

Fact Sheet

August 2003

Adjusted Gross Income Provision

Overview

The Adjusted Gross Income (AGI) provision of the Farm Security and Rural Investment Act of 2002 (Farm Bill) limits the eligibility of certain individuals and entities for USDA commodity and conservation program benefits.

The Commodity Credit Corporation (CCC) published 7 CFR Part 1400 subpart G entitled "Income Limits" in the Federal Register on June 4, 2003, which sets forth the criteria applied in determining program benefit eligibility. The Farm Service Agency (FSA) is responsible for making AGI determinations.

How the AGI Provision Works

The AGI provision states that an individual or entity is not eligible for program payments or benefits if the individual's or entity's average adjusted gross income exceeds \$2.5 million for the three tax years immediately preceding the applicable year and less than 75 percent of the average AGI is derived from farming, ranching, or forestry operations. The provision applies for the 2003 through 2007 crop, fiscal, or program years.

To receive AGI determinations, program participants may submit a completed form CCC-526, Average Adjusted Gross Income Certification, or provide a statement from a certified public accountant or an attorney.

An AGI determination for program benefit payment eligibility will be performed at the time the landowner or program participant signs the conservation contract or, in the case of the Farm and Ranch Lands Protection

Program, when the conservation easement is signed.

The AGI determination will remain in effect for the life of the contract. However, any successor to a 2003-2007 contract will be subject to a new AGI determination.

Exemptions

The following individuals and entities are exempt from the AGI provision:

- Program participants who are reservist military personnel called to active duty as the result of Operation Iraqi Freedom and other similar military operations
- Entities that are units of government: State, county, political subdivisions, agencies, and recognized Indian tribes

Income Definition

Income from farming, ranching, or forestry generally means income derived from producing crops, livestock, or unfinished raw forestry products. In addition, CCC will consider the following as income from farming, ranching, and forestry operations:

- Land sales (including easements and development rights) used for farming, ranching, and forestry
- Farm water right sales; rental income from land used for farming, ranching, and forestry
- Federal agricultural or conservation program payments
- Commercial hunting income from land used for farming, ranching, and forestry
- Farm equipment sales that are subject to depreciation expense on Internal Revenue Service (IRS) Form 4835 or Schedule F

Conservation Programs Covered

The AGI applies to conservation programs authorized under title XII of the Food Security Act of 1985 (1985 Farm Bill) and title II of the 2002 Farm Bill, including cost-share assistance and easement and rental payments. This includes:

- Conservation Corridor Demonstration Program
- Conservation Reserve Program
- Conservation of Private Grazing Lands Program
- Conservation Security Program
- Desert Terminal Lakes
- Environmental Quality Incentives Program
- Farm and Ranch Lands Protection Program (FRPP)
- Grassland Reserve Program
- Grassroots Source Water Protection Program
- Great Lakes Basin Program for Soil Erosion and Sediment Control
- Wetlands Reserve Program
- Wildlife Habitat Incentives Program

For FRPP, the landowner, not the cooperating entity, is subject to AGI limitations because the ultimate program beneficiary is the landowner.

Payments to technical service providers and contractors for services obtained under a program are not subject to AGI determinations. Services provided include appraisals, surveys, closing costs, etc.

Entities

Non-government organizations are subject to the AGI provision if they are program participants receiving program benefits. They are not subject to the AGI provision if they are receiving payments for services rendered as vendors.

For charitable organizations, the adjusted gross income would be based upon the unrelated business taxable income reported to the IRS, less any other income CCC determines to be from commercial activities. Currently, that amount is specified on line 34 of the IRS form 990-T.

Commensurate Reduction

Payments subject to the AGI limitation will be reduced by an amount commensurate with the direct and indirect interest in the entity, general partnership, and joint venture of each individual or entity determined to be in excess of the AGI limitation.

Confidentiality

All information provided to FSA for the purposes of determining compliance with the AGI provision will remain confidential and not subject to any request submitted under the Freedom of Information Act.

For More Information

If you need more information about the AGI provision, please contact your local USDA Service Center, listed in the telephone book under U.S. Department of Agriculture, or your local conservation district. Information, including program specific fact sheets, also is available on the World Wide Web at: <http://www.nrcs.usda.gov/programs/farmbill/2002/>



Visit USDA on the Web at:
<http://www.usda.gov/farmbill>

Note: This is not intended to be a definitive interpretation of farm legislation. Rather, it is preliminary and may change as USDA develops implementing policies and procedures. Please check back for updates.