farm income for the same 3 years in step 4 that was derived from all activities related to farming, ranching, and forestry operations, plus the amounts entered in Step 13 for equipment sales and input services. <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;">Year</div> <div style="text-align: center;">Amount</div> </div> <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <div style="text-align: center;">_____</div> <div style="text-align: center;">\$ _____</div> </div> <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <div style="text-align: center;">_____</div> <div style="text-align: center;">_____</div> </div> <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <div style="text-align: center;">_____</div> <div style="text-align: center;">_____</div> </div>	
17	Total the dollar amounts in step 16.	\$
18	Calculate the average adjusted gross farm income including equipment sales and input services by dividing the result of step 17 by the number of years in step 16.	\$
19	Calculate the average adjusted gross nonfarm income by subtracting the result of step 18 from the result of step 3.	\$
20	Calculate the percentage of the average adjusted gross farm income from the average AGI by dividing the result of step 18 by the result of step 6, and multiply by 100.	%
	If step 20 is 66.66% or greater , and the person or legal entity has income for equipment sales and input services, go to step 21 .	
	Determination	Eligible
21	If the result of step 19 is \$500,000 or less, the person or legal entity is eligible for all commodity, MILC, marketing loan gains, LDP payments, disaster assistance, and conservation program benefits.	<input type="checkbox"/> YES <input type="checkbox"/> NO
22	If the result of step 18 is \$750,000 or less, the person or legal entity is eligible for direct payments under DCP.	<input type="checkbox"/> YES <input type="checkbox"/> NO
23	If the result of step 19 is \$1 million or less, the person or legal entity is eligible for all conservation program payments .	<input type="checkbox"/> YES <input type="checkbox"/> NO
24	If the result of step 19 exceeds \$1 million, but the result of step 20 is at least 66.66 percent, the person or legal entity is eligible for all conservation program payments .	<input type="checkbox"/> YES <input type="checkbox"/> NO

4 Definitions and Calculations (Continued)

C Special Rule for Determining the Average AGI

If at least 66.66 percent of a person's or legal entity's average AGI is derived from all other sources of farm income, income from the following (if applicable) shall also be considered as farm income:

- sale of equipment to conduct farm, ranch and forestry operations
- provision of production inputs and services to farmers, ranchers, foresters, and farm operations.

D Applying the Special Rule for Determining the Average AGI

The following are examples of applying the rule in subparagraph C.

Example 1: Jake has requested 2009 DCP benefits. Jake's total average AGI was \$900,000. His farm AGI was \$650,000 from the production of crops and livestock. His nonfarm AGI was comprised of \$150,000 from his aerial spraying service and \$100,000 from oil and gas royalties.

Facts and figures: Over 66.66 percent of Jake's total AGI was from the production of crops (\$650,000 divided by \$900,000 multiplied times 100 equals 72.22%). Jake also has nonfarm AGI from his aerial spraying; a custom service to farmers and ranchers, that now **must** be considered farm AGI for the purposes of determining AGI for payment eligibility.

The result: Jake's farm AGI is now \$800,000 (the total of \$650,000 and \$150,000); nonfarm AGI is \$100,000. Jake's farm AGI exceeds \$750,000. Jake is eligible for 2009 DCP benefits, **except** for direct payments.

Example 2: Wanda has requested 2009 DCP, NAP, and Environmental Quality Incentive Program benefits. Wanda's total AGI was \$3 million. Her farm AGI was \$2.25 million from the production of crops and livestock. Her nonfarm AGI was \$750,000; comprised of \$500,000 for livestock equipment sales and \$250,000 from commercial real estate rental.

Facts and figures: Over 66.66 percent of Wanda's total AGI was from the production of crops and livestock (\$2.25 million divided by \$3 million multiplied times 100 equals 75%). Wanda also has nonfarm AGI of \$500,000 from livestock equipment sales that now **must** be considered farm AGI for the purposes of determining AGI for payment eligibility.

The result: Wanda's farm AGI is now \$2.75 million (\$2.25 million and \$500,000); nonfarm AGI is \$250,000. Wanda's farm AGI still exceeds \$750,000, but her nonfarm AGI is now less than \$500,000. Wanda is eligible for all program benefits requested, **except** for 2009 DCP direct payments.

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5 Certifying AGI for 2009

A How to Certify AGI Compliance

Annual AGI certification may be provided by either of the following:

- an acceptable statement from a certified public accountant or attorney
- CCC-926 that is available at <http://165.221.16.90/dam/ffasforms/forms.html>.

B Quick Reference for Programs and Applicable AGI Limitations Beginning October 1, 2008

The following is a quick reference for programs and applicable AGI limitations.

