



Corporate Farmer Tax Tips

The following is a blog post from Iowa State University
Center for Agricultural Law and Taxation

Congress Provides \$10 Billion for 2020 and 2021 Ag Disaster Payments

October 8, 2021 | Jennifer Harrington and Kristine Tidgren

On September 30, 2021, President Biden signed a continuing resolution into law. This new law, intended to temporarily fund the government through December 3, 2021, also contains provisions to provide new retroactive disaster relief to some farmers impacted by the 2020 derecho and other weather events.

In Division B of the [“Extending Government Funding and Delivering Emergency Assistance Act”](#) (the formal title of the continuing resolution), Congress appropriated \$10 billion dollars for a disaster indemnity program to cover losses of crops, trees, bushes, and vines arising from specified severe weather events. Crop losses are defined to include milk, on-farm stored commodities, crops

prevented from planting in 2020 and 2021, and harvested adulterated wine grapes. Eligible weather events include “droughts, wildfires, hurricanes, floods, derechos, excessive heat, winter storms, freeze, including polar vortex, smoke exposure, quality losses of crops and excessive moisture occurring in calendar years 2020 and 2021.”

The law specifies that losses due to drought are eligible if the area was rated by the U.S. Drought Monitor as having a D2 (severe drought) for eight consecutive weeks or a D3 (extreme drought) or higher level of drought intensity at any time during 2020 or 2021. These losses will generally be paid through a retroactive extension of the WHIP+ program, the Milk Loss Program, and the On-Farm Storage Loss Program. Additionally, the law instructs USDA to make \$750 million of the funds available to provide assistance to livestock producers suffering losses during 2021 because of drought or wildfires.

Congress has granted USDA 120 days to submit a report to Congress outlining the method of how payments will be distributed to producers. The \$10 billion will be available for use by the USDA until the end of 2023.

Payment Limitations

The law instructs USDA to generally apply the same payment limitation rules that applied to prior WHIP+ payments. If less than 75% of the farmer’s or legal entity’s average adjusted gross income is farm income, then the disaster payment will be limited to \$125,000 per year. For those with 75% or more of income arising from farming, the limitation is increased to \$250,000 per year. In other words, a farmer could receive up to \$500,000 from this expanded program if the producer is eligible during calendar years 2020 and 2021.

Interaction with Crop Insurance

Producers who were insured by federal crop insurance or the Noninsured Crop Disaster Assistance Program (NAP) may receive up to 90% of the loss, but the amount received from the insurance programs will be counted when making the 90% determination. Producers who chose not to have federal crop insurance or NAP will receive up to 70% of their losses. Those producers who receive payments will be obligated to purchase crop insurance (where available) for the next two crop years after payment is received. If no crop insurance is available, then the producer must purchase coverage under NAP for the next two crop years.

What’s Next?

Producers who suffered disaster-related losses in 2020 and 2021 should watch www.farmers.gov for program announcements and associated application deadlines from the USDA.

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