CORPORATE FARMER

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TAX FORMS CHANGING AGAIN IN 2019

IRS unveiled many new draft forms this month. Although these forms are not final, several are worth reviewing.

Good-bye Postcard…

Although opinions about tax reform vary among tax practitioners, there is one 2018 change that was nearly universally chided. The 2018 Form 1040—while created to showcase a new, "simplified" approach to individual income tax returns—actually led to more attachments, a more cumbersome review process, and numerous tax practitioner complaints.

It appears IRS listened (and likely had its own struggles with the form), revealing this month a draft 2019 Form 1040 restoring many features from the past. Even so, the draft is a composite of old and new. We'll still have numbered schedules and the two pages don't quite fill the page. And notice:

- There's no question about healthcare because the shared responsibility payment is -0- in 2019.
- The Qualified Business Income deduction requires a new Form 8995 or 8995-A to be attached.
- The signature lines have returned to the back, where the bottom-line numbers are reported.

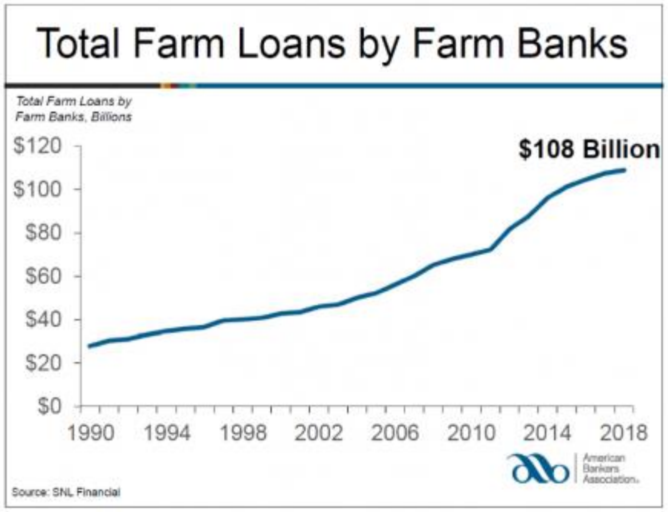
Hopefully the changes will result in fewer issues. The 2018 tax year was definitely marred with income matching problems, missing information relating to deductions such as the Domestic Production Activities Deduction, and other errors caused by trying to cram too much information into fewer lines on the 1040. Simplification is supposed to mean fewer problems but the result ended up being more IRS correspondence than in prior years.

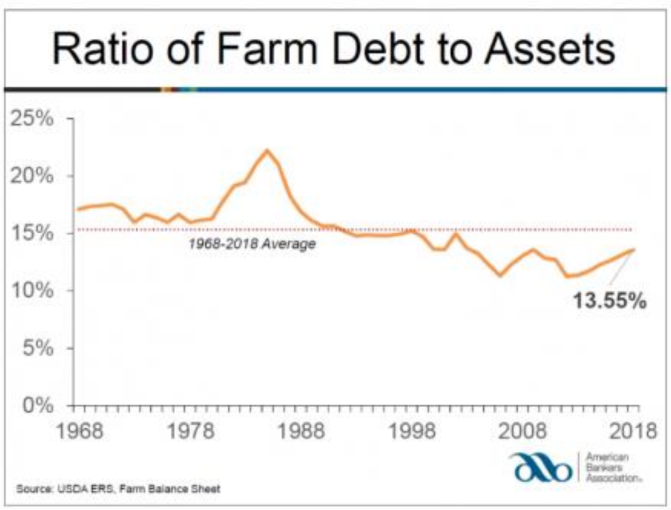
CONGRESS PASSES BILL TO INCREASE CHAPTER 12 DEBT LIMIT

It's been a long-debated issue, but Congress has now passed a bill to increase the debt limit for Chapter 12 bankruptcy eligibility. On August 1, 2019, the Senate passed the Family Farmer Relief Act of 2019, a brief bill significantly increasing the amount of debt a farmer may have to be considered a "family farmer" eligible for Chapter 12 bankruptcy protection. The bill increases the debt limit to $10,000,000 from the $4,411,400 million current limit (indexed for inflation on April 1, 2019, from the statutory figure of $3,237,000). 11 U.S.C. § 101(18). The Senate action followed House passage of the bill, H.R. 2336, on July 25, 2019. The bill now awaits the President's signature.

