

Annual list sets out extreme drought areas for extended livestock replacement period

[Notice 2018-79, 2018-42 IRB](#)

IRS has released the latest version of an annual list (published each September) of counties or parishes in which exceptional, extreme, or severe drought has been reported during the preceding 12 months. Farmers and ranchers in these areas whose drought sale replacement period for a tax-free sale or exchange under [Code Sec. 1033](#) was scheduled to expire at the end of this tax year-Dec. 31, 2018, in most cases-will now have until the end of their next tax year. The list can be used instead of U.S. Drought Monitor maps to determine whether an extended replacement period applies for livestock sold because of drought.

Background on livestock replacement period. An involuntary conversion is the compulsory or involuntary conversion of a taxpayer's property into similar property, dissimilar property or money as a result of the property's destruction, theft, seizure, requisition or condemnation (actual or threatened). ([Code Sec. 1033\(a\)](#)) Involuntary conversion includes the sale or exchange of livestock (in excess of the number that the taxpayer would sell if following his or her usual business practices) solely on account of drought, flood, or other weather-related conditions. ([Code Sec. 1033\(e\)\(1\)](#)) Where property is involuntarily converted into other property similar or related in service or use to the converted property, no gain is recognized. ([Code Sec. 1033\(a\)\(1\)](#))

If a taxpayer sells livestock on account of drought, flood, or other weather-related conditions which result in the area being designated as eligible for assistance by the federal government, the involuntary conversion replacement period is four years. This 4-year period may be extended further by IRS on a regional basis if the weather-related conditions continue for more than three years. ([Code Sec. 1033\(e\)\(2\)](#))

In [Notice 2006-82, 2006-2 CB 529](#) (see " [IRS extends replacement period for livestock sold because of drought](#) "; 9/14/2006), IRS said that if a sale or exchange of livestock is treated as an involuntary conversion because of drought, the 4-year replacement period is extended until the end of the taxpayer's first tax year ending after the first drought-free year for the applicable region. The first drought-free year for the applicable region (which is the county that experienced the drought and all contiguous counties) is the first 12-month period that: (1) ends on Aug. 31; (2) ends in or after the last year of the taxpayer's 4-year replacement period; and (3) does not include any weekly period for which exceptional, extreme, or severe drought is reported for any location in the applicable

region. Taxpayers can determine whether drought conditions exist for an applicable region by referring to either the U.S. Drought Monitor maps produced by the National Drought Mitigation Center (NDMC) or a list that IRS publishes in September.



Observation: [Notice 2006-82](#) , noted that while taxpayers can generally determine whether severe drought is reported for all or part of a county by looking at the U.S. Drought Monitor maps (see <http://droughtmonitor.unl.edu/>), in some cases, such as on the borders of a drought zone, IRS's list might be more helpful.

List of areas with exceptional, extreme, or severe drought. In the Appendix to [Notice 2018-79](#) , IRS lists counties in 41 states and the District of Columbia for which exceptional, extreme, or severe drought was reported during the 12-month period ending Aug. 31, 2018. Any county contiguous to a county listed by the NDMC also qualifies for relief. ([Notice 2006-82](#))

Under [Notice 2006-82](#) , the 12-month period ending on Aug. 31, 2019, is not a drought-free year for an applicable region that includes any county on this list. For a taxpayer who qualified for a 4-year replacement period for livestock sold or exchanged on account of drought and whose replacement period is scheduled to expire at the end of 2018 (or, in the case of a fiscal year taxpayer, at the end of the tax year that includes Aug. 31, 2018), the replacement period under [Code Sec. 1033\(e\)\(2\)](#) and [Notice 2006-82](#) will be extended if the applicable region includes any county on this list. This extension will continue until the end of the taxpayer's first tax year ending after a drought-free year for the applicable region.

References: For the replacement period for involuntarily converted livestock, see [FTC 2d/FIN ¶ N-1216](#) ; [United States Tax Reporter ¶ 10,334.08](#) .