



TaxNewsFlash

Cooperatives

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Notice 2022-43: Farmers, ranchers affected by drought allowed more time to replace livestock

The IRS today released an advance version of Notice 2022-43 as guidance for farmers and ranchers who were forced to sell livestock on account of drought in specific counties—generally, a county designated as eligible for federal assistance plus counties contiguous to that county.

[Notice 2022-43](#) [PDF 142 KB] provides an extension of the replacement period for sales of livestock that were sold due to drought conditions (and thus allows the taxpayer to defer tax on any gains from forced sales pursuant to section 1033(e)). A list of counties that experienced exceptional, extreme, or severe drought conditions during the 12-month period ending August 31, 2022, is included in an appendix to Notice 2022-43.

Background

The IRS relief generally applies to capital gains realized by eligible farmers and ranchers on sales of livestock held for draft, dairy or breeding purposes. Sales of other livestock such as those raised for slaughter or held for sporting purposes, or poultry are not eligible.

To qualify, the sales must be solely due to drought, flooding or other severe weather causing the region to be designated as eligible for federal assistance. Under these circumstances, livestock generally must be replaced within a four-year period—instead of the usual two-year period. In addition, the IRS is authorized to further extend this replacement period if the drought continues. The one-year extension, announced today, gives eligible farmers and ranchers until the end of the tax year after the first drought-free year to replace the sold livestock. Details, including an example, are provided in prior IRS guidance, [Notice 2006-82](#) [PDF 23 KB].

Notice 2006-82 further announced that the IRS would publish in September of each year a list of counties, districts, cities or parishes for which exceptional, extreme or severe drought was reported during the preceding 12 months. Taxpayers may use this list to determine whether they qualify for a four-year replacement period for livestock sold or exchanged on account of drought and whose replacement period is scheduled to expire at the end of 2021 (or for a fiscal year taxpayer, at the end of the tax year that includes August 31, 2021).

Relief measures

According to a related IRS release—[IR-2022-166](#):

- Eligible farmers or ranchers must be in an “applicable region” (a county designated as eligible for federal assistance plus counties contiguous to that county).
- The relief generally applies to capital gains realized by eligible farmers and ranchers on sales of livestock held for draft, dairy or breeding purposes. Sales of other livestock, such as those raised for slaughter or held for sporting purposes, or poultry, are not eligible.
- To qualify for the tax relief, the sales must be solely due to drought, flooding or other severe weather causing the region to be designated as eligible for federal assistance.
- The one-year extension announced today provides eligible farmers and ranchers until the end of their first tax year after the first drought-free year to replace the sold livestock. The extension is provided to eligible farmers and ranchers located in the applicable regions (listed in an appendix to Notice 2022-43) who qualified for the four-year replacement period if any county that is included in the applicable region is listed as suffering exceptional, extreme or severe drought conditions during any week in the 12-month period ending August 31, 2022 (that is, September 1, 2021, through August 31, 2022).

KPMG observation

In summary, qualified farmers and ranchers whose drought-sale replacement period was scheduled to expire at the end of this tax year—December 31, 2022—may now have until the end of their next tax year. Because the normal drought-sale replacement period is four years, this extension immediately affects drought-related sales that occurred during 2018. The replacement periods for some drought sales before 2018 may also be affected due to previous drought-related extensions affecting some of these localities.

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