Proponents of the bill argued that the increase was needed since farm size and corresponding debt loads have risen dramatically since Chapter 12 was first instituted in 1986. Despite inflationary adjustments every three years since 2005, they argue that the debt limit has not kept up with the economic realities of modern farming. As such, some "family farmers" are prevented from using the Chapter 12 provisions that could allow them to avoid liquidation or foreclosure and continue farming in the wake of financial distress. Chapter 11, the business reorganization chapter of the Bankruptcy Code, is not a viable option for many of these farmers. Chapter 12 contains special tax provisions that better allow eligible farmers to "right size" their distressed operation and craft a feasible plan to repay their secured debt. Some tax debt associated with the sale of property is subject to priority stripping, meaning that these tax liabilities may be treated as unsecured debt and ultimately discharged. Without this special provision, tax liabilities would absorb substantial income otherwise available to create a feasible repayment plan. These farmers have no option but to liquidate.

The American Bankers Association opposed the change in a July 11 comment letter, arguing that the new limit could "ultimately increase the cost of borrowing for farmers and ranchers and reduce the overall availability of credit." The letter included two charts illustrating challenges associated with the current agricultural economy.





As of the date of this newsletter the President has yet to sign the bill.

USDA HAS RELEASED DETAILS FOR 2019 MFP PAYMENT

On July 25, 2019, USDA published details as to how payments will be made under the 2019 Market Facilitation Program (MFP). First announced May 23, 2019, the 2019 MFP will include up to $14.5 billion in direct payments to producers. Payment details are now posted on the MFP page of the USDA website. Signups for this program will begin Monday, July 29, and end December 6, 2019. Specific application procedures are yet to be posted.

The associated rule issued by the Farm Service Agency and Commodity Credit Corporation expands the rule issued for the 2018 MFP. It states that 2019 MFP payments will provide producers with financial assistance to give them the ability to absorb some of the additional costs from "having to delay or reorient marketing of the new crop due to the trade actions of foreign governments resulting in the loss of exports."

Payment Basics

MFP payments will be issued in up to three separate rounds. Whether the second and third rounds of payments will be made will depend upon market conditions and trade opportunities. If authorized, the second round of payments will be made in November, and the third in early January.

Eligible Commodities

- Commodities eligible for 2019 MFP payments include:
- Non-specialty crops, including alfalfa hay, barley, canola, corn, crambe, dried beans, dry peas, extra-long staple cotton, flaxseed, lentils, long grain and medium grain rice, millet, mustard seed, oats, peanuts, rapeseed, rye, safflower, sesame seed, small and large chickpeas, sorghum, soybeans, sunflower seed, temperate japonica rice, triticale, upland cotton, and wheat.
- Specialty crops, including almonds, cranberries, cultivated ginseng, fresh grapes, fresh sweet cherries, hazelnuts, macadamia nuts, pecans, pistachios, and walnuts.
- Dairy and hogs.

Eligible Producers

To be eligible for payments, producers must either:

- Have an average adjusted gross income for tax years 2014, 2015, and 2016 of less than $900,000 **OR**
- Derive at least 75 percent of their adjusted gross income from farming or ranching (this provision was made possible by the 2019 Disaster Relief Act)

In addition to having a share in the commodity, to be eligible for an MFP payment for non-specialty crops, each applicant is required to be a person or legal entity who was "actively engaged in farming," as provided in 7 CFR 1409.3.

To be eligible, producers must comply with the provisions of the "Highly Erodible Land and Wetland Conservation" regulations. They also must have reported to FSA on form FSA-578, "Report of Acreage" the acreage planted for the 2019 crop year by the applicable acreage reporting dates.

> **Note:** Producers who did not file a 2019 acreage report by applicable acreage reporting dates must file a "late filed" acreage report under existing FSA procedures.

Similarly, producers who were prevented from planting a crop by the final acreage reporting date must submit a "late filed" acreage report regarding any CCC approved cover crop that was planted.

Payment Rates and Details
The first 2019 MFP payment, which will be made in mid-to-late August, will comprise the ***higher of***:

- 50 percent of a ***producer's calculated payment*** or
- $15 per acre.

Calculated Payment

Non-Specialty Crops
For non-specialty crops, the producer's calculated payment is based on a single-county payment rate multiplied by a farm's total acres of MFP-eligible crops in the aggregate in 2019. (See the county per acre payment rate table posted on the USDA website to determine county payment rate). The total number of acres used to calculate a MFP payment on a farm is equal to **2019 planted acres** of non-specialty crops (not to exceed 2018 planted acres and prevented planted acres of non-specialty crops, as adjusted for acreage that is available for planting as the result of 2018 expired Conservation Reserve Program contracts).

