## 104.1 Purpose

This section describes the special policies that apply to households that have self-employment income.

## 104.2 General Information

All the policies and procedures described in the general sections of this manual apply to households with self-employed members. However, the following four specific areas require special consideration:

A. Work Registration

B. Resources

C. Income

D. Certification Periods

## 104.3 Work Registration

Receiving income from self-employment does not automatically exempt a household member from the work registration requirement. In order to be exempt, a self-employed member must be:

A. Working a minimum of thirty hours weekly, or

B. Receiving earnings which, on a weekly basis, are equal to the Federal minimum wage multiplied by thirty hours (see Section 130)

EXAMPLE 1: A cash crop farmer who performs actual farming activity 8 months out of the year is exempt from work registration during the other 4 months if his annual income from farming equals the Federal minimum wage multiplied by 30 hours when considered on a weekly basis. In other words, annual income divided by 52 must be at least equal to 30 times the minimum wage.

EXAMPLE 2: A franchise operator hires other people to perform the actual day-to-day operation of the business. He does not actually work at least 30 hours weekly on the business. He does not earn enough annually to equal weekly earnings of 30 times the minimum wage. This member must register for work unless he is otherwise exempt.

## 104.3 Work Registration (continued)

EXAMPLE 3: A tourist shop owner operates the business at least 30 hours per week during the tourist season. The shop is closed during the off season and the owner does not work at the business during that time. The owner is exempt from work registration during the tourist season. However, she must be registered for work during the off season unless:

- The income earned during the tourist season is intended to provide annual support and it equals an annual weekly amount of 30 times the Federal minimum wage; or

- She qualifies for some other work registration exemption

## 104.4 Resources

Exempt as a resource any monies that have been prorated as income. For example, a cash crop farmer receives his income when he sells his crop. This income is prorated over the year and therefore cannot be counted as a resource.

## 104.5 Special Income Considerations

**Capital Gains**

Count the full amount of proceeds from the sale of capital goods or equipment as self-employment income, even if only 50% of the proceeds from the sale is taxed for Federal income tax purposes. Add the proceeds from the sale of capital goods or equipment to any other self-employment income and compute the total self-employment income as described in Section 104.6.

## 104.6 Income Computation

Consider the following special factors when determining the gross monthly income for self-employed households:

A. **Annualizing**

1. Prorate over a 12-month period self-employment income that represents a household's annual support, even if the income is received in only a short period of time. For example, the self-employment income of a crop farmer must be prorated over a 12-month period, if the income is intended to support the farmer on an annual basis.

## 104.6 Income Computation (continued)

2. Annualize self-employment income even if the household receives income from other sources in addition to the self-employment.

B. **Averaging**

1. Average over a 12-month period self-employment income received on a regular basis (weekly, monthly, etc) that does not fluctuate greatly in amount but which represents a household's annual support. For example, a dairy farmer whose annual income is derived from his business receives income from the sale of milk on a regular basis. Convert this income to a yearly amount and average over a 12-month period.

2. Average self-employment income that is intended to meet the household's needs for only part of the year, over the period of time the income is intended to cover. For example, self-employed vendors who work at this business only in the summer and supplement their income from other sources during the balance of the year must have their self-employment income averaged over the summer months rather than a 12-month period.

3. Average self-employment income over the period of time a business has operated, if it has been in business for less than a year. Project this monthly amount for the coming year.

C. **Anticipating**

Anticipate rather than average self-employment income under the following circumstances:

1. The average amount does not accurately reflect the household's actual monthly circumstances because there has been a substantial increase or decrease in business; or

2. The nature of the business is such that the receipt and amount of income varies greatly; or

3. A business has been in operation such a short time that there is not enough information to average earnings and project them over a yearly period.

## 104.7 Self Employment Earned Income Deduction

The self-employment earned income deduction is 30% of the gross receipts. This 30% allowance is considered the cost to produce. The gross income test is applied after the 30% deduction. The 20% earned income deduction is then applied to the remainder.

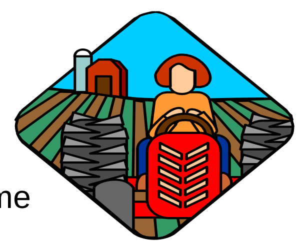
Example: Ms. B provides child care in her home. She provided a tax Form 1040 Schedule C (Part 1 line 1 shows annual income of $10,000). The allowable deduction for cost-to-produce is $3,000. The countable annual income is $7,000. Ms. B also receives a 20% earned income deduction of $1,400, for net income from self-employment of $5,600.

**NOTE: The 30% cost-to-produce deduction <u>does not</u> apply to the self-employment income of farmers, fishermen and watermen who verify a cost-to produce in excess of the 30% deduction. (See section 104.8)**

If the cost of producing self-employment farm income exceeds the gross farm income, the losses are offset against other countable income. To qualify for this offset, the person must receive or anticipate receiving annual gross proceeds of $1,000 or more from the farming enterprise.

