

ARA-INITIATED 2008 FARM BILL AGRICULTURAL CHEMICALS SECURITY TAX CREDIT

How It Affects Your Business

With the enactment of the 2008 Farm Bill (P.L. 110-234) on May 22, an ARA-initiated chemical security tax credit for agricultural retailers, distributors and other eligible agribusinesses has been implemented. This credit helps offset increased security costs incurred by ag retailers and distributors as a result of the federal government's regulations and efforts to safeguard agricultural chemicals from the threat of potential terrorists, drug dealers or other criminals.

ARA intends to work closely with Internal Revenue Service officials on guidance to be issued on this security tax credit.

Key Points to Consider

Eligible Agricultural Businesses

Any person in the trade or business:

- 1) Selling agricultural products, including specified agricultural chemicals, at retail predominantly to farmers and ranchers; or
- 2) Manufacturing, formulating, distributing, or applying aurally.

Specified Agricultural Chemicals

This term refers to:

- 1) **Fertilizers** commonly used in agricultural operations that are listed under section 302(a)(2) of the Emergency Planning and Community Right-to-Know Act of 1986, U.S. Department of Transportation (DOT) HAZMAT Security Transportation rules (Section 101 or Part 172 of title 49, Code of Federal Regulations), or U.S. Coast Guard Maritime Port Security rules (Part 126, 127, or 154 of title 33, Code of Federal Regulations).

For example, **anhydrous ammonia, aqua ammonia, ammonium nitrate, potassium nitrate and sodium nitrate** are fertilizers covered by one or all of the aforementioned federal environmental and security regulations.

- 2) **Any pesticide** (as defined in section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act) including all active and inert ingredients which are used on crops grown for food, feed, and fiber.

Facility Limitation

The credit is limited to **\$100,000** per facility. The credit covers 30 percent of the amount paid or

incurred at a facility for qualified security measures; and is a component of the general business credit.

Company Limitation

Annual credit is limited to **\$2,000,000** per company with multiple facilities.

Qualified Chemical Security Expenditures

- 1) Employee security training and background checks.
- 2) Limitation and prevention of access to controls to specific agricultural chemicals stored at a facility.
- 3) Tagging, locking tank valves, and chemical additives to prevent the theft of specific agricultural chemicals or to render such chemicals unfit for illegal use.
- 4) Protection of perimeter areas where specified agricultural chemicals are stored.
- 5) Installation of security lighting, cameras, recording equipment and intrusion detection sensors.
- 6) Implementation of measures to increase computer or computer network security.
- 7) Conducting security vulnerability assessments.
- 8) Implementing a site security plan.
- 9) Other measures as defined by the regulation.

Expenditures described in this section are only eligible to the extent incurred by a qualified agricultural business to protect specified agricultural chemicals.

Denial of Double Benefits

No deduction shall be allowed for that portion of the expenses otherwise allowable for a deduction taken into account in determining the credit.

Effective Date

Applies to amounts paid or incurred **after May 22, 2008**.

Termination Date

Expires on December 31, 2012, unless reauthorized by Congress.

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