Weather variability is one of the most significant risks in agricultural production. Congress has recognized the impact of weather variability on the livestock industry and the difficulty producers have in protecting themselves from this risk by implementing special tax relief provisions.

Two provisions are of particular interest. The first provision (Code Sec. 451-e) deals with situations where a producer sells more livestock (including poultry) than they normally would have because of a drought, flood, or other weather-related condition and desires to postpone reporting gain resulting from the disposal of the livestock. The second provision (Code Sec. 1033-a) deals with the sale or exchange of livestock (other than poultry) that had been held for draft, breeding, or dairy purposes solely because of the drought, flood, or other weather-related condition, with the producer desiring to postpone reporting any gain and replace the livestock at a later time.

All of the following conditions must be met to qualify for postponing gain under the Code Sec. 451(e).

- Your principal trade or business is farming.
- You use the cash method of accounting.
- You can document your disposal of more livestock during the year than you normally would have, except for the weather-related condition.
- The weather-related condition caused the area to be designated as eligible for assistance by the federal government.

To postpone gain, attach a statement to your return for the year of sale – include the following information for each class of livestock for which you are postponing gain.

- A statement that you are electing to postpone gain under Section 451(e).
- Evidence of the weather-related conditions.
- Statement explaining the relationship of the area affected by the weather-related condition.
- Number of animals sold in each of the 3 preceding years.
- Number of animals you would have normally sold this year in the absence of the weather-related condition.
- Total number of animals sold and the number sold because of the weather-related condition.
- A computation of the income to be postponed for each class of livestock.

Code Section 1033(a) provides for the postponement of gain on the disposal of qualified livestock (poultry does not qualify for this provision) when the producer intends to replace the livestock at a later date. As with Section 451(e), only livestock sold in excess of the number you
normally would sell under usual business practice, in the absence of weather-related conditions, are considered as qualifying involuntary conversions.

To postpone gain under this provision, replacement property must be acquired within a specified period of time. The replacement period begins on the date the livestock were sold or exchanged. The replacement period generally ends 2 years after the close of the tax year in which the involuntary conversion occurred. The replacement livestock must be used for the same purpose as those disposed – i.e., breeding stock must be replaced with breeding stock, and dairy cows with dairy cows.

A statement with the following information must be attached to the return in the year of disposal to elect postponement of the gain.

- Evidence of the weather-related conditions that caused in the disposal of the livestock.
- A computation of the amount of gain realized on the sale or exchange.
- Number and description of livestock disposed.
- Number of livestock of each kind that would have been sold or exchanged under usual business practices.

Another statement is to be attached to the tax return for the year in which replacement property is acquired. The statement should contain detailed information on the replacement property and a computation of tax basis allocation.

An amended return (Form 1040X) must be filed for the tax year of the gain if replacement property is not acquired within the replacement period. Additionally, if replacement property is acquired, but at a cost less than the amount received from the involuntary conversion, that portion (the difference) of the postponed gain must be reported as taxable gain on a Form 1040X.

The follow are free references for further investigation into this topic.

IRS Publication 225 “Farmer’s Tax Guide”
IRS Publication 544 “Sales and Other Dispositions of Assets”
IRS Publication 547 “Casualties, Disasters and Thefts”

The Farmer’s Tax Guide is available at most local University Outreach & Extension centers. The publications are also available on the Web at:


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