

COMMONWEALTH OF PUERTO RICO
DEPARTMENT OF THE TREASURY
SAN JUAN, PUERTO RICO

No. 2942
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Approved: Carlos S. Quirós
Secretary of State

By: Lamberto de la Cruz
Assistant Secretary of State

REGULATION ON THE DEDUCTION FOR INCOME FROM AGRICULTURE EARNED BY
A BONE FIDE FARMER UNDER THE INCOME TAX ACT OF 1954

ARTICLE 1. - SHORT TITLE

This Regulation shall be known under the name of Regulation on the Deduction from Net Profit Derived from an Agricultural Business.

ARTICLE 2. - AUTHORITY

This Regulation is promulgated by virtue of the authority vested in the Secretary of the Treasury and the Secretary of Agriculture in subsection (B) of paragraph (2) of item (u) of Section 23 of Public Law No. 91, enacted on June 29, 1954, as amended, Income Tax Act of 1954, as was amended by Public Law No. 22, enacted on June 1st. 1982.

ARTICLE 3. - INCOME FROM AGRICULTURE

(a) In General. - Item (u) of Section 23 of Public Law No. 91, enacted on June 29, 1954, as amended, Income Tax Act of 1954, grants a deduction for income from agriculture earned by a bona fide farmer duly certified as such by the Secretary of Agriculture. Said deduction shall be granted for a period of partial exemption of ten (10) years beginning on January 1st., 1983 and ending on December 31, 1992. The total deduction shall be computed based on the applicable percentage of the net income from the farmer's agricultural business, as declared in the income tax returns for the years covered by said deduction.

(b) Applicable percentage. - For the purpose of computing the total deduction, the percentage corresponding to the taxable year shall be applied to the net income from the taxpayer's agricultural business as follows:

(1) 90 per cent during the first seven (7) years, beginning on January 1st., 1983 and ending on December 31, 1989;

(2) 75 per cent during the next two (2) years, beginning on January 1st., 1990 and ending on December 31, 1991; and

(3) 50 per cent during the last year, from January 1st., 1992 through December 31 of said year.

(c) Fiscal year. - In those cases where the taxpayer uses a fiscal year as his (her) taxable year, the applicable percentages specified in paragraph (b) shall take effect from the taxpayer's fiscal year beginning within calendar year 1983 through the taxpayer's fiscal year beginning within calendar year 1992.

ARTICLE 4. - PROCEDURE TO OBTAIN THE CERTIFICATION AS A BONA FIDE FARMER

(a) Any farmer seeking to claim the benefits of this deduction must request from the Secretary of Agriculture a certification wherein shall be stated that he (she) qualifies as a bona fide farmer in accordance with the requirements established in item (a) of Article 4 of this Regulation. The request shall be made on the form provided for these purposes by the Agricultural Development Administration and must be filed with the Department of Agriculture not later than October 31 of each year in which the deduction is claimed.

(b) The period during which the taxpayer may claim the deduction provided in Section 23 (u) supra, shall begin in the taxable year in which the taxpayer notifies the Secretary of the Treasury of his (her) intention to claim the benefits thereof. Said notice shall be given at the time of filing the corresponding income tax return, enclosing therewith the certification as a bona fide farmer issued by the Department of Agriculture, which shall form a part of the aforementioned return.

ARTICLE 5. - MEANING OF THE TERMS

(a) Bona Fide Farmer.- For the purposes of Section 23 (u), a bona fide farmer shall be any natural or artificial person which derives, during the taxable year for which it claims the deduction provided in said section, 50 per cent or more of its gross income from an agricultural business as stated in a certification issued by the Secretary of Agriculture. In determining whether a taxpayer may be deemed to be a bona fide farmer, consideration shall be given to such factors as, among others, that he (she) be engaged (be it personally or through employees) in the cultivation of the land as owner or lessee for profit; the breeding and selling of animals, as well as the production and sale of products derived therefrom in all of their forms; the policies issued by the State Insurance Fund; the returns filed with the Federal Social Security Administration; the government programs for farmers; and the loans which the taxpayer may have received. The consideration of these factors shall be decisive in granting the deduction in those cases where, due to circumstances which the Secretary of the Treasury deems meritorious, the farmer has derived less than 50 percent of his (her) gross income from the agricultural business in any of the taxable years covered by the deduction.

(b) Agricultural Business. - The following activities shall constitute an agricultural business in accordance with the provisions of Section 23 (u) supra:

- (1) The cultivation of the land for the production of fruits, vegetables, spices for seasonings and all kinds of food for human or animal consumption;
- (2) The breeding of animals for the production of meat, milk or eggs;

- (3) The breeding of thoroughbred racing horses;
- (4) Those operations devoted to packing, placing in containers or classifying fresh agricultural products that form a part of the same agricultural business; and
- (5) Mariculture and aquaculture.

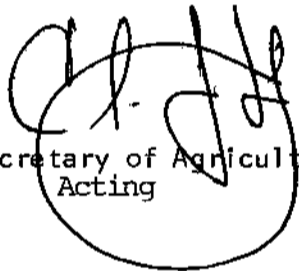
ARTICLE 6. - LIMITATION

A taxpayer who, for the taxable years covered by this deduction, does not qualify as a bona fide farmer in accordance with the provisions of Article 4 of this Regulation, shall be deemed as not being engaged in an agricultural activity on a commercial basis. In such case, he (she) shall be entitled to claim expenses or losses incurred in the agricultural activity only to the extent of the total gross income derived from said activity.

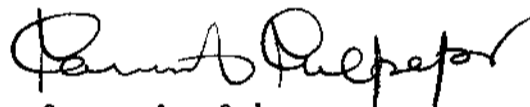
ARTICLE 7. - EFFECTIVENESS

This Regulation shall take effect thirty (30) days after its filing with the Office of the Secretary of State, pursuant to the provisions of Public Law No. 112, enacted on June 30, 1957, as amended, Regulations Act of 1958, but its effect shall be applicable from January 1st., 1983 through December 31, 1992.

In San Juan, Puerto Rico, on December 30, 1982.



Secretary of Agriculture
Acting



Carmen Ana Culpeper
Secretary of the Treasury