

**For:** State and County Offices

**Expansion of Average Farm AGI to Include Wages and Dividends**

**Approved by:** Deputy Administrator, Farm Programs



**1 Overview**

**A Background**

Average AGI means the average of the adjusted gross income as defined under 26 U.S.C. 62 or comparable measure of the person or legal entity over the 3 taxable years preceding the most immediately preceding complete taxable year.

5-PL, paragraph 312 describes average farm AGI and identifies sources of income that may be considered income from farming, ranching, or forestry activities. Previously, income from wages or dividends received from a legal entity were not considered income from farming, ranching, or forestry activities.

Some corporate businesses use wages or dividends to distribute profits to the members, partners, or stockholders holding an ownership interest in the legal entity.

**B Purpose**

This notice provides the following:

- updated definition of “average farm AGI” to include wages and dividends from a legal entity when the wage or dividend is derived from a legal entity engaged in farming, ranching, and forestry activity
- effective program year for using the updated definition of “average farm AGI”
- an authorized representative of the legal entity, from which the wage or dividend is received, must certify that the legal entity materially participates in a farming, ranching, or forestry activity
- a revised CCC-942 (Exhibit 1).

<b>Disposal Date</b>	<b>Distribution</b>
January 1, 2021 8-12-20	State Offices; State Offices relay to County Offices

## Notice PL-290

### 2 Definition of Average Farm AGI

#### A Defining Wages and Dividends as Farm Income

Wages or dividends may be considered income from farming, ranching, or forestry only **if** received from any of the following legal entities.

- An Interest Charge International Sales Corporation (IC-DISC) materially participating in a farming, ranching, or forestry activity. The dividend must be derived from sources identified to be from farming, ranching, or forestry.

**Note:** IC-DISC is a domestic corporation that has elected to be an IC-DISC according to IRS code. The corporation must be organized under the laws of a State and must meet specific IRS requirements to qualify as an IC-DISC. The IC-DISC dividend is derived from the sale of exported products. Special provisions in the tax code reclassifies the income from ordinary income to dividends to obtain a preferential capital gains tax rate on the income. This provision in the tax code was enacted to make U.S. exporters competitive with other countries that had much lower corporate tax rates.

- A “closely held” legal entity materially participating in a farming, ranching, or forestry activity.

**Note:** A “closely held” legal entity is described as owned, directly or indirectly, by 5 or fewer individual persons holding more than 50 percent ownership interest in the legal entity structure.

**Example:** ABC Corporation is comprised of 100 stockholders. Five or fewer stockholders must own more than 50 percent of ABC Corporation (directly or indirectly) to be considered a “closely held” legal entity.

- A legal entity comprised entirely of family members as described in 5-PL, paragraph 213, when the legal entity is materially participating in a farming, ranching, or forestry activity.

Materially participating means more than 50 percent of the legal entity’s gross receipts for each tax year in the 3-year period used to compute the average farm AGI are derived from farming, ranching, or forestry sources described in 5-PL, paragraph 312.

#### B Applicability

The updated definition of “average farm AGI” that includes wages and dividends is applicable for program year 2020 and subsequent years.

## Notice PL-290

### 2 Definition of Average Farm AGI (Continued)

#### C Farm AGI Certification Responsibilities

The producer and Certified Public Accountant or attorney are responsible for computing and accurately certifying the applicant's average farm AGI and whether the farm AGI is at least 75 percent of the total AGI.

The producer **must** provide the legal entity's name and TIN from which the wage or dividend is received. An authorized representative of the legal entity **must** provide a signed statement attesting that the legal entity materially participated in a farming, ranching, or forestry activity in each of the 3 years used to compute the average farm AGI.

**Example:** "I, [First Name Last Name], am an authorized representative of [Name of Legal Entity] and certify that more than 50% of the corporate's annual gross receipts are derived from farming, ranching, or forestry activities for each year in the 3-year base period used to calculate the farm AGI. [signature, date]"

**Note:** The certification must be attached to CCC-942.

#### D Recording Certifications of Average Farm AGI for Coronavirus Food Assistance Program (CFAP)

Certifications on CCC-942 for CFAP must be recorded in subsidiary year 2020 according to 3-PL (Rev. 2), paragraph 43.

### 3 Action

#### A State Office Action

State Offices will:

- immediately notify County Offices of the contents in this notice
- contact Paul Hanson, Program Manager with any questions about this notice to either of the following:
  - e-mail to [paul.hanson@usda.gov](mailto:paul.hanson@usda.gov)
  - telephone at 202-720-4189.

