

Extended Livestock Replacement Period Applies in Areas of Extended Drought – IRS Updated Drought Areas

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Overview

Each year, by the end of September, the IRS provides guidance on the extension of the replacement period under I.R.C. §1033(e)(2)(B) for livestock sold on account of drought, flood or other weather-related condition. The extended replacement period allows taxpayers additional time to replace the involuntarily converted livestock with like-kind replacement animals without triggering gain on the sale. The IRS recently issued its 2021 guidance on the issue.

Background

With Notice 2021-55, 2021-41, I.R.B., the IRS issued its annual Notice specifying those areas that are eligible for an extension of the replacement period for livestock that farmers and ranchers must sell because of severe weather conditions (drought, flood or other weather-related conditions). For livestock owners in the listed areas that were anticipating that their replacement period would expire at the end of 2021 now have at least until the end of 2022 to replace the involuntarily converted livestock.

Involuntary Conversion Rules

I.R.C. §1033(e) provides that a taxpayer does not recognize gain when property is involuntarily converted and replaced with property that is similar or related in service or use. Under I.R.C. §1033(e)(1), the sale or exchange of livestock that a taxpayer holds for draft, dairy or breeding purposes in an amount exceeding the number of livestock that the taxpayer would normally sell under the taxpayer's usual business practice, is treated as a non-taxable involuntary conversion if the sale of the livestock is solely on account of drought, flood or other weather-related conditions. The weather-related conditions must result in the area being designated as eligible for assistance by the federal government. For purposes of this rule, poultry does not count as "livestock."

The livestock must be replaced with "like-kind" livestock. I.R.C. §1033(a)(1). Normally, the replacement period is four years from the close of the first tax year in which any part of the gain from the conversion is realized. I.R.C. §1033(e)(2)(A). But the Treasury Secretary has discretion to extend the replacement period on a regional basis for "such additional time as the Secretary deems appropriate" if the weather-related conditions that resulted in the federal designation continue for more than three years. I.R.C. §1033(e)(2)(B).

If the involuntary conversion of livestock is on account of drought and the taxpayer's replacement period is determined under I.R.C. §1033(e)(2)(A), the extended replacement period under I.R.C. §1033(e)(2)(B) and Notice 2006-82, 2006-2 C.B. 529 is until the end of the taxpayer's first taxable year after the first drought-free year for the applicable region. That is defined as the first 12-month period that ends on August 31 in or after the last of the taxpayer's four-year replacement period, and does not include any weekly period for which exceptional, extreme or severe drought is reported for any location in the applicable region. The "applicable region" is the county (and all contiguous counties) that experienced the drought conditions on account of which the livestock was sold or exchanged.



Note: If an area is designated as *not* having a drought-free year, the extended replacement period applies.

Thus, for a taxpayer who qualified 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 first tax year that includes August 31, 2021), the replacement period extends until the end of the taxpayer's first taxable year ending after a drought-free year for the applicable region.

Determining Eligible Locations

One way to determine if a taxpayer is in an area that has experienced exceptional, extreme or severe drought is to refer to the U.S. Drought Monitor maps that are produced on a weekly basis by the National Drought Mitigation Center. The U.S. Drought Monitor maps are archived at <https://droughtmonitor.unl.edu/Maps/MapArchive.aspx>

Another way is to wait for the IRS to publish its list of counties, which it is required to issue by the end of September each year.

In accordance with the 2021 IRS Notice on the matter, the following is a list of the counties for which the 12-month period ending August 31, 2021, is *not* a drought-free year:

Arizona

Counties of Apache, Cochise, Coconino, Gila, Graham, Greenlee, La Paz, Maricopa, Mohave, Navajo, Pima, Pinal, Santa Cruz, Yavapai, and Yuma.

Arkansas

Counties of Benton, Carroll, Madison, and Washington.

California

Counties of Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Imperial, Inyo, Kern, Kings, Lake, Lassen, Los Angeles, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Nevada, Orange, Placer, Plumas, Riverside, Sacramento, San Benito, San Bernardino, San Diego, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Ventura, Yolo, and Yuba.

Colorado

Counties of Adams, Alamosa, Arapahoe, Archuleta, Baca, Bent, Boulder, Broomfield, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Delta, Denver, Dolores, Douglas, Eagle, Elbert, El Paso, Fremont, Garfield, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Jefferson, Kiowa, Kit Carson, Lake, La Plata, Larimer, Las Animas, Lincoln, Logan, Mesa, Mineral, Moffat, Montezuma, Montrose, Morgan, Otero, Ouray, Park, Phillips, Pitkin, Prowers, Pueblo, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Sedgwick, Summit, Teller, Washington, Weld, and Yuma.

