2026 Agricultural Tax Issues

NATIONAL AGRICULTURAL LAW CENTER
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TAX UPDATES

GAIN FROM THE SALE OR EXCHANGE OF FARMLAND PROPERTY TO QUALIFIED FARMERS

- I.R.C. § 1062 allows certain sellers of farmland to pay their taxes on the gain in four equal installments, instead of all in the year after the sale.
- The first installment is paid by the due date of the return for the tax year of the sale or exchange. The additional installments are paid with the next three returns.

PURPOSE

- The I.R.C. § 1062 election allows sellers to hold onto their money longer and profit from it.
- It does not:
  - ✓ change the calculation of the tax
  - ✓ allow sellers to lower their tax rates
  - ✓ provide a mechanism to avoid the net investment income tax.

WHO CAN MAKE THE ELECTION?

- The election is available to:
  - ✓Individuals
  - ✓Trusts
  - ✓Entities such as corporations and partnerships.
- The provision is effective for sales or exchanges occurring in tax years beginning after July 4, 2025.
- For calendar year taxpayers, 2026 is the first year during which they can make this election.

WHO CAN MAKE THE ELECTION?

- Specifically, I.R.C. § 1062(a) allows a taxpayer who has gain from the sale or exchange of “**qualified farmland property**” to a “**qualified farmer**” to elect to pay the net tax liability in four equal installments.

QUALIFIED FARMLAND PROPERTY

- "Qualified farmland property" is real property located in the United States that during substantially all of the 10-year period ending on the date of the qualified sale or exchange:
  - ✓ has been used by the taxpayer either as a "farm" for "farming purposes" or leased by the taxpayer to a "qualified farmer" for farming purposes, and
  - ✓ is subject to a covenant or other legally enforceable restriction which prohibits the use of such property other than as a farm for farming purposes for 10 years after the date of the qualified sale or exchange.

- *Property that is used or leased by a partnership or S corporation is treated as used or leased by each person who holds a direct or indirect interest in such entity.*

"FARM"

- The terms "farm" and "farming purposes" have the same meanings used for special use valuation.
  - ✓The term "farm" includes stock, dairy, poultry, fruit, furbearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards and woodlands. [I.R.C § 2032A(e)(4)].

“FARMING PURPOSES”

- The term “farming purposes” means:
  - ✓ cultivating the soil or raising or harvesting any agricultural or horticultural commodity (including the raising, shearing, feeding, caring for, training, and management of animals) on a farm;
  - ✓handling, drying, packing, grading, or storing on a farm any agricultural or horticultural commodity in its unmanufactured state, but only if the owner, tenant, or operator of the farm regularly produces more than one-half of the commodity so treated; and
  - ✓the planting, cultivating, caring for, or cutting of trees, or the preparation (other than milling) of trees for market. [I.R.C § 2032A(e)(5)].

"QUALIFIED FARMER"

- A "qualified farmer" is an individual who is actively engaged in farming within the meaning of 7 U.S.C. §§ 1308-1(b) and (c)).
- These are the same rules used to determine farm program payment eligibility.

COVENANT OR USE RESTRICTION

- The seller can only make the election if the land is subject to a covenant or other legally enforceable restriction which prohibits the use of the property other than as a farm for farming purposes for 10 years after the date of the sale or exchange.
- A copy of the covenant must be filed with the first tax return following the sale or exchange.

1. Use Restriction

The Property shall be used exclusively for **farming purposes**, which include the cultivation, production, and management of crops, livestock, and other agricultural commodities, and related conservation or soil management practices.

For a period of ten (10) years from the date of this Covenant, the Property shall **not be used for any residential, commercial, industrial, or recreational purposes** unrelated to farming.

ACCELERATION OF PAYMENTS

- The statute includes several acceleration provisions.
  - ✓If the seller fails to make timely payments of the installments when due, they will be subject to a penalty, and the unpaid portion of all remaining installments will be due on the date of the failure.
  - ✓In an individual seller dies, the unpaid portion of all remaining installment shall be paid on the due date for the return for the taxable year in which the taxpayer dies.
  - ✓If the seller is a C corporation or a trust or estate and there is a liquidation or sale of substantially all the assets, a cessation of business by the taxpayer (in the case of a C corporation), or any similar circumstance, then the unpaid portion of all remaining installments will be due on the date of the event.