#### B County Office Action

County Offices will:

- review the provisions as provided in this notice
- contact the State Office with any question about this notice.

# Example of CCC-942, Certification of Income From Farming, Ranching and Forestry Operations

This form is available electronically.		OMB No. 0560-0293 OMB Expiration Date: 04/30/2022	
<b>CCC-942</b> (08-12-20)		U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation	
<b>CERTIFICATION OF INCOME FROM FARMING,                  RANCHING AND FORESTRY OPERATIONS</b>		1. PROGRAM YEAR:  2. Return completed form to (Name and address of FSA county office or USDA Service Center):	
<p><b>NOTE:</b> <i>The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a – as amended). The authority for requesting the information identified on this form is Sec. 5 of the Commodity Credit Corporation Act [15 U.S.C. 714 et seq]. The information will be used to determine eligibility for program benefits. The information collected on this form may be disclosed to other Federal, State, Local government agencies, tribal agencies, and nongovernment entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-2, Farm Records File (Automated).</i></p> <p><b>Public Burden Statement (Paperwork Reduction Act):</b> Public reporting burden for this collection is estimated to average 5 minutes per response, including reviewing instructions, gathering and maintaining the data needed, completing (providing the information), and reviewing the collection of information. You are not required to respond to the collection or FSA may not conduct or sponsor a collection of information unless it displays a valid OMB control number. <b>RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.</b></p>			
3. Name and Address of Individual or Legal Entity (Including Zip Code) (If general partnership or joint venture, complete only for each member)		4. Last (4) Digits - Taxpayer Identification Number (TIN) (Social Security Number for Individual; or Employer Identification Number for Legal Entity)	
<b>PART A – CERTIFICATION OF FARM INCOME</b>			
5. Individuals and Legal Entities exceeding the \$900,000 AGI limitation may otherwise qualify for certain program benefits, when the program authorizes the individual or legal entity to qualify based on following conditions: <ul style="list-style-type: none"> <li>at least 75 percent of the individual's or legal entity's average adjusted gross income (AGI) for the 3 taxable years preceding the most immediately preceding complete taxable year was derived from farming, ranching or forestry operations. For example, if the program year is 2019, then the 3-year period for the calculation will be the taxable years of 2017, 2016 and 2015.</li> <li>a certification from a licensed CPA or an attorney is submitted to the FSA/USDA Service Center identified in Item 2, attesting that at least 75 percent of the individual's or legal entity's average AGI for the 3 taxable years preceding the most immediately preceding complete taxable year was derived from farming, ranching, or forestry operations. The CPA or Attorney may meet this requirement by completing Part C below or providing a similar statement that is acceptable to FSA.</li> </ul>			
<b>PART B – CERTIFICATION BY INDIVIDUAL OR ENTITY</b>			
By signing this form: <ul style="list-style-type: none"> <li>- I acknowledge the average AGI for the applicable program year exceeds the \$900,000 statutory AGI limitation for the individual or legal entity identified in Item 3.</li> <li>- I acknowledge that I have read and reviewed all definitions and requirements on Page 2 of this form;</li> <li>- I certify that all information contained in a certification from a CPA or attorney is true and correct, and is consistent with the tax returns filed with the IRS for myself or the legal entity that is seeking to qualify for program benefits subject to a certification of farm income;</li> <li>- I acknowledge that failure to provide the certification referenced in Part A to FSA will result in being ineligible for the applicable program benefit;</li> <li>- I certify that I am authorized under applicable state law to sign this certification on behalf of the legal entity identified in Item 3 (for legal entity only).</li> </ul>			
6. Signature (By)		7. Title/Relationship of the Individual if Signing in a Representative Capacity	8. Date (MM-DD-YYYY)
<b>PART C – CERTIFICATION BY CERTIFIED PUBLIC ACCOUNTANT / ATTORNEY</b>			
By signing this form: <ul style="list-style-type: none"> <li>- I acknowledge that I have read and reviewed all definitions and requirements on Page 2 of this form;</li> <li>- I certify the producer identified in Items 3 and 4 has met the minimum requirements specified in Part A for the program year identified in Item 1.</li> </ul>			
9. Signature	10. Title (CPA/Attorney)	11. State/License Number	12. Date (MM-DD-YYYY)
In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.			
Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.			
To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at <a href="http://www.ascr.usda.gov/complaint_filing_cust.html">http://www.ascr.usda.gov/complaint_filing_cust.html</a> and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: <a href="mailto:program.intake@usda.gov">program.intake@usda.gov</a> . USDA is an equal opportunity provider, employer, and lender.			