## 104.8 Self-employed Farmer

### 104.81 DEFINITION OF a SELF-EMPLOYED FARMER



Note: Self-employed farmers are given special income treatment because they incur costs in producing their income that must be deducted in order to equate their income with income from sources in which there are no production costs.

A. The case manager must first determine if the person is a self-employed farmer.

B. To be considered a self-employed farmer the person must:

1. Be engaged in farming activity for the purpose of producing income, and

2. Have direct involvement in farming activity.

For example, a person who rents his land to another individual to raise a crop is not a self-employed farmer if he is not directly involved in the growing or harvesting of the crop.

C. The case manager must use his or her best judgment on a case-by-case basis to determine if a person is a self-employed farmer or a farm employee.

## 104.8 Self-employed Farmer

### 104.81 DEFINITION OF a SELF-EMPLOYED FARMER (continued)

D. Sole Proprietorship.

1. Farm self-employment income generally consists of earnings derived by an individual as the sole proprietor of his farm.

2. A sole proprietorship is an unincorporated business that has no existence apart from the owner.

3. The business liabilities are the personal liabilities of the single owner.

E. Partnership.

1. There may also be some self-employment income situations that involve a partnership.

2. There should be an oral or written agreement. Generally, a partner's share of income, gain, loss, deductions or credits is determined by the partnership agreement. In any matter not addressed by a written agreement, the provisions of local law are considered to be part of the agreement.

F. Independent Contractors.

1. Other self-employment situations for FSP purposes include independent contractors who pay the farm expenses and persons who do not have a direct employer/employee relationship.

2. In determining if the person is an independent contractor, the case manager should determine if a household operates a separate (perhaps more specialized) business than the owner of the land or proprietor of the main business.

3. In determining if there is an employer and employee relationship, the case manager may consider such things as whether the person has an established work schedule and specified wages, whether the employer withholds social security and income taxes from earnings, etc.

   A sharecropper who pays the costs of doing business and receives a portion of the net income in exchange for his labor is a self-employed farmer. A sharecropper who does not pay the costs of doing business is not a self-employed farmer.

## 104.8 Self-employed Farmer

### 104.81 DEFINITION OF a SELF-EMPLOYED FARMER (continued)

G. Corporations.

1. If the household has shares in an **S Corporation**, the S Corporation income reported on the household's Form 1040 must be counted as income and annualized over a 12-month period.

2. An owner or employee of **another corporation** is not a self-employed person. If the person receives a salary from the corporation, he is considered an employee of the corporation. Shareholders who only receive dividends are entitled to neither the costs of producing self-employment income nor the earned income deduction. The dividends are counted as income. Corporations are separate legal entities, and the corporation is responsible for its debts and obligations.

### 104.82 BASIC STANDARDS

A. Self-employed farmers are subject to the same basic processing, eligibility and allotment standards as other households. However, their monthly net income is computed differently, changes in their farm income are treated differently, and there is a special resource provision.

B. Non self-employed farmers are treated the same as other households that do not have farm income, e.g., wages of a farm laborer are counted as earned income, income from renting a farm is treated like other rental income.

C. Some farm workers are given crops at harvest time in addition to salary. If the farm worker plans to sell the crop during the certification period in which it is received, the money received from the sale is counted as income. If the farm worker does not plan to sell the crop during the certification period in which it is received, the value of the crop is counted as a resource beginning the month in which it is received. If the household later sells a crop that was counted as a resource, the payments received are not counted as income.

D. There is a special expedited service provision for migrants and seasonal farm worker households. (See Section 122)

E. <u>Gross self-employment income</u> that has been used in the income calculation is excluded from resources during the period of time that the income is counted. A farmer may commingle the farm income in a bank account with other money and still retain the exclusion for the period of time the money was prorated as income.

**104.82 BASIC STANDARDS (continued)**

Example: A household earned $10,000 gross self-employment income last year and expects to earn the same amount this year. Six thousand dollars were excluded from income to cover the costs of doing business. Four thousand dollars were annualized and prorated as income for calendar year 2001. The household has $11,000 in a bank account. Only $1,000 is counted as a resource during 2001 unless there are other changes.

**Prorated Income Not a Resource**

| | | |
|---|---|---|
| Gross Farm Income in 2000 | $10,000 | |
| Allowable costs | -6,000 | |
| Prorated for 2001 | $4,000 | (no changes were anticipated) |
| | | |
| Bank Account | $11,000 | |
| Gross Farm Income | - 10,000 | |
| Count as a Resource | $1,000 | |

F. The treatment of resources of a corporation varies based on the type of corporation.

1. Profits of an **S Corporation** are not considered a resource essential to the employment of a household member even if they are used to purchase more stock in the corporation.

2. Resources of **other corporations** are not counted as the resources of an individual’s household. Bank accounts that a corporation owns must be in the corporation's name.

3. **Ownership of Stock in a Corporation.**

(a) If a person owns stock in a corporation, the stock is counted as a resource unless it is essential to his or her employment.

