

For: State and County Offices

Payment Limitation for Participants in CRP

Approved by: Acting Deputy Administrator, Farm Programs



1 Overview

A Background

The Food, Conservation, and Energy Act of 2008 made changes to the payment limitation provisions for the participants in conservation programs. Specifically for CRP, annual rental payments are limited to \$50,000, both directly and indirectly, to a person or legal entity by direct attribution. The provisions of 1-PL or 4-PL apply to payments under a CRP contract depending upon the CRP contract approval date.

B Purpose

This notice provides information on the application of payment limitation provisions to:

- CRP contracts approved **before** October 1, 2008
- CRP contracts approved **after** September 30, 2008
- CRP contract extensions
- annual rental payments from CRP contracts subject to 1-PL and 4-PL rules.

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2 Application of PL Requirements for CRP Participants

A Rule Applicability

Determine rule applicability according to the following.

IF the participant is on, or a successor to, a CRP contract...	THEN the following provisions apply to eligibility for payment under that contract...
approved before October 1, 2008	<ul style="list-style-type: none"> • all 1-PL provisions, including “person,” “actively engaged in farming”, and permitted entity designations • \$50,000 payment limitation on annual rental payments per “person”. <p>Note: There is one \$50,000 limitation applicable to all CRP contracts regardless of when the contract was approved. However, the amount of payments received directly and indirectly under contracts approved before October 1, 2008, may exceed \$50,000 as the result of “person” rules permitted entity designations.</p>
approved after September 30, 2008, including extensions to CRP contracts approved after September 30, 2008, regardless of the original CRP contract approval date	<p>\$50,000 payment limitation on annual payments received, either directly or indirectly, by the person or legal entity as provided in 4-PL.</p> <p>Note: The amounts received both directly and indirectly by a person or legal entity under CRP contracts approved before October 1, 2008, shall also be included when determining whether the payment limitation has been reached.</p>

B \$50,000 Payment Limitation and Contract Succession-In-Interest

A participant on an existing contract that becomes a successor to another CRP contract:

- is limited to \$50,000 annually per person or legal entity from **all** CRP contracts
- may exceed \$50,000 annually per person or legal entity only when a contract is inherited and only for the remaining term of the inherited contract.

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3 1-PL and 4-PL Rules

A Interaction of 1-PL and 4-PL Rules

Sometimes 1-PL rules for payment limitation and 4-PL rules for direct attribution may both apply to a CRP participant.

Example: Individual A has interest in 2 CRP contracts.

Under Contract 1:

- Individual A has 100 percent share
- original contract approved on October 1, 2007; expires September 30, 2017
- Individual A is subject to 1-PL “person” and permitted entity rules
- Individual A receives \$50,000 on this contract as an individual.

Under Contract 2:

- Corporation X is the participant with 100 percent share
- Individual A is a 50 percent shareholder of Corporation X
- original contract approved on October 1, 1999; expired September 30, 2009
- a 3-year extension was approved August 10, 2009
- Corporation X and Individual A are subject to 4-PL direct attribution rules during the extended period
- Corporation X earns \$50,000 on this contract.

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3 1-PL and 4-PL Rules (Continued)

B How Payments are Affected

Annual rental payments may be affected in certain situations.

Example: Following the example in subparagraph A, in October 2008:

- Individual A was due a \$50,000 CRP annual rental payment on Contract 1
- Corporation X was due a \$50,000 CRP annual rental payment on Contract 2.

A total of \$100,000 was issued because both Contracts 1 and 2 were subject to 1-PL rules.

In October 2009:

- Individual A is due a \$50,000 CRP annual rental payment on Contract 1
- Corporation X is due a \$50,000 CRP annual rental payment on Contract 2.

A total of \$100,000 will be issued because both Contracts 1 and 2 were subject to 1-PL rules.

Note: The contract extension is not effective until after the original contract expired on September 30, 2009.

In October 2010:

- Individual A is due a \$50,000 CRP annual rental payment on Contract 1
- Corporation X is due a \$50,000 CRP annual rental payment on Contract 2.

A total of \$75,000 can be issued because of payment limitation by direct attribution - \$50,000 attributed to Individual A and \$25,000 attributed to the other interest holder in Corporation X.

