

## Average Adjusted Gross Income (AGI) Verification Process

- **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 purposes 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 just 2009 or 2010 or both years. 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. 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 applicable consent form be completed and where does it go?**

Timeliness is essential in order to avoid any delays in the issuance of 2010 program payments and the possibility of refunding 2009 program payments. The consent forms should be mailed directly to IRS at the address given on the form no later than June 15, 2010. 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 for the years 2009 and 2010.

- **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 and data for this specified purpose. The data and information utilized for AGI compliance and verification purposes is not subject to disclosure under the Freedom of Information Act (FOIA).