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Weather-Related Sales of Livestock

Weather variability is one of the largest sources of risk in agricultural production. Livestock producers forced to sell animals because of weather-related conditions (such as flood, drought or other conditions that cause a shortage of water or feed) may be eligible to postpone income recognition from livestock sales. This would provide flexibility to livestock producers to avoid bunching of income. Weather-related federal tax provisions in the Internal Revenue Code (IRC) related to livestock sales include:

- IRC Section 451(g) deals with sale of livestock (including poultry) in excess of normal because of a drought, flood or other weather-related condition and the producer desires to postpone recognizing the gain resulting from the disposal of the livestock until the following year.
- IRC Section 1033(e) deals with sale of livestock held for draft, breeding or dairy purposes (other than poultry) in excess of normal because of drought, flood or other weather-related conditions and the producer desires to postpone reporting any gain and will replace the livestock at a later time.

Defer income for one year

IRC Section 451(g) allows one year postponement of gain on the disposal of all classes of livestock (including poultry). The postponement is applicable only to the gain resulting from the livestock disposed of that is more than normal for that producer. To qualify for Section 451(g), the area must have been declared eligible for federal assistance. The federal designation may be a disaster declaration made by the president or a designation by a federal government agency or department. The sale of the livestock could have occurred earlier in the year prior to the designation as eligible for federal assistance. However, the weather-related condition that caused the federal assistance designation must also be the weather condition that caused the sale of livestock.

All of the following conditions must be met to qualify for postponing gain under IRC Section 451(g).

1. Taxpayer's principal trade or business must be farming.
2. Taxpayer uses the cash method of accounting.
3. Taxpayer must show that the livestock would normally have been sold in the following year.
4. The weather-related condition(s) that caused an area to be designated as eligible for assistance must have caused the livestock sale.

Example

Cowboy Joe normally sells 100 head of raised beef calves each year. As a result of a drought, Cowboy sells 150 calves on July 7, 2021 and realized $120,000 from the sale. On Aug. 10, 2021, the area was declared a disaster area eligible for federal assistance due to drought.

If Cowboy meets the requirements of IRC Section 451(g), he can elect to postpone the gain ($40,000) on 50 head of beef calves (those he would not normally have sold during the current year) to 2022.

Making the election

The producer/taxpayer makes this election by attaching a statement to his/her tax return — for the year of sale — including the following information for each class of livestock (hogs, sheep, cattle) for which he/she is electing to postpone gain.

- Name, address and ID number.
- A statement electing to postpone gain under IRC Section 451(g).
- Evidence of weather-related conditions that forced the early disposal and federal disaster designation.
- Explanation of how the sale is related to weather conditions.
- Number of livestock of each kind that would have been sold or exchanged under normal business circumstances (generally the average number of animals sold over the three preceding years).
- Total number of animals sold in the current year and the number sold due to the weather-related circumstance.
- The amount of income to be deferred.

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Postpone gain by purchasing replacements

IRC Section 1033(e) provides gain postponement on qualified livestock disposal (excluding poultry) when the producer intends to replace livestock at a later date. As with IRC Section 451(g), only livestock in excess of normal business practices in the absence of weather-related conditions are considered as qualifying involuntary conversions.

Under this provision, replacement livestock must be acquired within a specified time period. 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. 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 2-year period is extended to 4 years if the weather condition that caused the excess sales also caused an area to be eligible for federal assistance.

Tax basis of the replacement livestock is equal to the basis in the livestock sold plus any additional amount invested in the replacement livestock that exceeds the proceeds of the sale. If the animals are not replaced, or if replacement cost is less than the gain from their sale, the difference must be reported as a gain for the sale year by amending the tax return. The return will be subject to additional tax and interest.

Example

Wendy Roper normally sells 20 cows from her beef herd each year. In 2021 a severe hail storm reduced her hay crop and pasture yield to the extent she did not have enough forage to carry the normal herd through the winter. As a result of the hail storm, she sold 60 raised cows in 2021 and realized $60,000 from the sale.