Connecticut

Counties of Hartford, Litchfield, Middlesex, New Haven, New London, Tolland, and Windham.

Hawaii

Counties of Hawaii, Honolulu, Kalawao, Kauai, and Maui.



Idaho

Counties of Ada, Adams, Bannock, Bear Lake, Benewah, Bingham, Blaine, Boise, Bonner, Bonneville, Boundary, Butte, Camas, Canyon, Caribou, Cassia, Clark, Clearwater, Custer, Elmore, Franklin, Fremont, Gem, Gooding, Idaho, Jefferson, Jerome, Kootenai, Latah, Lemhi, Lewis, Lincoln, Minidoka, Nez Perce, Oneida, Owyhee, Payette, Power, Shoshone, Teton, Twin Falls, Valley, and Washington.

Illinois

Counties of Boone, Christian, Cook, DeKalb, De Witt, DuPage, Jo Daviess, Kane, Lake, Logan, McHenry, Macon, Menard, Ogle, Piatt, Sangamon, Stephenson, and Winnebago.

Iowa

Counties of Adair, Adams, Allamakee, Audubon, Benton, Black Hawk, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cass, Cerro Gordo, Cherokee, Chickasaw, Clay, Clayton, Crawford, Dallas, Delaware, Dickinson, Dubuque, Emmet, Fayette, Floyd, Franklin, Fremont, Greene, Grundy, Guthrie, Hamilton, Hancock, Hardin, Harrison, Howard, Humboldt, Ida, Iowa, Jasper, Johnson, Keokuk, Kossuth, Linn, Lyon, Madison, Mahaska, Marshall, Mills, Mitchell, Monona, Montgomery, O'Brien, Osceola, Page, Palo Alto, Plymouth, Pocahontas, Polk, Pottawattamie, Poweshiek, Sac, Shelby, Sioux, Story, Tama, Warren, Webster, Winnebago, Winneshiek, Woodbury, Worth, and Wright.

Kansas

Counties of Brown, Cheyenne, Clark, Clay, Cloud, Comanche, Decatur, Dickinson, Geary, Gove, Graham, Grant, Greeley, Hamilton, Jackson, Jewell, Kearny, Lincoln, Logan, Marshall, Meade, Mitchell, Morton, Nemaha, Norton, Ottawa, Phillips, Pottawatomie, Rawlins, Republic, Riley, Scott, Seward, Sheridan, Sherman, Smith, Stanton, Stevens, Thomas, Wabaunsee, Wallace, Washington, and Wichita.

Maine

Counties of Androscoggin, Aroostook, Cumberland, Franklin, Hancock, Kennebec, Knox, Lincoln, Oxford, Penobscot, Piscataquis, Sagadahoc, Somerset, Waldo, Washington, and York.

Massachusetts

Counties of Barnstable, Berkshire, Bristol, Dukes, Essex, Franklin, Hampden, Hampshire, Middlesex, Nantucket, Norfolk, Plymouth, Suffolk, and Worcester.

Michigan

County of Alcona, Allegan, Arenac, Barry, Bay, Benzie, Berrien, Branch, Calhoun, Cass, Clinton, Eaton, Genesee, Gladwin, Grand Traverse, Gratiot, Hillsdale, Huron, Ingham, Ionia, Iosco, Isabella, Jackson, Kalamazoo, Kent, Lapeer, Leelanau, Livingston, Manistee, Mason, Mecosta, Midland, Montcalm, Muskegon, Newaygo, Ogemaw, Ottawa, Saginaw, Saint Clair, Saint Joseph, Sanilac, Shiawassee, Tuscola, Van Buren, Washtenaw, and Wexford.

Minnesota

County of Aitkin, Anoka, Becker, Beltrami, Benton, Big Stone, Blue Earth, Brown, Carlton, Carver, Cass, Chippewa, Chisago, Clay, Clearwater, Cook, Cottonwood, Crow Wing, Dakota, Douglas, Faribault, Fillmore, Freeborn, Goodhue, Grant, Hennepin, Houston, Hubbard, Isanti, Itasca, Jackson, Kanabec, Kandiyohi, Kittson, Koochiching, Lac qui Parle, Lake, Lake of the Woods, Le Sueur, Lincoln, Lyon, McLeod, Mahnomon, Marshall, Martin, Meeker, Mille Lacs, Morrison, Mower, Murray, Nicollet, Nobles, Norman, Otter Tail, Pennington, Pine, Pipestone, Polk, Pope, Ramsey, Red Lake, Redwood, Renville, Rice, Rock, Roseau,



Saint Louis, Scott, Sherburne, Sibley, Stearns, Steele, Stevens, Swift, Todd, Traverse, Wadena, Waseca, Washington, Watonwan, Wilkin, Wright, and Yellow Medicine.

