

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

Payment Eligibility, Payment Limitation, and Average Adjusted Gross Income 4-PL	Amendment 9
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Approved by: Deputy Administrator, Farm Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 201 A has been amended to provide the updated CCC-929.

Page Control Chart		
TC	Text	Exhibit
	6-37, 6-38	

201 Supplemental Information to CCC-926, CCC-927, and CCC-928

A Explanation of Average AGI Verification Process

CCC-929:

- must be provided with CCC-926's, CCC-927's, and CCC-928's
- serves to inform all program participants about the average AGI verification process.

B Example of CCC-929

The following is an example of CCC-929.

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This form is available electronically.

CCC-929
(01-24-11)

U.S. DEPARTMENT OF AGRICULTURE
Commodity Credit Corporation

AVERAGE ADJUSTED GROSS INCOME (AGI) SUPPLEMENTAL

- **Why is it necessary to verify average AGI?**
The Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill) provides that individuals and legal entities with average AGI in excess of a specified average AGI limitation are ineligible for payments subject to that limitation. In general, the limitations are: \$500,000 average nonfarm AGI for commodity programs; \$750,000 average farm AGI for direct payments under the Direct and Counter-cyclical Program or ACRE program; and \$1 million average nonfarm AGI for conservation programs.
All direct and indirect recipients of commodity or conservation program payments are required to complete the CCC-926, Average Adjusted Gross Income (AGI) Statement. However, the U.S. Government Accountability Office (GAO) concluded in a recent report that, without an adequate verification process, USDA could not ensure payments were only being made to eligible recipients.
- **What process has been developed to verify average AGI?**
USDA has worked with the Internal Revenue Service to develop an electronic information exchange process strictly for the purpose of average AGI verification. This process electronically looks at certain line items on tax returns filed for the applicable three-year period; performs a series of calculations to arrive at the average amounts; and then compares these values to the average AGI limitations. USDA receives the results of these comparisons with indicators of whether the participant appears to exceed or not exceed the average AGI limitation amounts. No actual tax data will be included. USDA county office personnel will not view tax return information at any time during this process.
- **Will there be an opportunity to provide additional information or possible explanation and appeal if the results show that it appears one or more of the average AGI limitations have been exceeded?**
As part of the review and evaluation process, participants will be afforded the opportunity to provide tax returns and other information in explanation of the AGI certification. All written notifications of AGI compliance determinations will include explanations and the appropriate appeal rights. If necessary, the cases that appear to exceed the average AGI limitations will be reviewed and evaluated by FSA State office and/or headquarters personnel. The cases will not be reviewed by personnel from the local FSA office.
- **What is required for USDA to verify average AGI?**
IRS requires written consent from the individual or legal entity to provide USDA verification of the average AGI for that individual or legal entity. This written consent is provided by using the forms CCC-927, Consent to Disclosure of Tax Information – Individual; or if a legal entity, the CCC-928, Consent to Disclosure of Tax Information – Legal Entity. The CCC-927 and CCC-928 forms allow the selection of 2009, 2010, and/or 2011. Selection of "2009" on the form authorizes IRS to perform the average AGI calculations for the 2005, 2006, and 2007 tax years. Selection of "2010" on the form authorizes IRS to perform the average AGI calculations for the 2006, 2007 and 2008 tax years. Selection of "2011" on the form authorizes IRS to perform the average AGI calculations for the 2007, 2008 and 2009 tax years. The CCC-927 or CCC-928, as applicable, must be completed for the same year(s) an individual or legal entity was required to complete the CCC-926, Average Adjusted Gross Income (AGI).
- **When must the applicant consent form be completed and where does it go?**
Timeliness is essential in order to avoid any delays in the issuance of program payments and the possibility of refunding program payments. The consent forms should be mailed directly to IRS at the address given on the form as soon as possible. Do not return the completed and signed forms to the FSA office.
- **What if the consent form is not completed and mailed to IRS?**
Failure to provide the written consent may require refund of applicable payments received from FSA and NRCS.
- **Why can't the completed consent forms be provided to the local FSA office like any other program related documents?**
The consent forms are for IRS, not FSA, and contain Personally Identifiable Information (PII). To afford maximum protection of PII, the completed forms must be sent directly to the IRS.
- **Will any other USDA agency other than FSA be provided knowledge of this information returned from the IRS?**
NRCS will be the only other USDA agency that will have knowledge of this information since conservation programs administered by NRCS are subject to the \$1 million average nonfarm AGI for conservation programs.
- **Will IRS be able to utilize the information for any other purposes and can it be disclosed to any persons or organizations outside of the Government?**
IRS will only use this information for this specified purpose. The information utilized for AGI compliance and verification purposes is not subject to disclosure under the Freedom of Information Act (FOIA). Furthermore, IRS and USDA are the only Federal, State, Local government agencies, Tribal agencies, or nongovernmental entities allowed by statute, regulation, or Routine Use to gain any measure of access to the information collected by the CCC-926, CCC-927, and CCC-928. And, IRS and USDA access to the information collection is highly limited, extending only to that access required by the specified purpose.

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*--202 Review and Validation Process

A IRS Calculations and Comparisons

For each participant who submits a completed CCC-927 or CCC-928, IRS will:

- match participant's supplied information with IRS tax records and filings
- perform a series of calculations to determine AGI and average AGI amounts for the applicable 3-year periods
- compare calculated amounts to established average AGI limitation amounts
- report the results of the data-matching and calculations to FSA on a regular basis.

B IRS Results Reported to FSA

IRS provides results to FSA indicating the following information:

- whether or not the participant appears to meet 1 or more of the average AGI limitations
- number of years in the applicable 3-year period that tax data was available for the participant and used in the calculations
- IRS forms series on file and used in the data comparison for each participant.

IRS does **not** provide to FSA the following:

- dollar amounts representing the participant's farm or nonfarm income
- AGI or average AGI amounts calculated and used in the comparisons
- a determination whether or not the participant is eligible or ineligible for payments under program that are subject to average AGI compliance.

C Receipt and Storage of Data From IRS

The information transferred from IRS to FSA is:

- received and stored in a secure database
- only accessible by authorized personnel
- used only in the AGI verification process
- **not** releasable under FOIA
- **not** available for any other purposes or uses.--*