

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

Notice PL-216

For: State and County Offices

Average AGI Verification for 2009 and/or 2010 Payment Eligibility

Approved by: Acting Deputy Administrator, Farm Programs



1 Overview

A Background

The average AGI verification process for 2009 and 2010 payment eligibility **requires** all program participants to provide written consent to IRS for the disclosure of certain information to FSA. All program participants who have **not** submitted CCC-927 or CCC-928 to IRS for 2009 and/or 2010 average AGI verification purposes were identified.

The program participants identified were notified in writing by the National Office. The notification letter dated October 6, 2010, advised the program participant of the requirement to timely file CCC-927 or CCC-928.

State and County Offices were provided the lists of program participants who received this notification. Upon review of this information and inquiries, several questions have been received about the participants identified on the reconciliation reports for 2009 and 2010. Other questions about the average AGI verification process have also been received.

B Purpose

This notice provides:

- instruction on how to verify whether a participant should or should not be included on the 2009 and 2010 reconciliation reports
- how to remove or prevent the participant from being identified on future reconciliation reports
- questions and answers about the continuing average AGI verification process.

Disposal Date	Distribution
January 1, 2011	State Offices; State Offices relay to County Offices and to NRCS Offices

2 Reconciliation Reports

A Verification of Program Participants Identified

County Offices are advised to:

- verify if the participants listed were subject to the average AGI limitation for 2009 and/or 2010 payment eligibility
- review the table in 4-PL, subparagraph 11 A for programs to which the average AGI is applicable
- be aware if the person/legal entity is linked in SCIMS to multiple counties, **all counties need to verify if average AGI compliance is required**
- use the following web sites to determine if those listed received payments for 2009 or 2010 and possibly were subject to the average AGI limitation:
 - Financial Inquiries at
http://fsaintranet.sc.egov.usda.gov/fsa/financial_applications_home_intranet.html
 - Common Program Reports System at
http://fsaintranet.sc.egov.usda.gov/fsa/FSAIntranet_applications.html

B Documentation of Participants Determined Not Subject to Average AGI Limitation

If it is determined the person/legal entity listed is not an FSA participant for 2009 and/or 2010:

- check with the local NRCS office to verify if there is/was participation in an NRCS conservation program subject to the average AGI limitation for 2009/2010 EQIP, WHIP, or CSP
- require an NRCS employee to document in writing on the listing if the person/legal entity is/was an NRCS participant for the applicable years.

2 Reconciliation Reports (Continued)

C Re-setting Subsidiary AGI Flags

If the County Office determines a person or legal entity listed was not subject to the average AGI limitation for FSA or NRCS programs for 2009 and/or 2010:

- follow 3-PL (Rev. 1), paragraph 31 and re-set the subsidiary AGI values to “Not Filed” for:
 - Commodity Program Certification/COC Determination
 - Direct Payment Certification/COC Determination
 - Conservation Program Certification/COC Determination
- remove the “Effective Program Year” and “Date Documentation Filed by Producer”
- document on the lists that AGI values were re-set according to this notice
- require the average AGI certification on file for the applicable year, either CCC-926 or accepted statement, to be withdrawn.

D Example of Re-setting of AGI Subsidiary Flag

The following is an example of re-setting the AGI Subsidiary Flag.

Adjusted Gross Income	
Commodity Program Certification/COC Determination	
<input type="radio"/> Compliant - Producer	<input type="radio"/> Compliant - Agent
<input type="radio"/> Exempt	<input checked="" type="radio"/> Not Filed
<input type="radio"/> Not Met - COC	<input type="radio"/> Not Met - Producer
Direct Payment Certification/COC Determination	
<input type="radio"/> Compliant - Producer	<input type="radio"/> Compliant - Agent
<input type="radio"/> Exempt	<input checked="" type="radio"/> Not Filed
<input type="radio"/> Not Met - COC	<input type="radio"/> Not Met - Producer
Conservation Program Certification/COC Determination	
<input type="radio"/> Compliant - Producer	<input type="radio"/> Compliant - Agent
<input type="radio"/> Exempt	<input checked="" type="radio"/> Not Filed
<input type="radio"/> Not Met - COC	<input type="radio"/> Not Met - Producer
Effective Program Year	<input type="text"/>
Date Documentation Filed by Producer	<input type="text"/> ▼
COC Disapproval Date	<input type="text"/> ▼