MAKING THE ELECTION

- To defer the payment of income tax liability, the qualifying taxpayer must make a section 1062 election on a **timely filed return** for the tax year of the sale or exchange.
  - ✓IRS has created Form 1062 and Form 1062 (Schedule A) to allow taxpayers to make the section 1062 election.
- For partnerships and S corporations the election is made at the partner or shareholder level, but entities have reporting obligations.

ESTIMATED TAX

- IRS issued **Notice 2026-3** to provide relief from an underpayment penalty to a taxpayer making a valid section 1062 election. If the required tax isn't paid because of the election, the *Notice waives penalty that would otherwise apply*.
- Specifically, the Notice states that the IRS will waive the portion of the addition to tax under sections 6654 and 6655 attributable to a proper section 1062 election.
- The limited waiver applies to the net tax liability deferred by the election.
  - ✓In other words, a taxpayer may exclude 75 percent of the applicable net tax liability (with respect to the qualified sale or exchange) from the calculation of the required annual payment for purposes of determining estimated income tax installment amounts for the taxable year of the qualified sale or exchange for which the section 1062 election is made.

EXAMPLE 2.1

- Jerry sells 450 acres of farmland with a basis of $3,000,000 to a qualified farmer for $5,000,000 in July of 2026. He has rented the farmland to this farmer for the past 12 years. Jerry recognizes $2 million in capital gain from this sale.
- Assuming a 20 percent tax rate, total tax liability is $476,000 (including net investment income tax). If Jerry makes a proper section 1062 election on his 2026 return, he can pay approximately $119,000 of tax each year. The first installment is due in 2027 with the filing of his 2026 return, and additional installments are due with his 2028-2030 returns.
- Jerry must have an enforceable covenant placed on the land ensuring the land will be used only for farming during the 10 years following the sale.
- **Assuming a 4.5 percent interest rate, this deferral will save Jerry around $41,000.**

SCHEDULE A (Form 1062)
(Rev. December 2026)
Department of the Treasury Internal Revenue Service

Section 1062 Gain From the Sale or Exchange of Qualified Farmland Property to a Qualified Farmer

File with Form 1062.
Go to *www.irs.gov/Form1062* for instructions and the latest information.

OMB No. 1545-0074
Attachment Sequence No. **106A**

Name	Identifying number
Jerry Bridges	xxx-xx-xxx

A Check if you are reporting section 1062 gain from a Schedule K-1 from a: **a** ☐ Form 1120-S, **b** ☐ Form 1065, **c** ☐ Form 8865, or **d** ☐ Form 1041

B If a box on line A is checked, enter the entity's **(1)** EIN ______ **(2)** name ______

Part I Qualified Farmland Property Information

1 Description of the qualified farmland property: **1** 450 acres of farmland, Story County, Iowa

2 Check if the property was a(n): **2a** ☐ Exchange, **2b** ☐ Installment sale, or **2c** ☑ Sale

3 Enter the date of the qualified sale or exchange of the property **3** 07/15/2026

		Yes	No
4	Had you used the property as a farm for farming purposes, or leased the property to a qualified farmer for farming purposes, during substantially all of the 10-year period ending on the date on line 3?	☑	☐
5	Is the property described on line 1 real property located in the United States?	☑	☐
6	Did you make the sale or exchange to a qualified farmer—an individual who is actively engaged in farming?	☑	☐
7	Is the property subject to a covenant or other legally enforceable restriction that prohibits the use of the property other than as a farm for farming purposes for any period before the date that is 10 years after the date on line 3?	☑	☐
8	Are you including with this return a copy of the covenant or other legally enforceable restriction described on line 7?	☑	☐

Next: If the answers to the questions on lines 4 through 8 are "Yes," go to Part II. If not, stop here; the disposition of this property does not qualify for the section 1062 deferral of payment of tax.

Part II Recognized Gain on Qualified Farmland Property

9	Gross sales price of the sale or exchange	9	5,200,000
10	Net sales price of the sale or exchange	10	5,000,000
11	Unadjusted basis of the qualified farmland property	11	2,750,000
12	Adjusted basis of the property	12	3,000,000
13	Recognized (taxable) gain on the qualified sale or exchange of this qualified farmland property	13	2,000,000

Note: For purposes of lines 4 through 8, property used or leased by a partnership, S corporation, decedent's estate, or trust is treated as used or leased by each person who holds a direct or indirect interest in the entity.

For Paperwork Reduction Act Notice, see separate instructions. Cat. No. 95881B **Schedule A (Form 1062) (Rev. 12-2026)** Created 7/21/26

Form **1062**
(Rev. December 2026)
Department of the Treasury
Internal Revenue Service

Deferral of Payment of Tax on Gain From the Sale or Exchange of Qualified Farmland Property to Qualified Farmers

File with your tax return.