Note: Corporation X **cannot** receive \$50,000 beginning with the October 2010 payment because Contract 2 was extended after September 30, 2008, and thus subject to 4-PL direct attribution rules. This is also assumes that Individual A is paid \$50,000 first. Individual A is limited to \$50,000, both directly and indirectly. With direct attribution, \$25,000 will be credited toward the CRP limitation of Corporation X since Individual A is a 50 percent shareholder of Corporation X.

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3 1-PL and 4-PL Rules (Continued)

C Determinations Under 1-PL and 4-PL Rules

The reorganization of a farming operation may result in a:

- more restrictive determination for CRP payment limitation purposes than for previous years, even with no changes to the CRP contracts
- decrease in the total amount of CRP annual payments received directly and indirectly from all CRP contracts in which an interest is held.

Note: The farming operation and its members do not have the option to choose whether 1-PL or 4-PL rules will be applicable for CRP payment limitation purposes.

Example 1: In 2008, a joint operation was comprised of a husband and wife with equal shares. Each member was determined a separate “person” according to rules in 1-PL, paragraph 253. The joint operation was a participant in a CRP contract approved July 20, 2002, and annually received \$100,000 in rental payments. The joint operation also received annual commodity program benefits earned on the remainder of the land owned by the husband and wife.

In 2009, the joint operation continues to operate as in previous years with the exception that ownership of the land that was not under CRP contract was transferred to a limited liability company (LLC) of which the husband and wife each holds a substantial beneficial interest. The joint operation continues to operate this acreage and the LLC receives the landowner’s share of 2009 DCP payments.

Results: Under 4-PL rules applicable to 2009 DCP, each member of the joint operation has their own respective payment limitation.

Under 1-PL rules for payment limitation applicable to the existing CRP contract, the husband and wife will now be considered as one “person” for payment limitation purposes because of the interest held in LLC, which is a separate “person” from each of them, and that also earns program payments subject to limitation according to 1-PL, paragraph 253. Because of this combined “person” determination for CRP purposes only, the joint operation can now receive a maximum of \$50,000 annually in CRP rental payments.

3 1-PL and 4-PL Rules (Continued)

C Determinations Under 1-PL and 4-PL Rules (Continued)

Example 2: In 2008, a general partnership was comprised of 6 members, all with equal shares. The members were Individuals A, B, and C; LLC 1 (Individuals A and B equal shareholders); LLC 2 (Individuals B and C equal shareholders); and LLC 3 (Individuals A and C equal shareholders). Each member was considered a separate “person” under 1-PL rules for a total of 6 limitations for payment. The general partnership was a participant on CRP contracts approved May 1, 2005, and annually received \$300,000 in CRP rental payments. Individuals A, B, and C each received, directly and indirectly, \$100,000 annually as allowed under the permitted entity rules. The farming operation also received other commodity and price support benefits on land operated by the general partnership.

In 2009, the three LLC’s were dissolved and this 6-member general partnership is now comprised of Individuals A, B, C, D, E, and F. This general partnership continues to operate the same land as in previous years and is a participant in both DCP and CRP.

Results: Under 4-PL rules applicable to 2009 DCP, each member of the general partnership has their own respective payment limitation.

Under 1-PL rules for payment limitation applicable to the existing CRP contracts, each member will be considered a separate “person” for payment limitation purposes for a total of 6 limitations. The general partnership will still be able to receive up to \$300,000 annually in CRP rental payments, the same as before. However, Individuals A, B, C, D, E, and F will each be limited, directly and indirectly, to a maximum of \$50,000 annually in CRP payments.

D Public Information

Upon publication of the interim rule on December 29, 2008, a notice was provided that effective for the 2009 and subsequent crop, program and FY’s:

- the annual payment limitation for CRP was \$50,000 per person or legal entity
- the payment limitation was to be controlled by direct attribution to persons and legal entities as defined
- a separate payment limitation was not implemented for CRP payments or contract extensions approved on or after October 1, 2008.

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4 Actions

A State and County Office Action

State and County Offices shall immediately follow the contents of this notice.