(b) If a person is employed by and owns stock in a corporation, the case manager must determine if the stock is essential to the person's employment.

(c) To the extent that an employee of a corporation must hold stock in the corporation as a condition of employment, the stock is essential to the employment of that person and not counted as a resource.

**104.82 BASIC STANDARDS (continued)**

(d) If ownership of the stock is not essential, the stock is counted as a resource.

Example: if a farmer has incorporated his farm, he is the sole worker and all of the corporation's assets are related to the farming operation, the farmer's stock in the corporation is essential to his employment and excluded from being counted as a resource.

(e) Sometimes the value of shares in a corporation with only one shareholder or just a few shareholders is not readily available. In such instances, the case manager may subtract corporate liabilities from assets and prorate the difference among the various shareholders based on the percentage of shares held.

G. **Loans.**

1. All loans, except deferred educational loans, are excluded as income. They are not counted as income in the month received, they are not prorated as income over a 12-month period, and they are not prorated as income over the certification period.

2. Loans, other than deferred repayment educational loans, are counted as a resource in the month received even if the household anticipates spending some or all of it in the same month.

3. For an ongoing (certified) household, excess resources any time during the month makes a non-public assistance household ineligible. Any amount remaining after the month of receipt continues to be counted as a resource until the money is spent. This includes business loans as well as personal loans.

4. Sometimes a farmer may obtain a loan, but funds can only be released by signature of both the lender and the farmer. In such cases where the farmer has a "line-of-credit," only the portion that is actually borrowed and held in an account is counted as a resource.

H. **Payment-In-Kind (PIK) payments.**

Some farm households receive Payment-In-Kind (PIK) payments. Normally these are annualized as income. However, if the farmer indicates that he intends to retain PIK payments for longer than a year, the payments **104.82** should not be annualized as income but counted as a resource to the extent that they will be kept longer than a year.

**104.82 BASIC STANDARDS (continued)**

I. **Bankruptcy.**

Some farmers declare bankruptcy. If so, the case manager must determine what resources are accessible to the household and, if they are accessible, whether the resources can be excluded under another provision such as being essential to self-employment if the person is still self-employed.

J. Nonliquid assets against which a lien has been placed as a result of taking out a business loan are excluded if the household is prohibited by the security or lien agreement from selling the asset(s).

K. Sealed grain is not counted as a resource until it has been in storage more than 12 months. Grain in storage more than a year is considered a resource.

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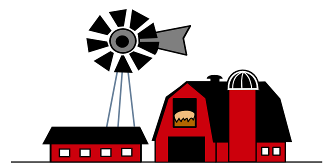
**104.83 Computing Income and Farm Expenses**



A. Annualized With Certain Exceptions:

1. Normally self-employment income and expenses are averaged over a 12-month period. Regardless of whether the household receives the income monthly or less often than monthly, annualizing is done when the self-employment represents a household's annual income. Self-employment is annualized even if the household receives income from other sources. For example, a man is a self-employed grain farmer. His wife is a part-time nurse. In this case the self-employment income would be annualized.

2. Normally self-employment income and expenses from the past year are counted for the current year. However, anticipated changes, such as a change in the type of farm operation or the amount of land farmed, crop failure, a substantial change in market prices, etc. which would affect the net income must be taken into account. In anticipating income, it may be helpful to review a cash flow plan prepared by a lender such as FmHA, a bank, or a Federal loan bank. These plans anticipate income and expenses. The income and expenses must be prorated evenly over a 12-month period to determine eligibility.

For example, if last year the farmer earned $10,000 and had $5,000 in expenses. This year he inherited additional land and he expects to gross $22,000 and have $10,000 in allowable FSP expenses. The case manager must annualize the anticipated income of $22,000 and the anticipated expenses of $10,000.

**104.83 Computing Income and Farm Expenses**

B. <u>Capital Gains.</u>

1. For FSP purposes, proceeds from the sale of capital goods or equipment are calculated in the same manner as a capital gain for Federal income tax purposes.

2. For Federal income tax purposes, capital gains are generally computed by comparing the sales price to the "cost or other basis." If the sales price is greater, there is a gain. If the costs are greater, there is a loss. The "cost or other basis" in general is the cost of the property, purchase commissions, improvements and sales expenses such as broker's fees and commissions minus depreciation, amortization and depletion.

3. The full amount of the capital gain, if any, is counted as income for FSP purposes.

4. If the self-employment was anticipated rather than averaged, any capital gains that the household anticipates in the 12-month period starting with the date of application must be divided by 12 and the average monthly amount added to the anticipated monthly self-employment income. The average monthly capital gain amount must be counted in each of the 12 months even if more than one certification period is involved. However, a new average must be calculated and used if the anticipated amount of capital gains changes.

C. <u>Allowable Expenses.</u>

**1.** Certain costs of doing business are excluded from gross monthly self-employment income when net monthly self-employment income is computed **if a farmer verifies expenses in excess of the 30 percent deduction.**

2. Self-employment income for FSP purposes is <u>not</u> computed the same as it is for Internal Revenue Service (IRS) purposes. The IRS forms may only be used for verification purposes.