Program	Less Than \$500,000 Nonfarm AGI	Greater Than \$750,000 Farm AGI	Less Than \$1 Million Nonfarm AGI	Greater Than \$1 Million Nonfarm AGI and at Least 66.66 Percent of AGI is Derived From Farming	Greater Than \$1 Million Nonfarm AGI and Less Than 66.66 Percent of AGI is Derived From Farming
DCP/Average Crop Revenue Election	Eligible				
Direct Payments	Eligible	Ineligible			
Emergency Assistance for Livestock, Honey Bees, and Farm-Raised Fish, LFP, Livestock Indemnity, NAP, Supplemental Revenue Assistance Payments, and TAP	Eligible				
Milk Income Loss Contract, Marketing Loan Gains, and LDP's	Eligible				
CRP, Environmental Quality Incentives, and all other Conservation, except ELP			Eligible	Eligible	Ineligible
All other, including ELP.	As determined by regulation for each program.				

Note: AGI provisions in effect on September 30, 2008, continue to apply for CRP contracts, ECP agreements, and GRP contracts and easements.

C Updating 2009 Web-Based Eligibility AGI Certifications/COC Determinations

The release of this Notice and CCC-926:

- authorizes field personnel to update 2009 AGI Certifications/COC Determinations **only**
- does **not** authorize field personnel to update **any** other eligibility Certifications/COC Determinations.

For further information about AGI determination information for 2009 and future years in web-based eligibility, see 3-PL, paragraph 31.5.

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5 Certifying AGI for 2009 (Continued)

C Updating 2009 Web-Based Eligibility AGI Certifications/COC Determinations (Continued)

The following table provides instructions for dataloading information captured on CCC-926 into the Web-Based Eligibility software for AGI Certification/COC Determination for Commodity Program, Direct Payment, and Conservation Program.

Item	Response	Entry in Web-Based Eligibility	Explanation
Commodity Program Certification/COC Determination			
5 Average Adjusted Gross Nonfarm Income is \$500,000 or less	Yes	Compliant - Producer	Eligible for commodity, price support, and disaster program payments.
		Compliant - Agent	
	No	Not Met - COC	Not eligible for commodity, price support, and disaster program or direct payments.
		Not Met - Producer	
Direct Payment Certification/COC Determination			
6 Average Adjusted Gross Farm Income is \$750,000 or less	Yes	Compliant - Producer	Eligible for direct payments, if eligible for commodity program payments.
		Compliant - Agent	
	No	Not Met - COC	Not eligible for direct payments.
		Not Met - Producer	
Conservation Program Certification/COC Determination			
7 Average Adjusted Gross Nonfarm Income is \$1 Million or less	Yes	Compliant - Producer	Eligible for conservation program payments.
		Compliant - Agent	
	No	Not Met - COC	See item 8, "No".
		Not Met - Producer	
8 Average Adjusted Gross Farm Income is at least 66.66% of Average Adjusted Gross Income	Yes	Compliant - Producer	Eligible for conservation program payments.
		Compliant - Agent	
	No	Not Met - COC	<ul style="list-style-type: none"> • Eligible for conservation program payments, if item 7 is "Yes". • Not eligible for conservation program payments, if item 7 is "No".
		Not Met - Producer	

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6 Action

A SED Actions

Review and provide this information to all County Office employees.

A conference call between DAFP, PECD, and all State Offices is tentatively scheduled for the week of December 8, 2008. Additional details to be announced later. Topics will include the following:

- payment eligibility and limitation provisions for 2009
- new CCC-902's and CCC-926's
- DCP provisions and signup
- software applications.

B CED Actions

Review and follow contents of this notice.