Go to *www.irs.gov/Form1062* for instructions and the latest information.

OMB No. 1545-0074

Attachment Sequence No. **106**

Name	Identifying number
Jerry Bridges	XXX-XX-XXXX

File this form with your return to elect under section 1062 to defer payment of net income tax attributable to the gain on the sale or exchange of qualified farmland property during the tax year. File a separate Schedule A (Form 1062) for each qualified sale or exchange of qualified farmland that you want to take into account for purposes of this election.

Enter the total number of Schedules A (Form 1062) you are filing 1

Part I **Net Income Tax (Determined Including Section 1062 Gain Recognized From the Sale or Exchange of Qualified Farmland Property)**

1	Regular income tax (Form 1120, Schedule J, line 1a, or the applicable line of your return)	1	493,325
2	Additions to regular tax (see instructions)	2	0
3	Regular tax liability. Add lines 1 and 2	3	493,325
4a	Foreign tax credit	4a	0
4b	Nonrefundable personal credits	4b	0
4c	General business credits	4c	0
4d	Other credits (see instructions)	4d	0
4z	Total applicable credits. Add lines 4a through 4d	4z	0
5	Net income tax. Subtract line 4z from line 3	5	493,325

Part II **Net Income Tax Redetermined Without Regard to Section 1062 Gain Recognized From the Sale or Exchange of Qualified Farmland Property to Qualified Farmers**

6	Taxable income (Form 1120, line 30, or the applicable line of your return)	6	2,104,000
7	Total elected section 1062 gain from the sale or exchange of qualified farmland property to a qualified farmer (see instructions)	7	2,000,000
8	Taxable income excluding section 1062 gain on line 7. Subtract line 7 from line 6. If zero or less, enter -0-	8	104,000
9	Refigure your income tax on line 1 using line 8 as your taxable income	9	17,325
10	Refigure any additions to tax on line 2 using line 8 as your taxable income	10	0
11	Redetermined regular tax liability. Add lines 9 and 10	11	17,325
12	Refigure the credits on lines 4a through 4d using line 11 instead of line 3 as your regular tax liability.		
12a	Foreign tax credit	12a	0
12b	Nonrefundable personal credits	12b	0
12c	General business credits	12c	0
12d	Other credits (see instructions)	12d	0
12z	Total applicable credits. Add lines 12a through 12d. Do not enter more than line 11	12z	0
13	Redetermined net income tax. Subtract line 12z from line 11	13	17,325

Part III **Total Section 1062 Applicable Net Tax Liability and First Installment Due**

14	Total section 1062 applicable net tax liability. Subtract line 13 from line 5. Enter here and on Form 1120, Schedule J, line 22b, or the applicable line of your return. See instructions	14	476,000
15	**First installment due.** Enter 25% (0.25) of line 14 here and on Form 1120, line 32, or the applicable line of your return. See instructions	15	119,000

For Paperwork Reduction Act Notice, see separate instructions. Cat. No. 95880Q Form **1062** (Rev. 12-2026) Created 7/16/26

PREMIUM TAX CREDIT CHANGES

- The American Rescue Plan Act of 2021 significantly expanded the availability of the Affordable Care Act's premium tax credit (PTC) under IRC § 36B.
- On August 23, 2022, the Inflation Reduction Act extended these changes through 2025.
- Generally, the extended law allows many higher income individuals to qualify for a PTC. It also increases the amount of the premium tax credit available to those with lower incomes.

OBBBA DID NOT EXTEND

- The ACA originally created the PTC for taxpayers whose household income was between 100 and 400 percent of the federal poverty level (FPL), but this rule was modified **through 2025**. The PTC is generally paid in advance though an “advance premium tax credit” (APTC), which reduces or eliminates the premium that an individual enrolled in a Marketplace plan must pay.
- In 2025, taxpayers with incomes above 400 percent of the FPL could receive a PTC for any amount by which the premium for the second lowest cost silver plan exceeds 8.5 percent of their household income.
- That is no longer the case.

APPLICABLE PERCENTAGES

- For 2026, this is the percentage of household income taxpayers are required to contribute toward the cost of the second-lowest cost silver plan. The rest is paid for by the PTC.

