

## Actively Engaged in Farming and Payment Limits

### Overview

For more than 20 years, Congress and the U.S. Department of Agriculture (USDA) have worked to ensure that farm program benefits only go to farmers who are actively engaged in farming. The American Taxpayer Relief Act of 2012 extends the required implementation of the actively engaged and payment limitation provisions of the 2008 Farm Bill for the 2013 program year.

The Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) requires program participants to meet specific provisions to receive farm program benefits. Here is a summary of those provisions: The American Taxpayer Relief Act of 2012 extends the required implementation of the actively engaged and payment limitation provisions of the 2008 Farm Bill for the 2013 program year.

### Actively Engaged in Farming

To be eligible for payments and benefits under specified programs, all program participants, either individuals or legal entities, must provide significant contributions to the farming operation to be considered as "actively engaged in farming." Contributions can consist of capital, land, and/or equipment, as well as active personal labor and/or active personal management. The management contribution must be critical to the profitability of the farming operation and the contributions must be at risk.

### Additional Payment Eligibility Requirements

Each partner, stockholder or mem-

ber with an ownership interest must contribute active personal labor and/or active personal management to the farming operation on a regular basis. The contribution must be identifiable and documentable; as well as separate and distinct from the contributions made by any other partner, stockholder or member. If any partner, stockholder or member with an ownership interest fails to meet this requirement, program payments will be reduced by the corresponding share held by that partner, stockholder or member. There is an exception allowed for legal entities, such as corporations, if total direct payments received both directly and indirectly, by the legal entity and its members do not exceed \$40,000.

### Exceptions to the General Requirements

Landowners may be considered "actively engaged in farming" if they contribute the owned land to the farming operation and in return, receive rent or income for the use of the land. The landowner's share of the profits or losses from the farming operation must also be commensurate with the landowner's contributions to the farming operation and the contributions must be at risk.

Spouses may both be considered "actively engaged in farming" if one spouse makes all of the requisite and at-risk contributions.

Sharecroppers may be considered "actively engaged in farming" if the sharecropper makes a significant contribution of active personal labor to the farming operation and in return, receives a specified share of the crop(s) produced on the farm. The sharecropper's share of the profits

or losses from the farming operation must be commensurate with the sharecropper's contributions and the contributions must be at risk.

A cash-rent tenant will be ineligible to receive payments on the cash-rented land unless the tenant makes a significant contribution of active personal labor. If the cash-rent tenant does not provide labor, he or she must make a significant contribution of both active personal management and equipment to the farming operation. All other "actively engaged in farming" requirements apply as well.

### Foreign Persons

Foreign persons, other than registered aliens, are not eligible to receive any program benefits including commodity loans, unless that person provides a significant contribution of capital, land, and active personal labor to the farming operation.

### Notification Requirements

Every legal entity earning payment subject to these rules must report to their local FSA committee the name and social security number of each person who owns, either directly or indirectly, any interest in such legal entity. The legal entity is also required to inform all members of the rules regarding payment eligibility and payment limitation.

### Payment Limitations

#### Direct Attribution

The 2008 Farm Bill, as amended, establishes a maximum dollar

# FACT SHEET

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January 2013

amount for each program that can be received annually, directly or indirectly, by each person or legal entity. Such limitations on payments are controlled by direct attribution. Program payments made directly or indirectly to a person are combined with the pro rata interest held in any legal entity that received payment, unless the payments to the legal entity have been reduced by the pro rata share of the person.

Program payments made directly to a legal entity are attributed to those persons that have a direct and indirect interest in the legal entity, unless the payments to the legal entity have been reduced by the pro rata share of the person. Payment attribution to a legal entity is tracked through four levels of ownership. If any part to the ownership interest at the fourth level is owned by another legal entity, a reduction in payment will be applied to the payment entity in the amount that represents the indirect interest of the fourth level entity in the payment entity.