3 Questions and Answers

A Questions and Answers

- Q1.** Have all the AGI notification letters been sent?
- A1.** According to Notice PL-213, over 550,000 notifications were sent to 2009 and/or 2010 program participants that have certified to average AGI, but have not submitted CCC-927 or CCC-928 to IRS. Mailings began before October 6, 2010, and continued at about 40,000 per day.
- Q2.** What will happen after 30 calendar days if the consent form is not submitted? Who will trigger the receivable letters that will go out after November 6, 2010? Will the receivable be withdrawn if a consent form is later received by IRS?
- A2.** Using CCC-927/CCC-928 in the verification process is totally independent and is not linked to any process that affects eligibility or payment processing. More information will be provided as it is needed.
- Q3.** We are getting a large number of producers coming in to our offices as a result of the notification letters and telling us that they had previously sent the subject forms to IRS. We are telling them to send them again and ensure that they sign and complete the form correctly. Do you have any other words of wisdom?
- A3.** This is an appropriate response. The reconciliation reports were based on information that was made available by September 1, 2010. Any CCC-927's and CCC-928's submitted to IRS since that time is not reflected in these reports.
- Q4.** We have program participants that are now deceased and the consent form was not filed before death. Who can file the consent form?
- A4.** CCC-927 can be filed by the personal representative who is responsible for filing the final tax return of the deceased individual. CCC-927 must be under the name and SSN of the deceased individual. Attach to CCC-927, a copy of the document that grants that authority to the representative.
- Q5.** The same question as Q4 but there is no estate; there are no legal documents; and all was left to the surviving spouse. Who can file CCC-927?
- A5.** CCC-927 can be completed and signed by the surviving spouse. CCC-927 should be completed as follows: complete the name and address block of CCC-927 for the deceased individual and write "deceased" after the name. For example, John Doe, deceased. Then the surviving spouse can sign CCC-927 as the surviving spouse. For example, Jane Doe, surviving spouse. This is the same manner as the final tax return will be filed for the deceased individual.

3 Questions and Answers (Continued)

A Questions and Answers (Continued)

- Q6.** It was recently reported that producers who are revocable trusts using their SSN are now receiving letters stating CCC-928 has to be filed since the trust is considered an entity. Early on in this process, IRS rejected any CCC-928's filed for revocable trusts using SSN and we instructed County Offices to have the producer complete CCC-927 as an individual. It was generally understood that when SSN was used for a revocable trust that this was considered to be the individual. This was also due the fact that an EIN was not generally obtainable for a revocable trust (disregarded entity) and SSN could not be used on CCC-928 for legal entities. Now what is acceptable to IRS in this situation?
- A6.** See 4-PL subparagraph 200 C. For example, the grantor of the revocable trust should complete CCC-927 for an individual and use his or her SSN that the revocable trust is carried under. Do not include the word "trust" after the name on CCC-927. If the word "trust" appears or is present, the process automatically looks for EIN and IRS Form 1041 (tax return for a trust). If EIN and IRS Form 1041 records are not found, CCC-927 will be rejected.
- Q7.** We recently had reports of CCC-927 filed with the use of a durable Power Of Attorney that was rejected twice by IRS. POA was attached to CCC-927 when submitted. What is acceptable?
- A7.** A durable POA can be used for the completion and filing of CCC-927. The durable POA must have a specific provision that allows the attorney-in-fact to represent the party in all Federal tax matters. That specific provision must be present to be acceptable to IRS. Be sure to attach a copy of the durable POA with CCC-927.
- Q8.** We had an incident reported that when IRS returned a rejected CCC-927 to a program participant, the rejected CCC-927 and letter were mailed to the wrong address. What should we do or what actions should be taken?
- A8.** This is a PII incident and IRS has procedures for this (SNIP Servicewide Notice Information Program). If such an event is reported, contact James Baxa, PECD, for further instructions. There is an IRS Form 6029 that is used to report such an incident and the gatekeeper for IRS follows up with the individual.

3 Questions and Answers (Continued)

A Questions and Answers (Continued)

- Q9.** Can a program participant that is now completing CCC-927/CCC-928, dated September 27, 2010, check 2009, 2010, and 2011?
- A9.** Yes, IRS will continue to process and send data for 2009 and 2010. Then in late December or early January 2011, IRS will add the 2011 year. If the 2009 and 2010 years are selected and verified again, nothing adverse will happen. FSA will receive a duplicate record from IRS for those years and the latest record is kept. Also by checking all 3 years, the whole verification process may be moved along faster for 2011.
- Q10.** We have NRCS program applicants who completed eligibility documentation including CCC-926, but program applications were either withdrawn or later disapproved. These producers did not receive a 2009 program payment subject to average AGI, but now have received an AGI notification letter to submit CCC-927 or CCC-928. What should we do? Can we re-set the AGI flag to “not filed” to avoid this in the future?
- A10.** The current business rules require FSA to set the AGI flag if CCC-926 is filed. Follow the contents of this notice and coordinate all actions with NRCS and other FSA office if necessary.

4 Action

A State and County Office Action

State and County Offices will:

- follow the contents of this notice
- coordinate all actions taken with NRCS and other FSA offices when necessary
- make sufficient copies of CCC-927 and CCC-928 available to all program participants
- emphasize to **all** FSA and NRCS program participants the requirement to timely submit a completed CCC-927 or CCC-928 to IRS to maintain payment eligibility.