Applicable Percentages

FPL Income	2026 Premium Percentage
< 133% FPL	2.1%
133% – 150% FPL	3.14% – 4.19%
150% – 200% FPL	4.19% – 6.6%
200% – 250% FPL	6.6% – 8.44%
250% – 300% FPL	8.44% – 9.96%
300% – 400% FPL	9.96%
> 400% FPL	Unlimited

EXAMPLE

Evan is 62 and Molly is 61. They are married and had MAGI of $87,000 in 2025.

Their SLCSP cost $1,803/month. Their health insurance premium coverage cost $21,636 a year because they chose the SLCSP.

This plan had an $11,000 deductible and a maximum out of pocket limit of $17,200.

In 2025, Evan and Molly were eligible for a monthly PTC of $1,194. They paid $609 per month for their coverage, and the PTC, paid in advance, picked up the difference. Their yearly premium cost for 2025 was $7,308.

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EXAMPLE

- In 2026, Evan and Molly, with projected income of $88,000, are not eligible for the PTC because their MAGI is greater than 400 percent of the FPL.
- If they choose to purchase the coverage on the Marketplace, they must pay $2,548/month or $30,576/year. The deductible is $10,000 and the maximum out of pocket limit is $17,200.
- Farmers may be looking for alternatives.

RECONCILING THE APTC

- For tax years before 2026 (except 2020 when excess advance payment of the Premium Tax Credit did not affect tax liability), if the advance credit payments for a year were more than the actual allowable credit for the year, a repayment cap limited the amount of the excess advance payment of the PTC that had to be repaid. The applicable repayment cap was based on household income and filing status for the year and applied only if the household income reported on the tax return was less than 400 percent of the FPL.
- **There is no repayment cap for tax years after 2025.** For tax years after 2025, taxpayers must repay the full amount by which the APTC exceeds the PTC. This amount is added to total tax liability, which will reduce a refund or increase the balance due.

RECONCILING THE APTC

- Caution: If you purchased insurance on the Marketplace, make sure your income does not exceed 400 percent of the FPL in 2026.
  - Selling an asset, etc.
- If it does **you must repay the entire premium tax credit**.

LEGITIMATE TAX DEDUCTIONS AND CREDITS

- Tied to a specific provision in the tax code.
- Usually promote an articulable Congressional purpose:
  - Encourage businesses to engage in research and development for the good of all.
  - Allow businesses to recover costs more quickly to stimulate the economy.
  - Defer tax liability to encourage the unhindered transfer of real property.
- Usually a little “boring.” Competent tax professionals can explain and understand them.
- Outside of the COVID-era benefits, tax benefits do not generate a “windfall.”

RED FLAGS

- Tax benefits are "promoted" by non-tax professionals.
- The promised benefits have some earmarks of validity, but they often seem too good to be true.
- There's implication of "secret" knowledge.
  - Everyone's been missing this. "Your tax person doesn't know about this."
- Clients pay a **large fee up front** to a consultant that is not filing the tax return or taking legal responsibility for the success of the filing.
- There are lots of promises of "success," with no actual proof.
  - "We've survived lots of IRS audits." "Lots of tax attorneys agree with this."

ASK YOUR TRUSTED TAX PROFESSIONAL

- Do NOT sign a contract or pay money to someone who has promised to secure you a tax benefit without first discussing in detail with me, your trusted agricultural tax advisor.
  - You must work with the person who will be signing the return **before you invest in a promise made by a third-party non-tax consultant**.

SECTION 179 - 2026

- **The 2026 Section 179 deduction limit is $2,560,000.**
- **The 2026 investment limit is $4,090,000.**
  - In 2026, the Section 179 deduction is phased out completely when a taxpayer purchases $6,650,000 or more of Section 179 property.

EXAMPLE

- ABC Farming, Inc., a C corporation, places $5,300,000 of Section 179 property into service during the 2026 tax year.
- The statutory investment limit for 2026 is $4,090,000. The Section 179 deduction must be reduced by the amount that the 2026 investment exceeds the limit ($5,300,000–$4,090,000 = $1,210,000).
- ABC Farming, Inc. can take a Section 179 deduction of $1,350,000 for the 2026 tax year, instead of the full $2,560,000, due to the investment limit ($2,560,000-$1,210,000).

SECTION 179 AND SUVS

- I.R.C. § 179(b)(5) limits the maximum section 179 deduction for a sport utility vehicle (SUV) placed in service after October 22, 2004, to $25,000.
- **Adjusted for inflation, this limit is $32,000 in 2026.**
- An SUV is defined as a four-wheeled vehicle designed to carry passengers over public streets, roads, or highways (but not operated exclusively on rails) that is not subject to I.R.C. § 280F and is rated at more than 6,000 but not more than 14,000 pounds GVW.