If Wendy plans to replace the cows sold in 2021, the gain from 40 cows (those in excess of the cows normally sold each year) may be deferred and the gain would not have to be recognized if the proceeds are used to purchase replacement cows (that cost as much or more) within two years of the end of the tax year of the sale.

If Wendy buys only 39 replacement cows during 2022 and 2023, $1,000 of gain (for the cow not replaced) must be reported on her amended 2021 tax return regardless of the amount paid for the 39 replacement cows. Note: the item-for-item replacement rule does not apply to like-kind exchanges under IRC Section 1031.

Example

Derry Barnes normally sells 20 cows from his dairy herd each year. As a result of a 2021 drought, he sells 30 cows and realized a gain of $30,000. The area was declared eligible for federal assistance due to the drought. Derry plans to replace the dairy cows in subsequent years.

Since the drought caused the sale of extra cows and resulted in the area being designated eligible for federal assistance, Derry has four years from the end of the tax year of sale to replace the 10 cows — deferring and avoiding recognition of the gain.

Making the election

A statement with the following information for each class of livestock must be attached to the tax return in the year of disposal to elect postponement of the gain.

- Name, address and ID number.
- A statement electing to postpone gain under IRC Section 1033(e).
- Evidence of the weather-related conditions that caused the livestock disposal.
- Number and kind of livestock sold or exchanged.
- A computation of the gain realized on the sale or exchange.
- Number of livestock of each kind that would have been sold or exchanged under normal business circumstances (generally, the average number of animals sold over the last three years).
- A computation of the income to be postponed.

Observations

- Table 1 provides a comparison of each weather-related livestock tax provision.
- IRC Section 1033(e) is not limited to cash basis taxpayers whose principal trade or business is farming.
- Taxpayers qualifying and electing the 4-year replacement period under IRC Section 1033(e) have four years to evaluate their options
  - Whether to replace the livestock,
  - Amend the tax return for the year of disposal reporting the income that year, or
  - Elect IRC Section 451(g) and report the income in the year following the year of disposal.

Year(s) of replacement

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

An amended return (Form 1040-X) must be filed for the tax year of the realized gain if replacement property is not acquired within the replacement period. Additionally, if fewer animals are acquired during the replacement period, the proportional postponed gain on the animals not replaced must be reported as taxable gain on Form 1040-X for the tax year the gain was realized.

Resources

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

IRS Publication 225 Farmer's Tax Guide (https://www.irs.gov/publications/p225). Note the printed version is available at most local MU Extension centers.

IRS Publication 547 Casualties, Disasters and Thefts (https://www.irs.gov/publications/p547).

IRS Publication 544 Sales and Other Dispositions of Assets (https://www.irs.gov/publications/p544).

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Table 1. Comparison of alternative weather-related livestock tax provisions.

	Postpone gain by purchasing replacement [IRC Section 1033(e)]	Defer income for 1 year [IRC Section 451(g)]
Tax benefit	Gain is deferred if replacement requirements are met within the next 2 years*	Recognition of income is postponed by 1 year
Taxpayer qualifications	None	Principal trade or business is farming; cash method of accounting
Qualifying livestock	Draft, breeding or dairy livestock	All livestock, including poultry
Qualifying sales	Sales in excess of normal practice only	Sales in excess of normal practice only
Requirement that area be designated eligible for federal assistance?	No, but designation increases replacement period from 2 to 4 years	Yes
Weather-related condition must have caused the sale?	Yes	Yes
Livestock must have been sold in the designated assistance area?	No	No
Livestock must be located in the designated assistance area?	No	No
Purchase of replacement livestock required?	Yes	No
Basis in replacement livestock	Reduced by the amount of gain deferred	N/A
Deadline for making the election	2 years after the end of the tax year of sale	Generally, due date of tax return for year of sale, but 4 years after year of sale for sales that qualify for the 4-year replacement period under IRC Section 1033(e)(2)
Deadline for replacement	Generally 2 years after the end of the tax year of sale (4 tax years* after the year of sale if an area is designated eligible for federal assistance because of the condition that caused the sale)	N/A

*Extended to 4 years if disaster area-related and can be extended further by Secretary of Treasury.

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