

**WISCONSIN DEPARTMENT OF REVENUE
DIVISION OF INCOME, SALES, AND EXCISE TAX**

NOTICE OF PROPOSED GUIDANCE DOCUMENTS

Pursuant to sec. 227.112, Wis. Stats., the Wisconsin Department of Revenue, Division of Income, Sales, and Excise Taxes hereby seeks comment on the proposed guidance document listed in the table below.

SUBMITTING PUBLIC COMMENTS

Public comments on proposed or adopted guidance documents may be submitted online at: <https://www.revenue.wi.gov/Pages/contactUs/proposed-Guidance.aspx>.

DEADLINE FOR SUBMISSION

The period for public comment for proposed guidance documents ends 21 days after publication in the Administrative Register, unless the Governor approves a shorter commenting period.

Document Number	Document Title
100163	Manufacturing and Agriculture Credit - Agriculture - Common Questions

State of Wisconsin
Department of Revenue

Manufacturing and Agriculture Credit - H. Agriculture Questions

This is a proposed guidance document. The document has been submitted to the Legislative Reference Bureau for publication in the Administrative Register for public comment as provided by sec. 227.112(1), Wis. Stats.

1. Can a person who rents his or her farmland to another person claim the credit?
2. Are price protection crop insurance proceeds included as production gross receipts?
3. Are crop damage insurance proceeds included as production gross receipts?
4. Are farm subsidy payments (such as milk income loss contract payments, direct/counter-cyclical payments, etc.) included as production gross receipts?
5. Are commodity credit corporation loans included as production gross receipts?
6. Is farm income that is allocated from a cooperative to its members on a federal Form 1099-PATR included in production gross receipts?
7. A married couple both have farming related businesses; however, each files their own federal Schedule F. The husband is a crop farmer with a loss and the wife owns a greenhouse operating at a profit. When preparing the Schedule MA-A for the agriculture credit, do we need to "net" their production gross receipts and costs for the credit?
8. Does the gain from the sale of purchased or raised breeding animals qualify as production gross receipts?
9. If a taxpayer puts in tiling or fencing that is an improvement to the land, are the January 1 cost and December 31 cost (which includes the improvements) both used to compute the average value of the agriculture property factor?
10. Are amounts paid to me for custom labor included in my qualified production gross receipts (e.g., fees received to custom bale hay)?
11. If the farmer pays his wife or dependent child a wage that is reported on a W-2 from the farm, is included on Line 8 of the Production Gross Receipts Factor?
12. Are amounts received for crop insurance, milk income loss contract payments, etc., included on Line 8 of the Production Gross Receipts Factor?

13. Does a farmer deduct crop damage insurance premiums as a direct or indirect expense on Schedule MA-A?
 14. Is the farmland preservation credit, or any other Wisconsin income tax credit, included in qualified production activities income?
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1. Can a person who rents his or her farmland to another person claim the credit?

No, only the person renting the farmland is eligible to claim the credit. One of the requirements to claim the credit is that qualified production activities income is generated from property that is assessed as either manufacturing or agricultural. Since the person renting and farming the land is the one generating the qualified production activities income, only the renter is eligible to claim the credit.

2. Are price protection crop insurance proceeds included as production gross receipts?

For Taxable Years Beginning on or After January 1, 2019:

Yes. 2019 Wisconsin Act 167 amended the definition of production gross receipts to include: the sum of gross receipts from the lease, rental, license, sale, exchange, or other disposition of qualified production property and insurance proceeds received as a result of the destruction of, or damage to, crops to the extent the proceeds are included in federal adjusted gross income for the taxable year.

For Taxable Years Beginning Before January 1, 2019:

No. Production gross receipts means gross receipts from the lease, rental, license, sale, exchange or other disposition of qualified production property. Price protection crop insurance is meant to guarantee a certain level of crop revenue when crop prices and/or yields are low. Because the revenue was not directly received from the lease, rental, license, sale, exchange, or other disposition of tangible personal property that is produced, grown, or extracted in whole or in part by the claimant on or from property assessed as agricultural property under sec. 70.32(2)(a)4., Wis. Stats., the income is not considered qualified production activities income and may not be used to compute the credit.

3. Are crop damage insurance proceeds included as production gross receipts?

For Taxable Years Beginning on or After January 1, 2019:

Yes. 2019 Wisconsin Act 167 amended the definition of production gross receipts to include: the sum of gross receipts from the lease, rental, license, sale, exchange, or other disposition of qualified production property and insurance proceeds received as a result of the destruction of, or damage to, crops to the extent the proceeds are included in federal adjusted gross income for the taxable year.

For Taxable Years Beginning Before January 1, 2019:

No. Production gross receipts means gross receipts from the lease, rental, license, sale, exchange or other disposition of qualified production property. Crop insurance proceeds that prevent plant or other damage are not qualified production gross receipts so they may not be used in the

computation of the credit. A qualified production gross receipt is a receipt from the lease, rental, license, sale, exchange, or other disposition of tangible personal property that is produced, grown or extracted in whole or in part by the claimant on or from property assessed as agricultural property under sec. 70.32(2)(a)4., Wis. Stats. Crop insurance proceeds are meant to compensate for the loss of crops due to severe weather conditions or other abnormalities, and because the proceeds were not from producing, growing, or extracting tangible personal property, they are not considered qualified production activities income.

4. Are farm subsidy payments (such as milk income loss contract payments, direct/counter-cyclical payments, etc.) included as production gross receipts?