NOT SUVS SUBJECT TO LIMITS

- The SUV definition specifically excludes vehicles that are buses, pickup trucks, and cargo vans meeting the following definitions:
  - A bus is a vehicle designed to have a seating capacity of more than nine persons behind the driver's seat.
  - A pickup truck is a vehicle equipped with a **<u>cargo area at least six feet in interior length</u> that is an open area or is designed for use as an open area** but is enclosed by a cab and not readily accessible directly from the passenger compartment.
  - A cargo van is a vehicle that has an integral enclosure fully enclosing the driver compartment and load-carrying device. It does not have seating rearward of the driver's seat and has no body section protruding more than 30 inches ahead of the leading edge of the windshield.

BONUS DEPRECIATION

- "Qualified property" eligible for bonus depreciation includes the following:
  - Tangible property depreciated under MACRS with a recovery period of 20 years or less
  - Computer software defined in and depreciated under I.R.C. § 167(f)(1)
  - Water utility property
  - Qualified film, television, and live theatrical productions, as defined in I.R.C. § 181(d) and (e)
  - A specified plant for which the taxpayer elects to apply I.R.C. § 168(k)(5) for the tax year in which the plant is planted or grafted
  - Qualified improvement property

BONUS DEPRECIATION

- The OBBBA permanently increased bonus depreciation to 100 percent of basis for property acquired after January 19, 2025. I.R.C. § 168(k).
- This includes trees and vines planted or grafted after January 19, 2025.
- For property placed in service during the first taxable year ending after January 19, 2025, the taxpayer could elect to have 40 percent bonus depreciation apply.
- This election also applied where trees and vines are planted or grafted during the first taxable year ending after January 19, 2025.

TAKING BONUS IN 2026

- Taxpayers claim the bonus depreciation deduction on Form 4562 in the year they place the property into service. It is automatic unless the taxpayer elects out. Bonus depreciation applies to any basis remaining after any amount expensed under I.R.C. § 179.
- After the taxpayer calculates the bonus depreciation for the qualified property, they use the remaining cost to calculate the regular MACRS depreciation deduction. In other words, the order of the basis reduction is as follows:
    1. Section 179
    2. Bonus deprecation
    3. MACRS

EXAMPLE

- On February 14, 2026, Kyle purchased a new tractor for use in his farming operation. He placed it into service in 2026. The tractor cost $250,000 and he elected to expense $50,000 of the cost under Section 179. He did not elect out of bonus depreciation, so he next deducted $200,000 of the basis as additional first-year depreciation [1.00*$200,000].
- If he elected out of bonus depreciation, he would then depreciate the remaining $200,000 basis over five years.

RULES FOR VEHICLES

- An over-the-road tractor is a highway truck designed to tow a trailer or semitrailer that does not carry cargo on the same chassis as the engine. (Note however that the trailer and trailer-mounted containers are 5-year MACRS property with a 6-year ADS life.)
- A lightweight truck is a truck with unloaded vehicle weight greater than 6,000 pounds but less than 13,000 pounds.
- A heavy general-purpose truck has an unloaded vehicle weight of 13,000 pounds or more.
- A **passenger vehicle** is any four-wheeled vehicle manufactured primarily for use on public streets, roads, and highways that has an **unloaded gross vehicle weight (GVW) of 6,000 pounds or less.** This definition includes automobiles, trucks, and vans.

RULES FOR VEHICLES

Standard Mileage Rates

Period	Business use	Charity use	Medical or military moving	Source
2026 (Jan. 1 – June 30)	72.5	14	20.5	IR-2025-128
2026 (July 1 – Dec 31)	76	14	23.5	IR-2026-29

PASSENGER AUTOMOBILE LIMITS FOR 2026

Tax year 1	$12,300 ($20,300 if special depreciation allowance is claimed)
Tax year 2	$19,800
Tax year 3	$11,900
Tax years 4 and after	$7,160

These limits are based on 100% business use and must be prorated for business use that is less than 100%. Because passenger autos are listed property, these rules apply only if the vehicle is used more than 50% for business purposes.

Substantiation of Use

Determining business and person use of vehicles generally requires detailed allocation records. However, farmers can claim 75 percent of the use of a car or light truck as business use without specific allocation records if the farmer used the vehicle during most of the normal business day directly in connection with the business of farming [Temp. Treas. Reg. § 1.274-6T(b)].