CCC-926 Instructions and Example

<p>This form is available electronically.</p> <p>CCC-926 U.S. DEPARTMENT OF AGRICULTURE (11-20-08) Commodity Credit Corporation</p>		<p>1. County FSA Office or Service Center Address (Include Zip Code) Earth County FSA Office 1234 Rough Rd. Glen Rose, TX 74444</p>	
<p>AVERAGE ADJUSTED GROSS INCOME (AGI) STATEMENT</p>			
<p>NOTE: The primary authority for requesting and safeguarding the information described on this form is the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246). Additionally, the authority for requesting this information is 7 CFR Part 1400 and 7 CFR Part 1410. The information requested is necessary for CCC to assist in determining eligibility for program benefits. Information about the average Adjusted Gross Income limitations can be found in the regulations at 7 CFR Part 1400. Furnishing the requested information is voluntary. Failure to furnish the requested information will result in a determination of ineligibility for certain program benefits and other financial assistance administered by USDA. The information collected as a result of this form may be released to USDA employees, USDA contractors, or authorized USDA cooperators who are bound to safeguard the information under Section 1619 of the Food, Conservation, and Energy Act, the Privacy Act of 1974, the E-Government Act of 2002, and related authorities. This information collection is exempted from the Paperwork Reduction Act, as it is required for the administration of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246, Title I, Subtitle F – Administration). The provisions of criminal and civil fraud statutes may be applicable to the information provided. RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.</p>			
<p>2. Name and Address of Person or Legal Entity (Include Zip Code) Ludlow Ltd. 2342 Burke Rd. Glen Rose, TX 74444</p>		<p>3. Identification Number (Last 4 digits of SSN or Tax ID No.) 4432</p>	
<p>NOTE: Please read and complete all items. Definitions of terms such as "nonfarm income" and "farm income" are contained on Page 2.</p>			
<p>CERTIFICATION OF AVERAGE ADJUSTED GROSS INCOME</p>			
<p>4. Select the program year for which program benefits are requested (Check only one).</p>			
<p>A. <input checked="" type="checkbox"/> 2009</p>	<p>The applicable 3-year period for calculation of the average AGI will be the taxable years of 2007, 2006 and 2005.</p>	<p>C. <input type="checkbox"/> 2011</p>	<p>The applicable 3-year period for calculation of the average AGI will be the taxable years of 2009, 2008 and 2007.</p>
<p>B. <input type="checkbox"/> 2010</p>	<p>The applicable 3-year period for calculation of the average AGI will be the taxable years of 2008, 2007, and 2006.</p>	<p>D. <input type="checkbox"/> 2012</p>	<p>The applicable 3-year period for calculation of the average AGI will be the taxable years of 2010, 2009 and 2008.</p>
<p>5. Was the average adjusted gross <u>nonfarm income</u> \$500,000 or less for the applicable 3-year period for the program year selected in Item 4?</p> <p>A. <input checked="" type="checkbox"/> YES. B. <input type="checkbox"/> NO</p>			
<p>6. Was the average adjusted gross <u>farm income</u> \$750,000 or less for the applicable 3-year period for the program year selected in Item 4?</p> <p>A. <input checked="" type="checkbox"/> YES. B. <input type="checkbox"/> NO</p>			
<p>7. Was the average adjusted gross <u>nonfarm income</u> \$1,000,000 or less for the applicable 3-year period for the program year selected in Item 4?</p> <p>A. <input checked="" type="checkbox"/> YES. B. <input type="checkbox"/> NO</p>			
<p>8. Was the average adjusted gross farm income for the applicable 3-year period selected in Item 4 at least 66.66 percent of the average adjusted gross income (that is, both farm and nonfarm income)?</p> <p>A. <input checked="" type="checkbox"/> YES. B. <input type="checkbox"/> NO <i>If "Yes" is checked, and if income includes the sale of farm equipment or production inputs and services to farmers, ranchers, foresters, and farm operations, see definition of Farm Income on Page 2.</i></p>			
<p>By signing this form:</p> <ul style="list-style-type: none"> I acknowledge that I have read and reviewed all definitions and requirements on Page 2 of this form; I certify that all information contained within this certification is true and correct; I take responsibility to timely notify FSA in writing of any changes to the farming, ranching, or forestry operation, or a change in financial status that may affect this certification; I certify that my income certifications are consistent with the tax returns filed with the Internal Revenue Service (IRS) and with the definitions specified on Page 2 of this form; I agree that at least every three years beginning no later than for the 2011 program year, or the year this person or legal entity ceases operation if that occurs first, I will submit evidence such as tax records, business documents (for review only, not for retention), or a signed third-party verification deemed acceptable by CCC to verify the average adjusted gross income, average adjusted gross farm income, and average adjusted gross nonfarm income, and that I will take the necessary actions to provide such documents or certification; If requested, I agree to authorize CCC to obtain tax data from the IRS for AGI compliance verification purposes and I will take all necessary actions required by the terms and conditions of the IRS disclosure laws so that CCC can obtain such data. 			
<p>9. Signature (By) <i>/s/ Charles Ludlow</i> Ludlow, Ltd.</p>		<p>10. Title/Relationship (Individual Signing in the representative capacity) President, Ludlow Ltd.</p>	<p>11. Date (MM-DD-YYYY) 12/12/2008</p>
<p><small>The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.</small></p>			

CCC-926 Instructions and Example (Continued)

