

§ 1400.602

7 CFR Ch. XIV (1-1-08 Edition)

(c) For purposes of applying this subpart and calculating the three-year average referenced in §1400.600, that average shall be for the adjusted gross income for the three tax years immediately preceding the applicable crop, program or fiscal year, as determined by CCC. For an entity that is not required to file a federal income tax return, or an individual or entity that did not have taxable income in one or more tax years, the average shall be the adjusted gross income, including losses, averaged for the three tax years immediately preceding the applicable crop, program or fiscal year, as determined by CCC. However, a new entity will have its adjusted gross income averaged only for those years of the base period for which it was in business, but a new entity shall not be considered “new” to the extent it takes over an existing operation and has any elements of common ownership or interests with the preceding entity, or with individuals or entities with an interest in the “old” entity. When there is such commonality, income of the “old” entity will be averaged with that of the “new” entity for the base period.

[68 FR 33346, June 4, 2003]

§ 1400.602 Compliance.

(a) To comply with the average adjusted gross income limitation, an individual or entity, including all interest holders in an entity, general partnership or joint venture, shall provide the following as required by CCC:

(1) A certification in the manner prescribed by CCC from a certified public accountant or attorney that the average adjusted gross income of the individual or entity does not exceed this limitation;

(2) A certification in the manner prescribed by CCC from the individual or entity that the average adjusted gross income of the individual or entity does not exceed this limitation; or

(3) Submission to CCC of the relevant Internal Revenue Service documents and supporting financial data as requested by CCC. Supporting financial data may include State income tax returns, financial statements, balance sheets, reports prepared for or provided to another Government agency, information prepared for a private lender,

and other credible information relating to the amount and source of the individual's or entity's income.

(b) Audits of certifications of average adjusted gross income may be conducted as necessary to determine compliance with the requirements of this subpart. As a part of this audit income tax returns may be requested and if requested must be supplied. Relevant income tax returns and documentation must be retained a minimum of two years after the end of the calendar year corresponding to the year for which payments or benefits are requested. If an individual or entity has submitted information to CCC, including a certification from a certified public accountant or attorney, that relied upon information from a form previously filed with the Internal Revenue Service, such individual or entity shall provide to CCC a copy of any amended form filed with the Internal Revenue Service within 30 days of the filing.

(c) The individual or entity shall provide all information and documentation the reviewing authority determines necessary to verify any information or certification provided under this subpart, including all documents referred to in paragraph (a)(2) of this section. Failure to provide necessary and accurate information to verify compliance, or failure to comply with this subpart's requirements, will result in ineligibility for all program benefits subject to this subpart for the year or years subject to the request.

(d) All information provided to CCC for the purposes of determining compliance with this subpart will remain confidential and not be subject to any request submitted under the Freedom of Information Act.

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§ 1400.603 Commensurate reduction.

(a) Any program payment or benefit subject to this subpart provided to an entity, general partnership or joint venture shall be reduced by an amount commensurate with the direct and indirect ownership interest in the entity, general partnership, or joint venture of each individual or entity determined to have an average adjusted gross income in excess of the limitation under the standards provided elsewhere in this