### Common Attribution

Common attribution is crediting payments made to person or legal entity collectively to one limitation due to a unique or specific relationship between the persons or legal entities. Common attribution applies to a minor child and a parent or legal guardian; and a parent organization over a secondary organization when the parent organization exercises control over the secondary organization.

### Ownership Interest for Direct Attribution

For the purposes of the direct attribution of payments, ownership interest that a person or legal

entity holds in a legal entity on June 1 of the current year is used. Direct attribution of payments is not applicable to cooperative associations of producers. The payments will instead be attributed to the members of the association that produced the commodities marketed by the association on behalf of the members.

### Minor child rules

June 1 of the current year is the date a child is considered to be a minor for payment attribution purposes. Payments received both directly and indirectly by a minor child are attributed to the parent or legal guardian.

### Payment Limits

#### Person

Payments made directly or indirectly to a person cannot exceed the annual amounts specified in Table 1.

#### Joint Operations and General Partnerships

Payments made directly or indirectly to a joint operation such as a general partnership, cannot exceed, for each payment specified in Table 1, the amount determined by multiplying the maximum payment amount specified for a program by the number of persons and legal entities that comprise the ownership of the joint operation. Payments to the joint operation will be reduced by an amount that represents the direct or indirect ownership in the joint operation by any person or legal entity that has reached the maximum limitation.

### Legal entities

Payments made directly or indirectly to a legal entity cannot exceed the annual amounts specified in Table. Payments made to a legal entity will be reduced by an amount that represents the direct or indirect ownership in the legal entity by any person or legal entity that has reached the maximum limitation.

### More Information

To find more information about FSA programs, contact your local FSA office or USDA Service Center, or visit the FSA online at [www.fsa.usda.gov](http://www.fsa.usda.gov).

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**Table 1**  
**Program Payment Limitations in Dollars**

<b>Program Payment Type</b>	<b>Limitation (In Dollars) 2009 – 2013</b>
<b>Commodity programs</b>	
Direct payments on covered commodities except peanuts	40,000/1
Direct payments on peanuts	40,000/1
Counter-cyclical and Average Crop Revenue Election (ACRE) payments on covered commodities except peanuts	65,000/2
Counter-cyclical and ACRE payments on peanuts	65,000/2
Price support programs	No limits
<b>Conservation programs</b>	
Conservation Reserve Program (CRP) annual rental payment	50,000
Environmental Quality Incentives Program (EQIP) (all contracts for FY 2009-13).	300,000
Cost Conservation Stewardship Program (CSTP) (all contracts for FY 2009-13)	200,000
Grassland Reserve Program (GRP)	50,000
Wetlands Reserve Program (WRP)	50,000
Wildlife Habitat Incentives Program (WHIP)	50,000
<b>Disaster and Livestock assistance programs</b>	
Noninsured Crop Disaster Assistance Program (NAP)	100,000
Supplemental Revenue Assistance Payments (SURE) program, Livestock Indemnity Program (LIP), Livestock Forage Program (LFP) and Emergency Assistance for Livestock, Honey Bees and Farm-Raised Fish (ELAP)	100,000
Tree Assistance Program (TAP)	100,000
<b>Other programs</b>	
Trade Adjustment Assistance (TAA)	10,000 /3

1. If the person or legal entity has a direct or indirect interest in payments earned on a farm that is in ACRE, this limitation will reflect a 20 percent reduction in direct payments on each farm that is participating in ACRE.

2. Under ACRE, this amount will be a combined limitation for counter-cyclical and ACRE payments. If a person or legal entity has a direct or indirect interest in payments earned on a farm participating in ACRE, this limitation will reflect an increase for the amount that the direct payments were reduced.

3. TAA payments and counter-cyclical payments received by a person or legal entity for the same program or fiscal year are limited to combined total of \$65,000 if counter-cyclical payments are received for covered commodities or peanuts; or a total of \$130,000 if counter-cyclical payments are received for both covered commodities and peanuts.