EXAMPLE

- Len acquired and placed into service an SUV in February of 2026 (bought for $64,000) as his primary farming vehicle.
- He is able to document 100 percent business use through travel logs. The SUV has a GVW of 8,000 lbs.
- In 2026, Len can expense $32,000 under Section 179 and then apply 100 percent bonus depreciation to the remaining basis.
- Alternatively, Len can forego Section 179 and deduct 100 percent of the cost using bonus depreciation.

EXAMPLE

- Lucy acquired and placed into service a used light-duty pickup truck (weighing less than 6,000 pounds) for $20,000 in March 2026.
- She uses the truck 100 percent in her business.
- Her purchase is eligible for bonus depreciation and Section 179, but subject to passenger vehicle limits.
- Lucy is able to deduct the entire purchase in 2026 using bonus depreciation because the first-year limitation of $20,300 is more than the purchase price.

EXAMPLE

- Stan acquired and placed into service a new pickup truck weighing 17,000 pounds for $85,000 in April 2026.
- He uses the truck 100 percent in his business.
- His purchase is eligible for bonus depreciation and/or Section 179. It is not subject to passenger vehicle limits or the SUV limit.
- Stan may deduct the entire purchase in 2026 using bonus depreciation or Section 179.

NEW EXCEPTION FROM AGI REQUIREMENTS

- OBBBA now allows individuals or legal entities who derive 75 percent or more of their **average gross income** from farming, ranching, or silviculture to request an exception from the AGI limit for payments under the following programs:
  - Emergency Assistance for Livestock, Honeybees, and Farm-Raised Fish Program (ELAP),
  - Livestock Forage Assistance Program (LFP),
  - Livestock Indemnity Program (LIP),
  - Tree Assistance Program (TAP),
  - Noninsurable Crop Disaster Assistance Program (NAP), and
  - Conservation benefits under Title II of the Agricultural Improvement Act of 2018, Title II of the Agricultural Act of 2014, Title II of the Farm Security and Rural Investment Act of 2002, Title II of the Food, Conservation, and Energy Act of 2008, or Title XII of the Food Security Act of 1985 received on, or after, October 1, 2024

NEW EXCEPTION FROM AGI REQUIREMENTS

- This AGI exception can be requested by participants who provide an acceptable certification that at least 75 percent of their **average gross income** was derived from farming, ranching, or silviculture activities.
- Acceptable certifications must be accompanied by a verification statement signed by a licensed CPA, a licensed attorney, or an **enrolled agent (EA)** authorized to practice before the IRS.

NEW EXCEPTION FROM AGI REQUIREMENTS

- The rule newly includes **enrolled agents** as an acceptable third party to complete certifications of income from farming, ranching, or silviculture activities.
  - However, for individual taxpayers filing **joint tax returns**, Congress has limited such certifications to an attorney or CPA (7 U.S.C. 1308-3a(a)(3); § 1400.501(a)(2)).
- As such, certifications of **average AGI for joint tax return filers** specifying the manner in which their income would have been declared and reported if they had filed two separate returns continue to be accepted from only a CPA or attorney.
  - SDRP also requires certification by CPA or attorney, unlike ECAP.

DEFINITION OF FARMING

- The rule implements OBBBA's directive to define farming, ranching, or silviculture activities to include agritourism, direct-to-consumer marketing of agricultural products, and the **sale of agricultural equipment owned by the person or legal entity.**
- The rule also adds income from the trade of equipment to this definition.
- These changes will make it easier for farmers to qualify for the 75 percent AGI exception.

DEFINITION OF FARMING - APPLICABILITY

- Some confusion has arisen over the application of this rule to ECAP and SDRP.
- On 6/16/2026, FSA posted a new CCC-943, which is the 75% certification form for ECAP: https://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/CCC943.PDF
- This form includes provisions from the new rule. However, it is unknown whether this new form was intended to apply to past ECAP certifications, which were due in August. The application for ECAP was due in August of 2025. The rules, which haven't been changed, include the 66 2/3 rule:
  - https://www.govinfo.gov/content/pkg/FR-2025-03-19/pdf/2025-04604.pdf

DEFINITION OF FARMING - APPLICABILITY

- SDRP is different because it uses average adjusted gross income, not average gross income. It uses a different form: FSA-510 to certify.
- The rules for SDRP were issued after OBBBA and they include the 66 2/3 rule for including sales of machinery.
  - https://docs.regulations.justia.com/entries/2025-07-10/2025-12803.pdf (SDRP).

  - **Stay tuned**: This form can be filed through next Spring. It appears FSA will allow the new rules.


Have questions?
Ask.