3. <u>**Allowable**</u> costs for FSP purposes include costs such as identifiable costs of:

   (a) Labor such as wages and salaries paid to employees. However, an exclusion cannot be allowed for wages paid to the farmer himself or other household members.;
   (b) Stock;
   (c) Raw material and supplies;

**104.83 Computing Income and Farm Expenses (continued)**

(d) Seed and plants;
(e) Fertilizer and lime;
(f) The **interest** portion of (i) payments on business or operating loans and (ii) payments on income-producing real estate and capital assets such as equipment, machinery and other durable goods;
(g) Insurance premiums;
(h) Taxes paid on income-producing property;
(i) Privilege taxes such as licensing fees and gross receipts and general excise taxes that must be paid in order to earn self-employment income;
(j) Business transportation costs such as costs of carrying grain to an elevator, trips to obtain needed supplies, etc.;
(k) Rental payments on income-producing equipment. If a farmer is renting equipment with an option to buy, the rent payments are allowed until the purchase is made;
(l) Costs of repairs and maintenance of equipment; and
(m) Storage and warehousing charges.

4. Costs are allowed when they are billed or otherwise become due. When the income is annualized, only expenses billed or otherwise due in the current 12-month period are allowed. Costs that were billed or otherwise became due in a prior year which are not expected to recur in the current year may not be brought forward to the current year regardless of when they are paid.

D. There are some costs that specifically are **NOT ALLOWABLE**. They are:

1. Payments on the principal of the purchase price of income-producing real estate and capital assets such as equipment, machinery and other durable goods;

2. Expenses and net losses from previous periods;

3. Federal, State and local income taxes, money set aside for retirement purposes, and other work-related personal expenses such as transportation to and from work. These expenses are allowed for by the 20 percent earned income deduction;

4. Depreciation. To allow such costs would result in an exclusion for amounts which are not actual costs to the household and would, in effect, constitute an exclusion for the costs of income-producing property and assets which otherwise are not allowed;

**104.83 Computing Income and Farm Expenses (continued)**

5. Repayment of the principal of a bank loan. The loan was never counted as income, and the repayments as such are not excluded as an expense. However, the household is given an exclusion for allowable expenses (see 104.83C) when purchases are made even if they are paid for with a business, operating or personal loan;

6. Penalties and fines. For example, an IRS penalty imposed on a farmer for failure to pay an employee's social security taxes is not an allowable cost of doing business. Likewise, penalties imposed by the U. S. Department of Agriculture for failure to comply with planting and marketing programs are not allowable costs;

7. Blue jeans and work boots are not specific to any one job, and their costs are not allowable exclusions. However, if a self-employed fisherman needs hip boots or a bee keeper needs protective head gear, the costs would be allowable exclusions; and

8. Charitable contributions.

**104.83 Computing Income and Farm Expenses (continued)**

**Guide for Computing Monthly Farm Self-Employment When Income Is Annualized**
**Calendar Year ______**

A. List all annual gross income from farm operations.

1. Sale of livestock, produce, grain, and other products.

| Product | Amount |
|---|---|
| ____________________ | ____________ |
| ____________________ | ____________ |
| ____________________ | ____________ |
| ____________________ | ____________ |

Total product sales.................. ___________

2. Proceeds from the sale of capital goods or equipment.

| Asset(s) | Capital Gain |
|---|---|
| ____________________ | ____________ |
| ____________________ | ____________ |

FSP Capital Gain............... ___________

3. Agricultural Program Payment(s)

| Type | Amount |
|---|---|
| ____________________ | ____________ |
| ____________________ | ____________ |
| ____________________ | ____________ |

Total Agricultural Payments........... ___________

4. Other, specify:

| Type | Amount |
|---|---|
| ____________________ | ____________ |
| ____________________ | ____________ |

Total Other............................ ___________

B. Total all types of income (Add A 1-4.) This is the annual gross farm self-employment income................................................

**104.83 Computing Income and Farm Expenses (continued)**

C. List all allowable expenses.

| **Allowable Expenses** | **Expense** |
|---|---|
| 1. Costs of livestock and other products bought for resale, breeding or dairy purposes. The costs of products bought for resale are subtracted under the income section of the tax form. (be careful not to include costs from a prior year) | |
| 2. Breeding fees | |
| 3. Chemicals such as sprays | |
| 4. Feed purchased for livestock | |
| 5. Fertilizer and lime | |
| 6. Freight and other hauling costs | |
| 7. Gasoline, oil, other fuels for farm equipment | |
| 8. Insurance on farm equipment, crops and livestock | |
| 9. Interest and taxes on the purchase of farm equipment, machinery and supplies | |
| 10. Interest, taxes and insurance on farm mortgage, less the amount prorated for the home | |
| 11. Labor costs of employees (Do not include salaries paid to household members) | |
| 12. Rent of farm land, buildings and equipment | |
| 13. Repairs and maintenance costs | |
| 14. Seeds and plants purchased | |
| 15. Storage and warehousing | |
| 16. Supplies and raw materials | |
| 17. Utility costs of farm operations (Do not include the portion attributable to the home | |
| 18. Veterinarian fees, medicine | |
| 19. Other (Do not list depreciation, income taxes, or social security taxes) | |
| **D. Total Annual Farm Expenses** | |

