

For: State and County Offices

Adjusted Gross Income (AGI) Documentation for Trade Adjustment Assistance (TAA)

Approved by: Deputy Administrator, Farm Programs



1 Overview

A Background

Under the TAA program, applicants must certify that their average AGI for the 3 preceding tax years does not exceed \$2.5 million. Notice SP-5 provided the initial instructions for administering this requirement and Notice SP-13 provided further guidance about documenting average AGI for TAA applicants.

Questions continue to arise over this certification and, specifically, the AGI documentation requirements for an application to be accepted and approved.

B Purpose

This notice provides State and County Offices with:

- information about how the AGI requirement under TAA differs from other programs
- notice that current AGI regulations will be amended to reduce the burden of documenting AGI certifications
- relief for administering the AGI documentation requirement under TAA.

C Contact

State Offices shall direct questions about this notice to Gene Rosera by:

- e-mail at gene_rosera@wdc.usda.gov
- telephone at 202-720-8481.

Disposal Date	Distribution
June 1, 2004	State Offices; State Offices relay to County Offices

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2 AGI Requirement Under TAA

A Statutory Requirement

The AGI limitation for TAA applicants is established by the Trade Act of 2002 which provides that a producer may not be eligible for TAA assistance in any year in which the average AGI of the producer exceeds the level set forth in the Food Security Act of 1985, Section 1001D. The limitation set forth in the Food Security Act of 1985 is \$2.5 million.

B AGI Regulations for Programs Other Than TAA

Before the TAA program regulations were established, regulations published in June 2003 at 7 CFR Part 1400 Subpart G set forth how the AGI limitation would be administered to applicable programs other than for TAA.

Specifically, 7 CFR Part 1400.602(a) provides that to comply with the AGI limitation, the applicant shall provide CCC with 1 of the following:

- a certification from a CPA or attorney that the applicant does not exceed the limit
- a certification from the applicant (that may be submitted without documentation)
- submission of relevant IRS documents and supporting financial data (that the regulation goes on to define).

It is common for most applicants for other programs to self-certify their average AGI by signing CCC-526 and not providing supporting documents. Undocumented certification of average AGI remains available to all applicants except under the TAA program.

C AGI Regulations for TAA Program

The regulations to administer TAA were published by the Foreign Agricultural Service (FAS) in August 2003 at 7 CFR Part 1580. These regulations are different from AGI regulations for other programs. They currently require that a TAA applicant, to comply with their AGI certification, **must supply** either of the following:

- supporting documentation from a certified public accountant or attorney
- relevant documentation and other supporting financial data, such as financial statements, balance sheets, and reports prepared for or provided to IRS or another U.S. Government agency.

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2 AGI Requirement Under TAA (Continued)

D Administrative Relief Provided

Notice SP-5 explained that TAA applicants were excused from submitting CCC-526 and any documentation of their AGI certification that was provided by signing FSA-229. Because of those instructions, many TAA applications have been accepted on the basis of self-certifications of average AGI.

FAS has agreed to amend its regulation that has required producers to document their AGI certifications. The amended regulation will allow TAA applicants to self-certify their AGI without providing either tax records or statements from a CPA or attorney at the time of the application.

Therefore, to provide uniform program administration, TAA applications submitted without AGI documentation on the basis of instructions contained in Notice SP-5 may be accepted, approved, and processed for payment without AGI documentation. Instructions included in Notice SP-13 that required TAA applicants to document their AGI certifications are rescinded.

However, any applications selected for spot check, or otherwise identified as likely not meeting the AGI requirement, may be required to document their AGI certification.

Spot-check procedures will be issued in a future notice.

3 Action

A State Offices Action

State Offices shall:

- publicize the contents of this notice immediately to the maximum extent possible
- instruct County Offices to notify TAA applicants of the contents of this notice.