

(b) Extended ineligibility

If the Secretary determines that a person or legal entity, for the benefit of the person or legal entity or the benefit of any other person or legal entity, has knowingly engaged in, or aided in the creation of a fraudulent document, failed to disclose material information relevant to the administration of sections 1308 through 1308-5 of this title, or committed other equally serious actions (as identified in regulations issued by the Secretary), the Secretary may for a period not to exceed 5 crop years deny the issuance of payments to the person or legal entity.

(c) Pro rata denial**(1) In general**

Payments otherwise owed to a person or legal entity described in subsections (a) or (b) shall be denied in a pro rata manner based on the ownership interest of the person or legal entity in a farm.

(2) Cash rent tenant

Payments otherwise payable to a person or legal entity shall be denied in a pro rata manner if the person or legal entity is a cash rent tenant on a farm owned or under the control of a person or legal entity with respect to which a determination has been made under subsection (a) or (b).

(d) Joint and several liability

Any legal entity (including partnerships and joint ventures) and any member of any legal entity determined to have knowingly participated in a scheme or device to evade, or that has the purpose of evading, sections 1308, 1308-1, or 1308-3 of this title shall be jointly and severally liable for any amounts that are payable to the Secretary as the result of the scheme or device (including amounts necessary to recover those amounts).

(e) Release

The Secretary may partially or fully release from liability any person or legal entity who cooperates with the Secretary in enforcing sections 1308, 1308-1, and 1308-3 of this title, and this section.

(Pub. L. 99-198, title X, §1001B, as added Pub. L. 100-203, title I, §1304(b), Dec. 22, 1987, 101 Stat. 1330-17; amended Pub. L. 107-171, title I, §1603(c)(2), May 13, 2002, 116 Stat. 215; Pub. L. 110-234, title I, §1603(e), May 22, 2008, 122 Stat. 1010; Pub. L. 110-246, §4(a), title I, §1603(e), June 18, 2008, 122 Stat. 1664, 1738.)

Editorial Notes**CODIFICATION**

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

AMENDMENTS

2008—Pub. L. 110-246, §1603(e), amended section generally. Prior to amendment, text read as follows: “If the Secretary of Agriculture determines that any per-

son has adopted a scheme or device to evade, or that has the purpose of evading, section 1308, 1308-1, or 1308-3 of this title, such person shall be ineligible to receive farm program payments (as described in subsections (b), (c), and (d) of section 1308 of this title as being subject to limitation) applicable to the crop year for which such scheme or device was adopted and the succeeding crop year.”

2002—Pub. L. 107-171 substituted “as described in subsections (b), (c), and (d) of section 1308 of this title” for “as described in paragraphs (1) and (2) of section 1308 of this title”.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 2008 AMENDMENT**

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

EFFECTIVE DATE

Pub. L. 100-203, title I, §1304(b), Dec. 22, 1987, 101 Stat. 1330-17, provided that this section is effective beginning with the 1989 crops.

TRANSITION PROVISIONS

Section, as in effect on Sept. 30, 2007, to continue to apply with respect to the 2007 and 2008 crops of any covered commodity or peanuts, see section 1603(h) of Pub. L. 110-246, set out as a note under section 1308 of this title.

§ 1308-3. Foreign persons made ineligible for program benefits

Notwithstanding any other provision of law:

(a) In general

Any person who is not a citizen of the United States or an alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) shall be ineligible to receive any type of loans or payments made available under title I of the Food, Conservation, and Energy Act of 2008 [7 U.S.C. 8701 et seq.], title I of the Agricultural Act of 2014 [7 U.S.C. 9001 et seq.], the Agricultural Market Transition Act [7 U.S.C. 7201 et seq.], the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.),¹ or under any contract entered into under title XII [16 U.S.C. 3801 et seq.], with respect to any commodity produced, or land set aside from production, on a farm that is owned or operated by such person, unless such person is an individual who is providing land, capital, and a substantial amount of personal labor in the production of crops on such farm.

(b) Corporations or other entities

For purposes of subsection (a), a corporation or other entity shall be considered a person that is ineligible for production adjustment payments, price support program loans, payments, or benefits if more than 10 percent of the beneficial ownership of the entity is held by persons who are not citizens of the United States or aliens lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.], un-

¹ See References in Text note below.

less such persons provide a substantial amount of personal labor in the production of crops on such farm. Notwithstanding the foregoing provisions of this subsection, with respect to an entity that is determined to be ineligible to receive such payments, loans, or other benefits, the Secretary may make payments, loans, and other benefits in an amount determined by the Secretary to be representative of the percentage interests of the entity that is owned by citizens of the United States and aliens lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act.