E. Subtract line D – Total annual farm expenses from line B – Annual gross farm self employment income. Results equals net farm income. ___________

F. Divide line E by 12 to determine average monthly farm income. **Indicate if this is a net gain or net loss**. ___________

**104.83 Computing Income and Farm Expenses (continued)**
**Example:**
**Farmer Household**

CARES will compute the net income for farmer households. This example is to illustrate the calculation.

Income:

$11,500 sale of calves
2,000 sale of bull which was purchased the year before for $1,700
6,000 sale of milk
2,000 corn
2,500 hay

Expenses:

$2,500 purchase of a bull
$3,200 for interest and taxes on the farmed real estate
l,200 for the principal portion of the mortgage payment on the farmed real estate
l,000 lime and fertilizer
700 seed
600 meal for cattle
100 insecticides
300 electricity for barn
100 medicine for cattle
500 to neighbor to bale hay
500 gas and oil for farm equipment
200 supplies and raw material
250 depreciation on farm equipment
2,000 income and social security taxes
2,000 repayment of a business loan
50 costs of having corn ground for baby chickens
200 wages to spouse to fill out farm tax forms and keep the farm records 300 insurance on farm operations

No changes are anticipated for next year except the farmer will not be selling a bull.

**104.83 Computing Income and Farm Expenses (continued)**

**Guide for Computing Monthly Farm Self-Employment when Income Is Annualized**

Calendar Year '00 Projected for '01

A. List all annual gross income from farm operations.

1. Sale of livestock, produce, grain, and other products.

| Product | Amount |
|---|---|
| Calves | $11,500 |
| Milk | 6,000 |
| Corn | 2,000 |
| Hay | 2,500 |

Total product sales.................... $22,000

2. Proceeds from the sale of capital goods or equipment.

| Asset(s) | Capital Gain |
|---|---|

FSP Capital Gain............... 0

3. Agricultural Program Payment(s)

| Type | Amount |
|---|---|

Total Agricultural Payments........... 0

4. Other, specify:

| Type | Amount |
|---|---|

Total Other............................... 0

B. Total all types of income (Add A 1-4.) This is the annual gross farm self-employment income............. $22,000

**104.83 Computing Income and Farm Expenses (continued)**

C. List all annual allowable expenses.

| Allowable Expenses | Expense |
|---|---|
| 1. Costs of livestock and other products bought for resale, breeding or dairy purposes. The costs of products bought for resale are subtracted under the income section of the tax form. (be careful not to include costs from a prior year) | $2,500 |
| 2. Breeding fees | |
| 3. Chemicals such as sprays | 100 |
| 4. Feed purchased for livestock | 600 |
| 5. Fertilizer and lime | 1,000 |
| 6. Freight and other hauling costs | |
| 7. Gasoline, oil, other fuels for farm equipment | 500 |
| 8. Insurance on farm equipment, crops and livestock | 300 |
| 9. Interest and taxes on the purchase of farm equipment, machinery and supplies | |
| 10. Interest, taxes and insurance on farm mortgage, less the amount prorated for the home | 3,200 |
| 11. Labor costs of employees (Do not include salaries paid to household members) | 500 |
| 12. Rent of farm land, buildings and equipment | |
| 13. Repairs and maintenance costs | |
| 14. Seeds and plants purchased | 700 |
| 15. Storage and warehousing | |
| 16. Supplies and raw materials | 200 |
| 17. Utility costs of farm operations (Do not include the portion attributable to the home | 300 |
| 18. Veterinarian fees, medicine | 100 |
| 19. Other (Do not list depreciation, income taxes, or social security taxes) | |
| **D. Total Annual Farm Expenses** | $10,000 |

E. Subtract line D – Total annual farm expenses from line B – Annual gross farm self-employment income. Results equals net farm income. _$12,000___________

F. Divide line E by 12 to determine average monthly farm income. **Indicate if this is a net gain or net loss**... __+1,000

(NOTE: Since the chickens do not produce income, their costs are not allowable.)

**104.84 Shelter Portion of Farm**

A. Shelter Costs Other Than Utilities

1. If a household's home is on property connected to property used for farming, the case manager must determine if the shelter costs (e.g. rent or mortgage) and the self-employment costs can be separately identified.

2. Proration may be used to separately identify costs based on information from a mortgage lender, real estate tax records, Farmers Home Administration documents, insurance premiums, etc., and the home ratio may be applied to taxes and insurance costs if better information is not readily available.