Producers who filed a prevented planting claim and planted an FSA-certified cover crop, **with the potential to be harvested**, qualify for a $15 per acre payment. **Acres not planted in 2019 are not eligible for an MFP payment**. Payments are not dependent on which non-specialty crops are planted in 2019. Non-specialty crops, including cover crops, must be planted by August 1, 2019, to be eligible for MFP payments.

Specialty Crops
The payment rates for specialty crops are as follows:

- Nuts: $146 per acre
- Cranberries: $.03 per pound at 21,371 pounds per acre
- Ginseng: $2.85 per pound at 2,000 pounds per acre
- Sweet cherries (fresh): $0.17 per pound at 9,148 pounds per acre
- Table grapes: $0.03 per pound at 20,820 pounds per acre

Dairy and Hogs
Dairy producers in business as of June 1, 2019, will receive a $0.20 per hundredweight payment based on production history.

Hog producers will receive $11 per head based on the number of live hogs owned on a day between April 1 and May 15, 2019, selected by the producer.

Payment Limits
MFP payments are limited to a combined $250,000 for non-specialty crops per person or per entity. MFP payments are also limited to a combined $250,000 for dairy and hog producers and a combined $250,000 for specialty crop producers. **But no applicant can receive more than $500,000**.

Some Producers Newly Eligible for 2018 Payments
The Disaster Relief Act of 2019 allows certain producers who were previously ineligible for 2018 MFP payments to now collect. This includes those with an average AGI higher than $900,000, but 75 percent or more of their average AGI derived from farming and ranching. These producers will be eligible to sign-up to receive payments for 2018 through a supplemental MFP signup period that will run concurrently with the 2019 MFP signups, from July 29 through December 6, 2019.

SOCIAL SECURITY REFORM STILL A BIG ISSUE

If nothing is done to protect Social Security benefits, its reserves will be depleted in 2035.

At that time, the system will only be able to pay 80% of benefits.

Rep. John Larson, D-Conn., the ranking member of the Ways & Means Subcommittee on Social Security, has a plan aimed at correcting that for the rest of this century. Larson has worked on Social Security reform for the majority of his 20 years in Congress.

His latest proposal — the Social Security 2100 Act — has 204 co-sponsors. It also has the backing of industry groups including the AFL-CIO, the National Committee to Preserve Social Security and Medicare and Social Security Works.

The bill would provide a boost for beneficiaries equal to 2% of the average benefit, set the minimum benefit at 25% above the poverty line and change the way the annual cost-of-living adjustment is calculated.

The plan also would raise the limits on non-Social Security income before benefits begin to be taxed. The new caps would go to $50,000 for individuals and $100,000 for couples, up from the current $25,000 and $32,000.

In order to pay for those changes, which would sustain the system through the end of the century, the plan also would apply payroll taxes to wages over $400,000 and gradually increase the contribution rate for both workers and employers to 7.4% from 6.2% of wages between 2020 and 2043.

The subcommittee's top Republican, Tom Reed of New York, stressed that his party's mission is to secure the future financing of Social Security without tax increases. Instead, the GOP solution would focus on a "LEAP" into the future. Mr. Reed explained that the LEAP acronym stands for: Long-term economic growth by encouraging work, not penalizing it; Equal treatment for public servants; Acting now to defend those future generations' benefits; and protecting the most vulnerable people through focused reforms.

The two parties are far apart on their initial approaches to Social Security reform and they have their work cut out for them. But at least they are talking about it for the first time in years, and that's a good start.

Real reform is obviously going to take bipartisan support to pass. Generally, Democrats want to increase Social Security benefits and raise taxes. Republicans oppose tax increases and want to eliminate restrictions on how much people can earn while collecting benefits before full retirement age.

Some Republicans also support eliminating reductions of Social Security benefits for public employees. The Windfall Elimination Provision and the Government Pension Offset rule reduce, or in some cases eliminate, Social Security benefits for workers who didn't pay FICA taxes during their government service, but who also worked long enough in the private sector to qualify for Social Security or who are married to workers who are entitled to benefits.

Watch for Social Security reform to be a big issue in next year’s presidential election.

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