(c) Prospective application

No person shall become ineligible under this section for production adjustment payments, price support program loans, payments or benefits as the result of the production of a crop of an agricultural commodity planted, or commodity program or conservation reserve contract entered into, before December 22, 1987.

(Pub. L. 99–198, title X, §1001C, as added Pub. L. 100–203, title I, §1306, Dec. 22, 1987, 101 Stat. 1330–19; amended Pub. L. 101–624, title XI, §1111(b), Nov. 28, 1990, 104 Stat. 3498; Pub. L. 103–66, title I, §1101(b)(3)(B), Aug. 10, 1993, 107 Stat. 314; Pub. L. 104–127, title I, §115(c)(2), Apr. 4, 1996, 110 Stat. 903; Pub. L. 107–171, title I, §1603(c)(3), May 13, 2002, 116 Stat. 215; Pub. L. 110–234, title I, §1603(a), May 22, 2008, 122 Stat. 1002; Pub. L. 110–246, §4(a), title I, §1603(a), June 18, 2008, 122 Stat. 1664, 1730; Pub. L. 113–79, title I, §1603(b)(3), Feb. 7, 2014, 128 Stat. 706.)

Editorial Notes

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in subsecs. (a) and (b), is act June 27, 1952, ch. 477, 66 Stat. 163, which is classified principally to chapter 12 (§1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

The Food, Conservation, and Energy Act of 2008, referred to in subsec. (a), is Pub. L. 110–246, June 18, 2008, 122 Stat. 1651. Title I of the Act is classified principally to chapter 113 (§8701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 8701 of this title and Tables.

The Agricultural Act of 2014, referred to in subsec. (a), is Pub. L. 113–79, Feb. 7, 2014, 128 Stat. 649. Title I of the Act is classified principally to chapter 115 (§9001 et seq.) of this title. For complete classification of this Act to the Code, see short title note set out under section 9001 of this title and Tables.

The Agricultural Market Transition Act, referred to in subsec. (a), is title I of Pub. L. 104–127, Apr. 4, 1996, 110 Stat. 896, which is classified principally to chapter 100 (§7201 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 7201 of this title and Tables.

The Commodity Credit Corporation Charter Act, referred to in subsec. (a), is act June 29, 1948, ch. 704, 62 Stat. 1070, which is classified generally to subchapter II (§714 et seq.) of chapter 15 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 714 of Title 15 and Tables.

The Food Security Act of 1985, referred to in subsec. (a), is Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354. Title XII of the Act is classified principally to chapter 58 (§3801 et seq.) of Title 16, Conservation. Subtitle D of title XII of the Act is classified generally to subchapter IV (§3830 et seq.) of chapter 58 of Title 16. For complete

classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

AMENDMENTS

2014—Subsec. (a). Pub. L. 113–79 inserted “title I of the Agricultural Act of 2014,” before “the Agricultural Market Transition Act”.

2008—Subsec. (a). Pub. L. 110–246, §1603(a), substituted “Food, Conservation, and Energy Act of 2008” for “Farm Security and Rural Investment Act of 2002”.

2002—Subsec. (a). Pub. L. 107–171 inserted “title I of the Farm Security and Rural Investment Act of 2002,” after “made available under”.

1996—Subsec. (a). Pub. L. 104–127 substituted “Any person” for “For each of the 1991 through 1997 crops, any person”, substituted “loans or payments made available under the Agricultural Market Transition Act,” for “production adjustment payments, price support program loans, payments, or benefits made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.)”, and struck out “during the 1989 through 1997 crop years” before “, with respect to any commodity produced”.

1993—Subsec. (a). Pub. L. 103–66 substituted “1997” for “1995” in two places.

1990—Subsec. (a). Pub. L. 101–624 substituted “1991 through 1995 crops” for “1989 and 1990 crops” and inserted “, or under any contract entered into under title XII during the 1989 through 1995 crop years,” after “(16 U.S.C. 3831 et seq.)”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–79 applicable beginning with the 2014 crop year, see section 1603(c) of Pub. L. 113–79, set out as a note under section 1308 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

EFFECTIVE DATE

Pub. L. 100–203, title I, §1306, Dec. 22, 1987, 101 Stat. 1330–19, provided that this section is effective beginning with the 1989 crops.

§ 1308–3a. Adjusted gross income limitation

(a) Definitions

(1) Average adjusted gross income

In this section, the term “average adjusted gross income”, with respect to a person or legal entity, means the average of the adjusted gross income or comparable measure of the person or legal entity over the 3 taxable years preceding the most immediately preceding complete taxable year, as determined by the Secretary.