Mississippi

Counties of Grenada, Leflore, Quitman, Tallahatchie, and Yalobusha.

Missouri

Counties of Atchison, Barry, Barton, Cedar, Christian, Dade, Douglas, Greene, Holt, Jasper, Lawrence, McDonald, Newton, Polk, Stone, Taney, Vernon, and Webster.

Montana

Counties of Beaverhead, Big Horn, Blaine, Broadwater, Carbon, Carter, Cascade, Chouteau, Custer, Daniels, Dawson, Deer Lodge, Fallon, Fergus, Flathead, Gallatin, Garfield, Glacier, Golden Valley, Granite, Hill, Jefferson, Judith Basin, Lake, Lewis and Clark, Liberty, Lincoln, McCone, Madison, Meagher, Mineral, Missoula, Musselshell, Park, Petroleum, Phillips, Pondera, Powder River, Powell, Prairie, Ravalli, Richland, Roosevelt, Rosebud, Sanders, Sheridan, Silver Bow, Stillwater, Sweet Grass, Teton, Toole, Treasure, Valley, Wheatland, Wibaux, and Yellowstone.

Nebraska

Counties of Adams, Antelope, Arthur, Banner, Box Butte, Boyd, Buffalo, Burt, Butler, Cass, Cedar, Chase, Cherry, Cheyenne, Clay, Colfax, Cuming, Custer, Dakota, Dawes, Dawson, Deuel, Dixon, Dodge, Douglas, Dundy, Franklin, Frontier, Furnas, Gage, Garden, Garfield, Gosper, Grant, Greeley, Hall, Hamilton, Harlan, Hayes, Hitchcock, Holt, Howard, Jefferson, Johnson, Kearney, Keith, Keya Paha, Kimball, Knox, Lancaster, Lincoln, McPherson, Madison, Merrick, Morrill, Nance, Nemaha, Nuckolls, Otoe, Pawnee, Perkins, Phelps, Pierce, Platte, Red Willow, Richardson, Rock, Saline, Sarpy, Saunders, Scotts Bluff, Sheridan, Sherman, Sioux, Stanton, Thayer, Thurston, Valley, Washington, Wayne, Webster, and Wheeler.

Nevada

City of Carson City. Counties of Churchill, Clark, Douglas, Elko, Esmeralda, Eureka, Humboldt, Lander, Lincoln, Lyon, Mineral, Nye, Pershing, Storey, Washoe, and White Pine.

New Hampshire

Counties of Belknap, Carroll, Cheshire, Coos, Grafton, Hillsborough, Merrimack, Rockingham, Strafford, and Sullivan.

New Mexico

Counties of Bernalillo, Catron, Chaves, Cibola, Colfax, Curry, DeBaca, Dona Ana, Eddy, Grant, Guadalupe, Harding, Hidalgo, Lea, Lincoln, Los Alamos, Luna, McKinley, Mora, Otero, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Sierra, Socorro, Taos, Tarrant, Union, and Valencia.

New York

Counties of Allegany, Cattaraugus, Hamilton, Herkimer, Jefferson, Lewis, Oneida, Saint Lawrence, and Suffolk.

North Carolina

Counties of Bladen, Brunswick, Columbus, Duplin, New Hanover, Onslow, Pender, Robeson, Sampson, and Scotland.



North Dakota

Counties of Adams, Barnes, Benson, Billings, Bottineau, Bowman, Burke, Burleigh, Cass, Cavalier, Dickey, Divide, Dunn, Eddy, Emmons, Foster, Golden Valley, Grand Forks, Grant, Griggs, Hettinger, Kidder, LaMoure, Logan, McHenry, McIntosh, McKenzie, McLean, Mercer, Morton, Mountrail, Nelson, Oliver, Pembina, Pierce, Ramsey, Ransom, Renville, Richland, Rolette, Sargent, Sheridan, Sioux, Slope, Stark, Steele, Stutsman, Towner, Traill, Walsh, Ward, Wells, and Williams.

Oklahoma

Counties of Atoka, Beaver, Beckham, Blaine, Bryan, Caddo, Canadian, Carter, Choctaw, Cimarron, Coal, Custer, Dewey, Ellis, Grady, Greer, Harmon, Harper, Jackson, Jefferson, Johnston, Kiowa, Love, Major, Marshall, Murray, Roger Mills, Texas, Tillman, Washita, Woods, and Woodward.

