

AVERAGE ADJUSTED GROSS INCOME (AGI) SUPPLEMENTAL

- Why is it necessary to certify and verify compliance with the average AGI limitations?

The Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill), as amended by the American Taxpayer Relief Act of 2012 (Pub L. 112-240), 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. 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; \$1 million average AGI for direct payments under the 2012 and 2013 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-931 or CCC-933, Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information. The U.S. Government Accountability Office (GAO) concluded in a recent report that, without an adequate verification process, USDA could not ensure program payments and benefits 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 the average AGI certification?

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 form CCC-931 or CCC-933, Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information. The CCC-931 form allows the selection of 2009, 2010, 2011, or 2012. 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. Selection of "2012" on the form authorizes IRS to perform the average AGI calculations for the 2008, 2009 and 2010 tax years. The CCC-933 is for 2013 only and authorizes the IRS to perform the average AGI calculations for the 2009, 2010 and 2011 tax years. The CCC-931 or the CCC-933 must be completed for the same year an individual or legal entity requested payments or benefits under programs subject to the AGI limitations.

- When must the applicant certification and 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. It is recommended that the CCC-931 or the CCC-933 be completed at the same time as an application or request for program benefits is submitted. The completed and signed CCC-931 or the CCC-933 should be mailed or returned directly to the local FSA office or USDA Service Center. Authorized FSA personnel will record the average AGI certification and forward the completed CCC-931 and the CCC-933 forms to the IRS for completion of the verification process.

- What if the certification and consent form is not completed and returned to FSA?

Failure to provide the certification and consent form may require refund of applicable payments received from FSA and NRCS.

- 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 limitation 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-931 and CCC-933. And, IRS and USDA access to the information collection is highly limited, extending only to that access required by the specified purpose.