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GENERAL INFORMATION ON AVERAGE ADJUSTED GROSS INCOME

Limitations related to income levels are a statutory payment eligibility provision for a number of commodity and conservation programs administered by CCC. This certification is needed to assist in program administration. Except as may be provided in applicable program regulations, any person or legal entity requesting certain program payments, either directly or indirectly, shall be subject to this provision. Any person or legal entity that is determined to have an average adjusted gross income that exceeds specified limits shall be ineligible for the program payment subject to that limit for the applicable crop, fiscal, or program year. Further, any covered benefit issued to a legal entity, general partnership, or joint venture shall be reduced by an amount that is commensurate with the direct or indirect ownership interest in the legal entity, general partnership, or joint venture of each person or legal entity whose relevant average adjusted gross income for the relevant period exceeds the average adjusted gross income limit. These determinations will be made pursuant to, and subject to, regulations issued on behalf of the Secretary. As of the time this form was created, the applicable limits were as follows:

For commodity, price support benefits, disaster assistance programs, and for the Milk Income Loss Compensation Program, if the person or legal entity has:

- average adjusted gross **nonfarm income** greater than \$500,000, the person or legal entity is **not** eligible for payments and benefits from these programs.
- average adjusted gross **farm income** greater than \$750,000, the person or legal entity is **not** eligible for direct payments under the Direct and Counter-cyclical Program.

For new contracts or participation in conservation programs after October 1, 2008, if the person or legal entity has:

- average adjusted gross **nonfarm income** greater than \$1 million, the person or legal entity is **not** eligible, unless 66.66 percent or more of the average adjusted gross income is attributable to activities related to farming defined as "farm income" below.

Please note as indicated above that payments are further limited if persons and legal entities with an interest, either directly or indirectly, in a legal entity or partnership exceeds these same levels. Those persons and legal entities must also submit this form.

DEFINITIONS

Adjusted Gross Income is the individual's or legal entity's IRS-reported adjusted gross income. A three year average of that income will be computed for the three years of the relevant base period. Base periods vary by program year as indicated on the first page of this form.

Adjusted Gross Farm Income is for a year that part of the adjusted gross income that is farm income as defined below. The amount will be computed for each year separately and then averaged.

Adjusted Gross Nonfarm Income is the difference for the year between the filer's adjusted gross income and the filer's adjusted gross farm income. The difference shall be computed for each year of the base period, and then averaged.

Farm income means income related to the following: production of crops, livestock, fish and aquaculture for food; the feeding and rearing of livestock; products produced or derived from livestock; production of specialty crops and unfinished raw forestry products; processing, packing, storing and transporting farm, ranch and forestry commodities including renewable energy; production of farm-based renewable energy; the sale of land used for agriculture; sale of land or sale of easements and development rights to agricultural land, water and hunting rights, and environmental benefits; rental or lease of land or equipment used in farming, ranching, forestry operations; payments and benefits from risk management practices, crop insurance indemnities, catastrophic risk protection plans, conservation programs and government farm program payments. Proceeds from the sale of farm equipment and from production inputs to farmers and ranchers are generally considered nonfarm income. However, if for a year not less than 66.66 percent of the average adjusted gross income of the person or legal entity is derived from farming, ranching, or forestry operations, the person's or legal entity's farm income shall also include the sale of equipment to conduct farm, ranch, or forestry operations, and the production inputs and services to farmers, ranchers, foresters, and farm operations.

Legal Entity is a corporation, joint stock company, association, limited partnership, charitable organization, or similar entity, including any such entity or organization participating in the operation as a partner in a general partnership, a participant in a joint venture, a grantor in a revocable trust, or as a participant in a similar entity, including joint ventures and general partnerships as determined by the Secretary.

Program year means the relevant program year as determined by CCC, for which a specific benefit is made available under a program authorized by legislation such as the Direct and Counter-cyclical Program, Milk Income Loss Contract Program, Conservation Reserve Program, Noninsured Crop Disaster Assistance Program, Supplemental Revenue Assistance Program. FSA may require additional information as necessary to make the relevant program payments.

Third-party verification means a signed statement from a certified public accountant (CPA) or an attorney that the person or legal entity meets the applicable AGI provisions for payment eligibility.

HOW TO DETERMINE ADJUSTED GROSS INCOME

Person. For persons that file the IRS Form 1040, specific lines on that form represent the adjusted gross income and the income from farming, ranching or forestry operations.

Trust or Estate. For a trust or estate, the adjusted gross income is the total income and charitable contributions reported to IRS.

Corporation. For a corporation, the adjusted gross income is the total of the final taxable income and any charitable contributions reported to IRS.

Limited Partnership (LP), Limited Liability Company (LLC), Limited Liability Partnership (LLP) or Similar Entity. For an LP, LLC or LLP, the adjusted gross income is the total income from trade or business activities plus guaranteed payments to the members as reported to the IRS.

Tax-exempt Organization. For a tax-exempt organization, the adjusted gross income is the unrelated business taxable income excluding any income from non-commercial activities as reported to the IRS.