3. If the costs of rent or mortgage, insurance, taxes, and interest cannot be separated, no self-employment exclusion for insurance, taxes or interest on the mortgage payment may be allowed, and no portion of the mortgage payment, taxes or interest may be allowed as shelter costs.

4. If the farmer uses a room or a separate apartment in his or her house or residence solely for the farm operation, the case manager may on a case-by-case basis:

   (a) Include all costs (such as rent, mortgage, taxes, and insurance) that the household is required to pay to live there as household shelter costs; or

   (b) Exclude part of the costs as self-employment costs and part as shelter costs, provided that no costs are allowed as both self-employment costs and shelter costs. The self-employment costs may be separately identified based on the number of rooms, square feet, etc. If separately identified, only the portion attributed to the household's living space can be included in shelter costs. No portion of the principal attributed to the self-employment enterprise under this option is allowed.

B. Utilities:

1. If a farmer's home is on property connected to property used for farming, the case manager must determine if the shelter costs and self-employment costs can be separately identified. Utility costs for a barn are often metered separately from the home, and the cost of a telephone is the same as for other households.

2. If utilities are measured and billed separately, the household is entitled to the SUA or actual utility costs for its residence, and to the separately billed self-employment costs as a cost of doing business.

**104.84 Shelter Portion of Farm (continued)**

3. If the utility costs cannot be separately identified, the household may not claim actual utility costs. As part of its shelter costs, the household is entitled to a standard utility allowance if it incurs out-of-pocket heating and cooling costs for the home separately from the rent or mortgage or it receives a Low Income Home Energy Assistance Act payment.

4. If the farmer uses part of his house, such as a separate room or a separate apartment solely for the farm enterprise and there is a central meter, the case manager on a case-by-case basis must:

   (a) Allow the household either the SUA or the total actual utility costs for the house as shelter costs, but no self-employment exclusion; or

   (b) Allow the household to claim actual utility costs prorated between shelter costs and self-employment costs. The SUA cannot be used under this option.

**104.85 Tobacco "Pounds" (Rights)**:

If a farmer temporarily leases land and/or the right to grow burley tobacco from another individual, the amount charged to lease such land and/or temporary tobacco rights is an allowable self-employment expense in the year billed or otherwise due. When the farmer is growing tobacco, the leased land and/or right are not counted as income or a resource. Permanent rights, which are bought and can be resold without selling the land, are capital assets. As such, the household is not entitled to an income exclusion for payments on the principal of the purchase price of the pounds. The household is entitled to an exclusion for interest payments, if any, when they become due or otherwise payable. The pounds are an excluded resource if they are essential to the employment or self-employment of a household member. To the extent they are not essential, they count as a resource based on equity value. If the household is reimbursed for unused pounds, the transaction must be treated like a sale of the pounds.

**104.86 Garnishments and Bankruptcy**

A. Garnishments have no effect on the treatment of self-employment income, i.e. the total gross amount is counted in the income computation. The amount garnished is not an income exclusion.

B. The self-employment income of farmers who have declared bankruptcy is computed the same as the self-employment income of other farmers. There are different types of bankruptcies. Some allow people to continue to do the same kind of business and others do not. If the person continues to earn self-

**104.86 Garnishments and Bankruptcy (continued)**

employment income, the gross amount minus allowable expenses is counted. Sometimes the total amount of income goes to a trustee, and from this amount he pays the bills and gives the farmer a living allowance. This living allowance is not counted as income because it would result in double counting. No exclusion is allowed for the fees of a trustee or conservator for his services. In other situations all of the money goes to the farmer, but he must pay a set amount to a court appointed person for back debts. This amount is not allowed as exclusion. An exclusion is only allowed for certain costs in the year in which they are billed or otherwise become due. The household is not entitled to a double exclusion.

If a farmer sells equipment and uses the proceeds to pay off a loan, the money is income to the farmer. If a farmer sells equipment and the proceeds are diverted to a bank to repay a loan, the money is counted as income to the farmer. If a farmer voluntarily turns over collateral to a bank, and the bank sells the collateral to pay off a loan, the proceeds of the sale are not counted as income to the farmer. Once the collateral is turned over to the bank, it becomes the legal property of the bank. If a farmer holds the title to property and sells the property, any proceeds from the sale are counted as income to him/her. If the farmer gives the title to the bank or if the property is repossessed prior to sale and the bank sells the property, the proceeds are not counted as income to the household.

If a lender is unable to collect on a farm loan, the lender may write all or part of it off or "forgive" the outstanding balance. The forgiven portion is not counted as income to the household.

**104.87 Specific Types of Payments**

Following is guidance for the treatment of specific types of payments:

A. A <u>Federal gasoline tax credit</u> is excluded from income. (It is a credit against tax liability.)

B. A <u>State gasoline tax refund</u> is excluded from income on the basis that it is a nonrecurring lump-sum payment. The Federal gasoline tax credit and the State gasoline tax refund may be combined on the same line of the tax form.

