



United States
Department of
Agriculture

Farm Service Agency

January 2004

Fact Sheet
Adjusted Gross Income

**Montana State
Producer Handbook**



Definitions are provided following the fact sheet for terms that are bolded.

Background

The 2002 Farm Bill provides that an individual or **entity** shall not be eligible to receive certain payments and benefits as specified in the bill if the **average Adjusted Gross Income (AGI)** of the individual or entity exceeds \$2.5 million. However, an individual or entity whose average AGI exceeds \$2.5 million may be considered in compliance with this limitation if at least 75 percent of the average AGI was derived from **farming, ranching, or forestry operations**.

The new Farm Bill also requires that individuals and entities must submit information and documentation about AGI to be eligible for payments and benefits subject to the AGI limitation.

Note: *The AGI limitation should not be confused with the qualifying gross revenue provisions applicable to the Noninsured Crop Disaster Assistance Program (NAP) and other programs.*

Applicability

The AGI limitation:

- Is effective for the 2003 through 2007 crop, program, or fiscal years;
- Applies to eligibility for:

- Direct payments and counter-cyclical payments under DCP;
- Loan deficiency payments;
- Market loan gains;
- Conservation program payments.

Determination of AGI

For an individual, the average AGI is based on AGI as reported on the final income tax filings, for the 3 years previous to the year for which benefits are requested. For 2004 payment eligibility purposes, the AGI amounts reported for the years 2003, 2002, and 2001 will be used. Any year in which AGI was zero, or there was no taxable income, will be excluded in the determination of AGI.

Note: *Income tax returns for entities do not have an entry of AGI. Therefore, a comparable measure will be determined as set forth in the proposed rule.*

Certification of compliance

AGI certification will be accomplished by submitting either of the following:

- CCC-526
- A statement of AGI compliance with supporting documentation that is acceptable to FSA from a certified public accountant or an attorney.

Each entity and individual that is requesting payments or benefits subject to the AGI provision must provide a certification. This

requirement also applies to individuals and entities having an ownership interest in this entity, regardless of the amount of interest held. Failure to comply with the AGI limitation will result in ineligibility for payments and benefits subject to the AGI limitation.

Note: *Individuals who attend a church or belong to a club, fraternal organization, association, or similar type of entity that is requesting payments or benefits, do not hold an ownership interest in the entity. Therefore, the members of these entities do not have to submit an AGI certification for the entity to meet the AGI provision.*

Entity with Multiple Shareholders

For an entity such as a corporation with stockholders, a limited liability company, or a trust, both the entity and each individual stockholder or interest holder must certify to compliance with the AGI provision, regardless of the interest held. If at the fifth level of ownership interest in an entity, an ownership interest is held by an entity, that ownership interest will be ineligible for payments and benefits subject to AGI.

Multi-County and Multi-State Producers

A producer will be required to submit only one AGI certification. COC in the producer's control county will make the AGI

compliance determination, just as they do for the other payment eligibility and payment limitation determinations. Also, if the AGI compliance determination is adverse, the producer notification will be issued from only the control county. The written notification will include appeal rights according to 1-APP.

Conservation Reserve Program (CRP) Contracts

All multi-year contracts and agreements approved and effective before October 1, 2002 **will not** be subject to AGI requirement for payment eligibility. All other CRP contracts and multi-year agreements approved and effective after October 1, 2002 **will** be subject to AGI requirements.

Issuing Advance 2004 DCP Payments

Compliance with the AGI provision is a requirement for the receipt of 2004 DCP payments.

Final Rule

The final rule was published on June 4, 2003, in the Federal Register (FR) as 7 CFR Part 1400, Subpart G, Income Limits. A copy may be obtained online as follows:

1. Go to:
www.access.gpo.gov/su_docs/fedreg/frcont03.html
2. Click on "Wednesday, June 4, 2003"
3. Scroll down to "Commodity Credit Corporation"
4. Under "Proposed Rules", select "Payment limitation and eligibility: Program participation; income limits 33341-33347".

Examples of Determination of AGI

Situation 1 – Joe Smith requests benefits from the Direct and Counter-Cyclical Payment Program (DCP) and from a Conservation Reserve Program (CRP) contract approved effective for 2003. Mr. Smith's average AGI exceeds \$2.5 million and was all from farming and livestock operations.

Determination – At least 75 percent of the average AGI was received from farming, ranching and forestry operations. Therefore, Mr. Smith complies with the adjusted gross income requirement and is eligible for the program benefits requested.

Situation 2 – Grace Jones is a share rent landowner and requests benefits from DCP on a contract with her tenant. Ms. Jones' average AGI was less than \$2.5 million and over 75 percent was from non-agricultural interests.

Determination – Less than 75 percent of the average AGI was from farming, ranching and forestry, but the amount was less than \$2.5 million. Therefore, Ms. Jones is eligible for the program benefits requested.

Situation 3 – William Davis is a share rent landowner and requests benefits from DCP on a contract with his tenant. Mr. Davis average AGI was greater than \$2.5 million and over 75 percent was from non-agriculture.

Determination – Less than 75 percent of the average AGI was from farming, ranching and forestry and exceeds \$2.5 million. Therefore, Mr. Davis is ineligible for the program benefits requested.

Situation 4 – Mark Johnson is a 25 percent stockholder in Johnson Farms, Inc. Johnson Farms requests benefits from DCP. The average AGI for Johnson Farms

was all from farming and ranching. The average AGI for each of the stockholders was mostly from non-agricultural sources and the amounts were less than \$2.5 million with exception of Mark.

Determination – Any program benefit issued to an entity, general partnership or joint operation shall be reduced by an amount commensurate with the direct or indirect ownership interest of an individual or entity who has an average AGI in excess of \$2.5 million. Therefore, Johnson Farms is eligible for the benefits requested, but reduced by the 25 percent which represents the interest held by Mark.

Definitions

Average Adjusted Gross Income - the average of the adjusted gross income or comparable measure of the individual or entity over the preceding 3 tax years. For instance, if 2004 program benefits are requested, the tax years of average AGI determination would be 2003, 2002 and 2001.

Entity – 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.

Covered Benefit – any payment or benefit under the programs subject to the regulations at 7 CFR A Part 1400.

Commensurate Reduction – any covered benefit issued to an entity, general partnership, or joint venture shall be reduced by an amount that is commensurate with the direct or indirect ownership interest the entity, general

partnership or joint venture of each individual who does not comply with the adjusted gross revenue requirement.

Certification of compliance - an individual or entity shall provide either a certification by a certified public accountant that the average AGI does not exceed the requirement, or provide information and documentation regarding the adjusted gross income through other procedures.

Income from farming, ranching or forestry – income derived from producing crops, livestock or unfinished raw forestry products.

Special Rules for Certain Individual and Entities – applicable to those entities that are not required to file a tax return, and individuals and entities that did not have taxable income in one or more tax years used to determine the 3-year average. For example, if an entity was in existence only two years prior to the year of requesting program benefits, then the average AGI would only include those two tax years.

For Additional Information

Additional information may be obtained at local FSA offices or through the Montana FSA Web site at: www.fsa.usda.gov/mt

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