

For: State and County Offices

Revised CPA or Attorney Certification Statement for Average AGI Compliance Verification

Approved by: Acting Deputy Administrator, Farm Programs



1 Overview

A Background

A statement submitted by a CPA or attorney may be accepted instead of tax returns for the verification of the average AGI compliance of a person or legal entity. The statement must include information relevant to the most recently filed tax returns by the person or legal entity for the time period in question. The statement must also include a detailed explanation of whether or not the applicable average AGI limitations were met by the person or legal entity for the year this statement is applicable. The CPA or attorney that prepares the statement certifies that any representations made are consistent with all filings with other federal agencies, are accurate, up to date, and in accordance with the law.

The sample statement originally provided and used was questioned by CPA's and others in regard to the context of the statement. In response, FSA and the American Institute of Certified Public Accountants have agreed upon a revision of the statement for average AGI compliance verification purposes. The revised statement recommended for use by CPA's and attorneys for average AGI compliance verification is included in **Exhibit 1**.

All State and County Offices are to make this sample statement in Exhibit 1 available for use immediately. This information will assist producers, CPA's, and attorneys in providing the required information necessary for average AGI compliance verification purposes.

B Purpose

This notice:

- advises all State and County Offices to make the revised statement available for use upon receipt of this notice
- provides an example of the revised statement recommended for average AGI compliance verification purposes (Exhibit 1)
- obsoletes Notice PL-242 because of technical corrections.

Disposal Date	Distribution
August 1, 2013	State Offices; State Offices relay to County Offices and NRCS Offices

Example of Statement for Average AGI Compliance Verification

The following is an example of the statement recommended for use by CPA's and attorneys for verification of AGI compliance for a person or legal entity.

<p>[insert name] [insert street and/or mailing address.] [insert city, State ZIP Code]</p>
<p>[insert date]</p>
<p>[insert State Office Name] [insert street and/or mailing address.] [insert city, State ZIP Code]</p>
<p>I, [insert name], am [insert "a certified public accountant (CPA)" or "an attorney" as appropriate] practicing in [insert city, State]. My license identification number is [insert license number] in [State].</p>
<p>I have been asked by [insert name of producer] to certify that [insert name of producer] is in compliance with the average adjusted gross income (AGI) limitations for the following [insert the applicable program year(s) and limitations], pursuant to section 1604 of the Food, Conservation, and Energy Act of 2008, 7 U.S.C. 1308-3a.</p>
<p>I understand that an inquiry by USDA with the Internal Revenue Service (IRS) has indicated that income tax returns filed with the IRS by [insert name of producer] reported income that may exceed the applicable AGI limits. For purposes of this letter and my representations below, my "certification" is limited only to my knowledge of [insert name of producer] federal income tax returns based upon either my preparation of such returns or my readings of those returns that I did not prepare. The preparation or review of these returns was based upon the information provided by [insert name of producer]. [insert name of producer] has represented to me that the information supplied to me is, to the best of [his/her] knowledge, true, correct, and complete. In accordance with Treasury Department Circular No. 230, section 10.34 (d), I relied in good faith without verification upon the information provided by [insert name of producer]; however, I did not ignore the implications of information furnished to, or actually known by me, and I made reasonable inquiries if the information as furnished appeared to be incorrect, inconsistent with an important fact or another factual assumption, or was incomplete. This "certification" does not include any representations or assurances as to the accuracy or completeness of the information contained in [insert name of producer] federal income tax returns or imply that I have performed procedures beyond those required under Circular No. 230. In addition, this "certification" does not include any representations or assurances as to the accuracy or completeness of the information contained in [insert name of producer] federal income tax returns that I did not prepare.</p>
<p>I acknowledge that I have read, understand, and agree to, the terms and conditions of the enclosure (AGI enclosure 1) received by [insert name of producer] with the following conditions.</p>
<ul style="list-style-type: none"> • I am relying on the information made known to me as noted above. I take no responsibility for information outside of the tax return preparation process, unless I relied upon outside information as noted in the end of this prepared statement or attachment for the purposes of explanation that [insert name of producer] complies with the applicable average AGI limitations. • I have not been engaged to continually monitor the tax law for this client or to continually monitor factors related to the client's AGI or other tax calculations for the relevant years. Therefore, I am not in a position to notify the government of changes to facts or circumstances (whether or not material) that would make this certification no longer accurate. • Under Internal Revenue Code Section 7216 and other confidentiality standards, I may only provide client information upon specific written authorization from the client to release such information, including tax return information, to a third party.

Example of Statement for Average AGI Compliance Verification (Continued)

The following are correct statements:

- Based on a representation provided by *[insert name of producer]*, or the confirmations of *[his/her]* e-filed federal income tax returns *[insert the applicable tax return form number]*, the *[2005, 2006, and 2007 (if for 2009) or 2006, 2007, and 2008 (if for 2010)]* federal income tax returns were timely filed.
- I am not aware of subsequently filed federal income tax returns, whether superseding or amended, other than those identified above related to the tax years identified above.
- I am not aware of any adjustments made by the Internal Revenue Service or any state taxing authority to the federal income tax returns identified above.
- I understand that, consistent with the definitions in 7 CFR Part 1400, “farm income” means income or benefits derived from or related to sources and activities listed at 7 CFR § 1400.501, and “nonfarm income” is the total adjusted gross income minus the total farm income.”
- According to the most recent returns filed for the years identified above, *[insert name of producer]*:
 - reported farm average AGI was \$_____ based on the following amounts:
[List each tax year and farm AGI amounts for each year.]
 - reported farm average AGI includes amounts identified on the following line(s) and Schedule(s):
[List lines and Schedules where farm income was reported for each tax year.]
 - reported nonfarm average AGI was \$_____ based on the following amounts:
[List each tax year and nonfarm AGI amounts for each year.]

[Include the following, if applicable.]

- Although the calculated *[insert “average nonfarm AGI” or “average farm AGI”, as applicable]* indicated in this letter exceeds the applicable AGI limitation, I believe that *[insert name of producer]* complies with the average AGI limitation requirements for the reasons that are set forth in detail in the space below or the attached document. *[insert name of producer]* has represented to me that the attached information is, to the best of *[his/her]* knowledge, true, correct, and complete. I am not aware of any discrepancies and do not have any reason to believe otherwise.

I declare that the statements made herein, to the best of my knowledge and belief, are true, correct, and complete.

Signed

[insert name of CPA or attorney, as applicable], [insert title, “CPA” or “Attorney”, as applicable]

Dated: *[insert date]*