No. A federal farm subsidy payment that is meant to compensate a farmer when the price of a commodity drops below a predetermined level is not considered production gross receipts for purposes of computing the Wisconsin agriculture credit. In order to be included as production gross receipts, income must be received from the lease, rental, license, sale, exchange, or other disposition of tangible personal property, or insurance proceeds received as a result of the destruction of, or damage to, crops to the extent the proceeds are included in federal adjusted gross income for the taxable year, that is produced, grown, or extracted in whole or in part by the claimant on or from property assessed as agricultural property under sec. 70.32(2)(a)4., Wis. Stats. The farm subsidy payments are meant to compensate when the prices for milk fall below a certain level; they are not from sale of the product itself, which is a requirement in the calculation of the credit.

5. Are commodity credit corporation loans included as production gross receipts?

No. Commodity credit corporation loans would not be considered production gross receipts because they are not derived from the sale of tangible personal property. The agriculture credit requires a claimant to produce gross receipts from the lease, rental, license, sale, exchange, or other disposition of tangible personal property, or insurance proceeds received as a result of the destruction of, or damage to, crops to the extent the proceeds are included in federal adjusted gross income for the taxable year, that is produced, grown, or extracted in whole or in part by the claimant on or from property assessed as agricultural property under sec. 70.32(2)(a)4., Wis. Stats. The loans are being used as collateral until the crops are actually sold, but do not reflect the actual proceeds from the sale of the crops. The taxpayer is only allowed to compute the production gross receipts based on the actual amounts received from the sale of crops.

6. Is farm income that is allocated from a cooperative to its members on a federal Form 1099-PATR included in production gross receipts?

If the income allocated to the farmer from a cooperative on federal Form 1099 is derived from production gross receipts in Wisconsin (the lease, rental, license, sale, exchange, or other disposition of qualified production property, or insurance proceeds received as a result of the destruction of, or damage to, crops to the extent the proceeds are included in federal adjusted gross income for the taxable year), that portion of the income can be included on line 1 of Wisconsin Schedule MA-A as production gross receipts. If only part of the income from federal Form 1099-PATR is related to producing, growing, or extracting tangible personal property on agricultural property, an allocation will need to be made.

7. **A married couple both have farming related businesses; however, each files their own federal Schedule F. The husband is a crop farmer with a loss and the wife owns a greenhouse operating at a profit. When preparing the Schedule MA-A for the agriculture credit, do we need to "net" their production gross receipts and costs for the credit?**

No. Each claimant would fill out their own Schedule MA-A and claim the credit based on the respective receipts and expenses. The married couple are operating separate businesses and reporting the net profit/loss on separate federal Schedules F, so each is entitled to the credit based on their own business operations.

8. **Does the gain from the sale of purchased or raised breeding animals qualify as production gross receipts?**

If the animals were raised by the claimant on property that is assessed as agricultural property under sec. 70.32(2)(a)4., Wis. Stats., then the sale of the animals would qualify as production gross receipts. If the claimant does not raise the animal, then the claimant has not sold qualified production property. The department considers an animal "raised" if it was held by the claimant for more than one year. However, certain exceptions may apply. For example, a feedlot that is used for controlled feeding of animals to fatten them up prior to sale to a slaughterhouse is "agriculture use" property under sec. 70.32(2)(a)4., Wis. Stats., even if the animals are held for less than one year.

Additionally, if the sale of the animal is included in production gross receipts, then the basis of the animal is considered part of the cost of goods sold and should be entered on line 2 of Schedule MA-A.

9. **If a taxpayer puts in tiling or fencing that is an improvement to the land, are the January 1 cost and December 31 cost (which includes the improvements) both used to compute the average value of the agriculture property factor?**

Yes. The property factor uses an average value of the original cost of property determined at the beginning and end of the tax year. Note that depreciation expense is not used in computing the average value of property.

10. **Are amounts paid to me for custom labor included in my qualified production gross receipts (e.g., fees received to custom bale hay)?**

Custom labor is not included on line 1 or 7 because the custom labor is not a production gross receipt (i.e., receipts from the lease, sale, exchange, or disposition of tangible personal property produced, grown, or extracted on property assessed as agricultural in Wisconsin).

The amount the farmer paid you for baling hay is a direct expense if it is associated with the production gross receipts of that person. The sale of hay or the sale of livestock would be production gross receipts if the tangible personal property is produced, grown, or extracted on property assessed as agriculture in Wisconsin.

11. **If the farmer pays his wife or dependent child a wage that is reported on a W-2 from the farm, is it included on Line 8 of the Production Gross Receipts Factor?**

No. These are expenses of the farming operation, not gross receipts.

12. Are amounts received for crop insurance, milk income loss contract payments, etc., included on Line 8 of the Production Gross Receipts Factor?

Yes. Line 8 includes all gross income from whatever source.

13. Does a farmer deduct crop damage insurance premiums as a direct or indirect expense on Schedule MA-A?

Crop damage insurance is an indirect expense of the farming operation and a portion of it is used in computing the credit because the indirect expenses are multiplied by the production gross receipts factor.

14. Is the farmland preservation credit, or any other Wisconsin income tax credit, included in qualified production activities income?

None of the Wisconsin income tax credits are included in production gross receipts because the income is not from the sale of tangible personal property. However, a Wisconsin income tax credit reduces the amount of direct or indirect expense in computing the MA credit if 1) the credit is a recovery of a deduction previously taken on a federal tax return, and 2) the credit is a reduction to the current year's deduction on the federal income tax return.

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations enacted as of March 4, 2020: Sections 70.32, 71.05, 71.07, 71.26, 71.28 and 71.80, Wis. Stats.

Laws enacted and in effect after March 4, 2020, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to March 4, 2020, that is contrary to the information in this document is superseded by this document, pursuant to sec. 73.16(2)(a), Wis. Stats.

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Guidance Document Certification: <https://www.revenue.wi.gov/Pages/Certification-Statement.aspx>

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