Oregon

Counties of Baker, Benton, Clackamas, Clatsop, Columbia, Coos, Crook, Curry, Deschutes, Douglas, Gilliam, Grant, Harney, Hood River, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, Malheur, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco, Washington, Wheeler, and Yamhill.

Pennsylvania

Counties of Blair, Cambria, Cameron, Centre, Clearfield, Clinton, Huntingdon, Lycoming, McKean, Potter, Tioga, and Union.

Rhode Island

Counties of Bristol, Kent, Newport, Providence, and Washington.

South Carolina

Counties of Calhoun, Chesterfield, Clarendon, Darlington, Dillon, Florence, Georgetown, Horry, Kershaw, Lee, Lexington, Marion, Marlboro, Orangeburg, Richland, Sumter, and Williamsburg.

South Dakota

Counties of Aurora, Beadle, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchinson, Hyde, Jackson, Jerauld, Jones, Kingsbury, Lake, Lawrence, Lincoln, Lyman, McCook, McPherson, Marshall, Meade, Mellette, Miner, Minnehaha, Moody, Oglala Lakota, Pennington, Perkins, Potter, Roberts, Sanborn, Spink, Stanley, Sully, Todd, Tripp, Turner, Union, Walworth, Yankton, and Ziebach.

Texas

Counties of Andrews, Angelina, Aransas, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Brazoria, Brazos, Brewster, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Carson, Castro, Cherokee, Childress, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Dallas, Dawson, Deaf Smith, Denton, DeWitt, Dickens, Dimmit, Donley, Duval, Eastland, Ector, Edwards, Ellis, El Paso, Erath, Falls, Fayette, Fisher, Floyd, Foard, Frio, Gaines, Galveston, Garza, Gillespie, Glasscock, Goliad, Gonzales, Gray, Grayson, Grimes, Guadalupe, Hale, Hall, Hamilton, Hardeman, Hardin, Harris, Hartley, Haskell, Hays, Hemphill, Henderson, Hidalgo, Hill, Hockley, Houston, Howard, Hudspeth, Hunt, Hutchinson, Irion, Jack, Jackson, Jeff Davis, Jim Hogg, Jim



Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kenedy, Kent, Kerr, Kimble, King, Kinney, Kleberg, Knox, Lamb, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Lipscomb, Live Oak, Llano, Loving, Lubbock, Lynn, McCulloch, McLennan, McMullen, Madison, Martin, Mason, Matagorda, Maverick, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Motley, Nacogdoches, Navarro, Nolan, Nueces, Ochiltree, Oldham, Parker, Parmer, Pecos, Polk, Potter, Presidio, Randall, Reagan, Real, Reeves, Refugio, Roberts, Robertson, Rockwall, Runnels, San Jacinto, San Patricio, San Saba, Schleicher, Scurry, Somervell, Starr, Stephens, Sterling, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terrell, Terry, Throckmorton, Tom Green, Travis, Trinity, Tyler, Upton, Uvalde, Val Verde, Victoria, Walker, Ward, Washington, Webb, Wheeler, Wilbarger, Willacy, Williamson, Wilson, Winkler, Wise, Yoakum, Young, Zapata, and Zavala.

Utah

Counties of Beaver, Box Elder, Cache, Carbon, Daggett, Davis, Duchesne, Emery, Garfield, Grand, Iron, Juab, Kane, Millard, Morgan, Piute, Rich, Salt Lake, San Juan, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Washington, Wayne, and Weber.

Vermont

Counties of Addison, Caledonia, Essex, Orange, Orleans, Rutland, Washington, Windham, and Windsor.

Washington

Counties of Adams, Asotin, Benton, Chelan, Clark, Columbia, Cowlitz, Douglas, Ferry, Franklin, Garfield, Grant, Island, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, San Juan, Skagit, Skamania, Spokane, Stevens, Wahkiakum, Walla Walla, Whatcom, Whitman, and Yakima.

Wisconsin

Counties of Burnett, Crawford, Dane, Dodge, Grant, Green, Jefferson, Kenosha, La Crosse, Lafayette, Milwaukee, Monroe, Ozaukee, Pierce, Polk, Racine, Richland, Rock, Saint Croix, Vernon, Walworth, Washington, and Waukesha.

Wyoming

Counties of Albany, Big Horn, Campbell, Carbon, Converse, Crook, Fremont, Goshen, Hot Springs, Johnson, Laramie, Lincoln, Natrona, Niobrara, Park, Platte, Sheridan, Sublette, Sweetwater, Teton, Uinta, Washakie, and Weston.

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