

2008 Farm Bill: Tax Law Changes¹

The 2008 Farm Bill incorporates several self-employment and income tax changes affecting North Carolina farmers. These changes affect the reporting of income, expenses, deductions and credits that are reported on income tax returns as required. Information reporting requirements relative to various payments farmers receive is also affected by the new Farm Bill.

Taxpayers should contact their tax professional to discuss how these changes may affect their personal circumstances. Planning is encouraged to optimize the tax effect of these changes.

Highlights of Changes

Exclusion of Conservation Reserve Program Payments to Retired or Disabled Individuals from Self-Employment Taxes: IRS Notice 2006-108 set forth in a proposed revenue ruling that CRP payments were subject to self-employment taxes regardless if the recipient was retired and not actively farming or disabled. The 2008 Farm Bill provides that for taxpayers who are retired or disabled CRP payments will not be subject to self-employment taxes nor will these payments reduce the taxpayer's social security or disability payment or benefit being received. This provision is effective for payments made after December 31, 2007.

Limitation on Farming Losses of Certain Taxpayers: The 2008 Farm Bill made changes relative to the ability of taxpayers to offset non-farm business income with farming losses. The new rules allow for the offset of non-farm business income to the greater of \$300,000 or the net farm income the taxpayer generated over the last five years. Losses that are limited may be carried forward to subsequent years. This provision is only applicable to taxpayers who receive any direct or counter-cyclical payments under TITLE 1 of the 2008 Farm Bill, or Commodity Credit Corporation (CCC) loans. This provision broadens the definition of "farming business" to include the processing of commodities regardless of the scope of the taxpayer's activity in the processing versus production of the commodity. The effective date is for tax years beginning after December 31, 2009.

Optional Self-Employment Tax: Prior law allowed taxpayers who experienced low to negative income (loss) to elect to earn social security credits using an optional method. Recently with the dollar amount increase of a "quarter of coverage" farmers and other self employed taxpayers did not earn sufficient coverage to maintain currency for disability or retirement purposes. The 2008 Farm Bill modifies this optional method of reporting self-employment earnings such that the taxpayer receives four quarters of coverage. This will increase the amount of self-employment tax collected since the tax is calculated on an higher level of income. The 2008 Farm Bill makes this modification to the non-farm optional method for the payment of self-employment taxes. The effective date for this provision is for tax years beginning after December 31, 2007.

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Rural Heritage Conservation Extension (Conservation Easements): With the passage of the 2008 Farm Bill a retroactive extension (from The Pension Protection Act of 2006) of the enhanced charitable contribution of conservation easements to December 31, 2009. For 2008 and 2009 taxpayers making a donation of qualifying real property may take a charitable deduction of 100% of AGI for farmers (defined by having >50% of gross income coming from farming) or 50% of AGI for other taxpayers. The 2008 Farm Bill also extends the 15 year (prior law was 5 years) carryover of any unused portion to donations made in 2008 and 2009.

Bioenergy Provisions:

1. Cellulosic Biofuels Credit: The 2008 Farm Bill creates a temporary production credit of \$1.01 per gallon until December 31, 2012. Cellulosic biofuels are produced from agricultural waste, wood chips, switch grass and other non-food feed stocks.
2. The 2008 Farm Bill reduces the 51¢ per-gallon credit for ethanol to 45 ¢ per gallon beginning January 1, 2009 and thereafter. Should the Treasury Department determine that production of ethanol, including cellulosic, not attain 7.5 billion gallons (including imports) the imposition of this reduction may be delayed.

Agricultural Bond Improvements: The tax exempt bonds known as “Aggie Bonds” issued by State and local jurisdictions provide for low interest loans for first-time farmers and ranchers. The 2008 Farm Bill enhances Aggie Bonds by:

1. Increasing the loan limit from \$250,000 to \$450,000 and inserting an inflation index; and
2. Eliminating the \$125,000 limitation of farmland a person can own in order to qualify for a low-interest loan.

Agricultural Chemicals Security Tax Credit: The 2008 Farm Bill creates a 30% business tax credit for retailers of agricultural products and chemicals as well as manufacturers, formulators, or distributors of certain pesticides. This credit is for the protection of these chemical products. The costs allowable for the credit are: employee security training, background checks of employees, security equipment installation and any information technology safeguards.

Information Reporting for Commodity Credit Corporation Transactions:

The 2008 Farm Bill codifies IRS Notice 2007-63 in which CCC must use Form 1099-G to report market gain in regards to any CCC loan repayment regardless if the taxpayer repays the CCC loan with cash or uses CCC certificates. This provision is effective for loans repaid on or after January 1, 2007.

Obtaining more information:

<http://finance.senate.gov/sitepages/legislation.htm>

<http://www.ag-econ.ncsu.edu/faculty/vanderhoeven/guido.htm>