C. <u>Recaptured Depreciation and Recaptured Investment Credit</u>: IRS allows self-employed persons to deduct depreciation on property, for example a tractor, as a cost of doing business. When the property is sold before the end of its useful life, the seller must declare a portion of the depreciation as income for IRS purposes. This is commonly referred to as recaptured depreciation.

**104.87 Specific Types of Payments (continued)**

IRS allows a percentage of certain investments to be deducted as an expense. If the asset is disposed of or ceases to be eligible before the end of the recapture period for recovery property or before the end of the estimated life used to figure the credit, a percentage of the credit may have to be recaptured for IRS purposes. This is commonly referred to as recaptured investment credit.

Recaptured depreciation and recaptured investment credit are considered in the capital gain computations in the same manner as they are for Federal income tax purposes.

D. Patronage dividends are reported on tax forms. They are paid by cooperatives in cash or shares of stock. These dividends are similar to rebates paid based on the amount of goods bought or services used for the self-employment enterprise. Cash dividends are counted as income. Dividends in the form of stock are counted as a resource.

E. Payments received as royalties are counted as unearned income.

F. Income from rental property is non-farm self-employment income.

G. Disaster assistance payments made as the result of a Presidentially declared major disaster or Presidentially declared emergency are excluded from income and resources. This applies to Federal assistance provided to persons directly affected and to comparable disaster assistance provided by States, local governments, and disaster assistance organizations.

H. Agricultural Stabilization and Conservation Service (ASCS) cash payments are counted as earned self- employment income except for loans and payments made as the result of a Presidentially declared disaster. These include, but are not limited to, Commodity Credit Corporation and acreage reduction and conservation payments. Farm loans are excluded from income.

There are numerous and constantly changing programs under ASCS. There are several programs under which payments are made to farmers for crop losses. Many are of short duration and change from year to year. If ASCS payments are made as the result of a Presidentially declared disaster or emergency, they are excluded from income and resources in accordance with the Disaster Relief Act of 1974 as amended. Other ASCS one-time and installment payments made to farmers for crop or other losses are earned self-employment income.

Under the PIK program, farmers receive commodities from the U.S. Department of Agriculture, Commodity Credit Corporation (CCC). No income is received by the household until the grain is sold. If the commodities are expected to be sold

**104.87 Specific Types of Payments (continued)**

during the year, the anticipated income must be included as self-employment income for FSP purposes.  The CCC may also pay farmers in the form of commodity certificates for land diversion or acreage reduction.  The certificates may later be surrendered to the CCC for cash or for commodities, or the farmer may sell the certificate to someone else, usually for a profit.  The certificates are valued in dollars based on the price of the commodity at the time of the agreement with the CCC and the number of bushels of the commodity the farmer will lose through land diversion or acreage reduction.  When the certificates are used, the farmer receives cash or commodities based on the price of the commodity at the time the certificate is used.  The cash received under this program is counted as income in the year it is expected to be received.  It is annualized like other self-employment farm income.  The value of any commodity that the household intends to use for feed or seed is excluded from income.  If the farmer intends to retain the certificate or the commodity longer than 12 months, the value thereof is counted as a resource. In some cases farmers will sell commodities they own to the CCC and receive them back from CCC as PIK commodities.  Farmers are paid by CCC for the commodities with the payment being used to repay price support loans previously extended to the farmer by CCC. These sales and loan payments should be treated as completely separate transactions from the receipt of CCC certificates or PIK commodities and should be handled in the same manner as any other sale of commodities and repayment of a price support loan.

I. The Federal Crop Insurance Corporation (FCIC) insures producers against crop losses.  An FCIC payment is a nonrecurring lump-sum payment.  It is a resource in the month received and thereafter until spent.  Unlike ASCS payments, the producer has to pay a premium for FCIC insurance.  The Federal government subsidizes the premiums.

J. A crop insurance payment from a private company is excluded from income if it is paid as a nonrecurring lump-sum payment.  It is counted as a resource in the month received and thereafter until spent.  If the insurance company pays the household in installments, the money is counted as income.

**104.88 Farm Losses Offset Against Other Income**

A. If the costs of producing self-employment farm income exceed the gross farm income, such losses are offset against other countable income.

B. To qualify for this offset, the person must receive or anticipate receiving annual gross proceeds of $1,000 or more from the farming enterprise.

**104.88 Farm Losses Offset Against Other Income (continued)**

C. Monthly net farm self-employment income is computed in the normal manner by taking gross income, subtracting allowable exclusions and prorating the result over the period the income is intended to cover (usually 12 months). If there is a monthly net farm loss, the offset is made in two phases.

Phase I. The monthly farm loss is offset against the total amount of other net self-employment income computed for that month.

Phase II. If other net self-employment income is not enough to cover the farm loss, the remainder of the farm loss is offset against the total other earned and unearned income for that month. If there is still a net loss, the household is certified based on zero net income. The monthly excess loss is not carried forward to subsequent months.

D. A fisherman is equivalent to a self-employed farmer for purposes of the offset provision if the fisherman is self-employed, rather than an employee, and the fisherman receives or anticipates receiving annual gross proceeds of $1,000 or more from fishing. This applies even if the fisherman is only involved in catching or harvesting the fish. This applies to watermen and crayfishermen, as well as to other fishermen.

**104.89 Earned Income Deduction**

A. If a household has a monthly net self-employment income gain after a farm loss offset, if any, the household is entitled to a 20% earned income deduction from the net self-employment amount. If there is a net self-employment income loss, the household is not entitled to an earned income deduction from self-employment income.

B. If a household has earned income that is not from self-employment, the earned income deduction from that income is computed based on the amount before a farm loss offset, if any, is made.

**104.891 Verification**

The farmer's most recent income tax forms and schedules are normally good sources of verification for self-employment income and expenses. However, other sources may be used. If the tax form is questionable or not available, the case manager must ask to see other documents that support the income and expenses that the household has reported.

Other sources of verification may include, but are not limited to, ledgers, charge account statements, sales slips, canceled checks, invoices, purchase orders and

**104.891 Verification (continued)**

cash receipts. In documenting this verification, the case manager should record the date, identify the other party or company, describe the expense or income, and record the amount, taxes and discounts, if any.

In some instances, such as anticipated changes or a new business, it may be necessary to obtain information from collateral contacts.

If a bankruptcy action has been initiated, the case manager may get a statement from the bankruptcy trustee regarding the debt reorganization plan concerning the accessibility of assets and the anticipated gross income and expenses.

**104.892 Making Changes**

When income has been annualized and changes are reported during the 12-month period, the State agency must make adjustments. The following are some examples.

A. This household filed its income tax return in February and applied for FSP benefits in February. It is subject to simplified reporting. The household did not choose to have the income prorated in uneven amounts.

**Original Certification**:
$16,000 crop income
- 4,800 30% self-employment deduction (actual farm expenses were $4000)
$11,200 divided by 12 months = $933 net per month for February through January of the following year.

Due to a drought, the household reported on July 20 that it expected to only get $10,000 from the sale of crops for the year. The case manager must re-annualize the income over the same 12-month period that was used at the time of certification or recertification using the new income amount.

**1st Change**:
$10,000 crop income
-4,000 farm expenses (this exceeds 30% self-employment deduction)
$ 6,000 divided by 12 months = $500 net per month for August through January of the following year.

The household came in on August l and reported a second change. It reported that it expected to receive an additional $2,400 payment in September from the sale of crops on land that it recently purchased. The case manager must re-annualize again over the same 12-month period that was used at the time of certification or recertification based on the most recent information available.

**104.892 Making Changes (continued)**

**2nd Change**:

| | |
|---|---|
| $10,000 | crop income |
| + 2,400 | additional crop income |
| 12,400 | total gross income |
| - 4,000 | expenses |
| $ 8,400 | divided by 12 months = $700 net per month for September through January in lieu of all previously computed amounts. A Notice of Adverse Action must be sent in August. |

The **end result** is that this household will be certified with net monthly farm income of $1,000 for February - July, $500 for August, and $700 for September - January.

B. If the income and expenses were annualized and the person stops farming during the 12-month period, normally the case manager should stop counting the farm self-employment income when the last income is received from that source. For example, a farmer reported the first of September that he or she planned to stop farming in September and expects to sell the last crop in October. The sale of the crop had previously been anticipated, and the income had already been included in the averaged amount. The averaged amount of income would continue to be counted for October. No self-employment income would be counted for November.

If, however, the household is expected to receive residual income after the person stops being actively engaged in the farm enterprise and the amount of income is expected to be substantially more or less than that previously averaged, the case manager must calculate the residual farm income based on the anticipated monthly amount(s). For example, the annualized self-employment income resulted in an average monthly amount of $400. On June 5, the person reported that he or she would not be actively engaged in farming after June and would not receive any additional income from that source except that a person who bought some hay owes him $100 in July and $200 in August. The person does not anticipate any future expenses. In this case, the case manager would stop counting the $400 monthly amount after June's issuance and calculate future self- employment income based on the amount anticipated to be received each month. The case manager could count $200 as self-employment income for July and $100 self-employment income for August, or the anticipated fluctuating monthly income could be average forward over the remainder of the certification period.

**104.892 Making Changes (continued)**

A farmer may receive a bill for an allowable expense after the person has quit farming. If the income is averaged, self-employment expenses for the same period the income is averaged are allowed. When the income is no longer counted, expenses are no longer allowed as exclusions from that income. If the income is computed on a monthly basis, only the expenses billed or otherwise due in that month are allowed.

If a farmer had his farm self-employment income and expenses annualized and was receiving a monthly offset from other income and the person stops farming during the 12-month period, the case manager should stop allowing a monthly offset during the 12-month period when no more farm income will be received. Just as any net gains would stop being counted at that time, any net loses for farm offset purposes would also stop being allowed at that time.