	Percent
For economics injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 280111 and for economic injury the number is 860200.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 28, 1995.

Philip Lader,

Administration.

[FR Doc. 95–19320 Filed 8–4–95; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2793]

Virginia; Declaration of Disaster Loan Area (Amendment #1)

The above-numbered Declaration is hereby amended, in accordance with notices from the Federal Emergency Management Agency dated July 10 and 12, 1995, to include the City of Bedford and Amherst, Bedford, and Franklin Counties in the Commonwealth of Virginia as a disaster area due to damages caused by severe storms and flooding beginning on June 22, 1995 and continuing.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Floyd and Patrick in the Commonwealth of Virginia may be filed until the specified date at the previously designated location.

Any counties contiguous to the above-named primary counties and not listed herein have been previously declared.

All other information remains the same, i.e., the termination date for filing applications for physical damage is August 29, 1995, and for loans for economic injury the deadline is April 3, 1996.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 27, 1995.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 95–19321 Filed 8–4–95; 8:45 am]

BILLING CODE 8025–01–M

SOCIAL SECURITY ADMINISTRATION

Social Security Ruling SSR 95–3p.; Title II: Transactions Involving Noncash Transfers for Agricultural Labor

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling 95–3p. This Policy Interpretation Ruling explains when certain transactions involving noncash transfers for agricultural labor may be considered wages under Section 209(a) of the Social Security Act. The Internal Revenue Service (IRS) issued guidelines for evaluating whether such transactions are, in economic reality, payments in cash and therefore wages for purposes of the Federal Insurance Contributions Act tax. Since the Social Security Administration (SSA) does not have such guidelines, these transactions have not been treated by SSA as wage payments for Social Security coverage and annual earnings test purposes. The purpose of this Ruling is to achieve consistent treatment between SSA and the IRS of transactions involving noncash transfers for agricultural labor.

EFFECTIVE DATE: August 7,1995.

FOR FURTHER INFORMATION CONTACT: Joanne K. Castello, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–1711.

SUPPLEMENTARY INFORMATION: Although we are not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 422.406(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings may be based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and other policy interpretations of the law and regulations.

Although Social Security Rulings do not have the force and effect of the law or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 422.406(b)(1), and are to be relied upon as precedents in adjudicating other cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the **Federal Register** to that effect.

(Catalog of Federal Domestic Assistance, Program Nos. 96.001 Social Security—Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.004 Social Security—Survivors Insurance; 96.005 Special Benefits for Disabled Coal Miners)

Dated: July 27,1995.

Shirley S. Chater,

Commissioner of Social Security.

Policy Interpretation Ruling—Title II: Transactions Involving Noncash Transfers for Agricultural Labor

Purpose: This Ruling explains when certain transactions involving noncash transfers for agricultural labor may be considered wages under section 209(a) of the Social Security Act. The purpose of this Ruling is to provide that the treatment afforded by the Social Security Administration (SSA) of such transactions will be the same as the treatment afforded by the Internal Revenue Service (IRS).

Citation (Authority): Sections 209(a), 210(f), and 210(j)(2) of the Social Security Act (the Act); Regulations No. 4, sections 404.1005, 404.1007, 404.1010, 404.1016, 404.1017, 404.1041(e), 404.1055, 404.1056, 404.1068(c), and 404.1074.

Background: Section 209(a)(7)(A) of the Act and section 3121(a)(8)(A) of the Internal Revenue Code (IRC) provide that, for purposes of Social Security coverage and Federal Insurance Contributions Act (FICA) taxation, respectively, the term ''wages'' does not include ''remuneration paid in any medium other than cash for agricultural labor'' (as defined in section 210(f) of the Act and section 3121(g) of the IRC). Any medium other than cash (generally referred to as ''in-kind'' payments) includes, for example, lodging, food, clothing, or agricultural commodities. Some farmers have attempted to use commodity payments as remuneration for agricultural services to avoid paying FICA tax. This practice can prevent farm workers from accumulating the quarters of coverage needed to qualify for Social Security benefits. However, the IRS clarified in Revenue Ruling 79–207 and in subsequent guidelines that a transfer of an in-kind item which is immediately converted to cash is, in economic reality, a payment in cash not subject to the wage exclusion. The effect of the ruling is that certain transactions involving in-kind transfers for agricultural labor have been considered cash payments and therefore wages subject to tax under FICA. SSA policy has been not to treat such in-kind transfers as wages under the Act when evaluating them for Social Security coverage purposes.

To achieve consistent treatment between SSA and the IRS of transactions involving in-kind transfers for agricultural labor, SSA is adopting

the policy position in IRS Revenue Ruling 79–207.

Policy Interpretation: To determine whether certain transactions involving in-kind transfers for agricultural labor are wages within the meaning of section 209(a) of the Act, and thus creditable as wages for Social Security benefit purposes, SSA will consider the following:

1. Does an employer-employee relationship exist? Only noncash payments to an employee qualify for the section 209(a)(7)(A) exception. In-kind payments received by a self-employed individual engaged in farming are not subject to this exception and may be considered in determining self-employment income which is credited for Social Security coverage purposes. Section 210(j)(2) of the Act defines ''employee'' as ''any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee.'' SSA's rules for evaluating whether an individual is a common-law employee are found in 20 CFR 404.1007.

When a farmer's spouse (or child 18 or older) performs agricultural labor for the farmer, the individual may be an employee. Generally, an employer-employee relationship exists when the person for whom the labor is performed has the right to control and direct the person who performs the services. Special coverage rules with respect to farm crew leaders, foreign agricultural workers, and sharefarmers are found in 20 CFR 404.1010, 404.1016, 404.1017, 404.1068(c), and 404.1074.

2. Is the in-kind transfer, in economic reality, equivalent to a payment in cash? Although section 209(a)(7)(A) of the Act excludes from the definition of covered wages remuneration paid in any medium other than cash for agricultural labor, if a bona fide transfer of the noncash medium from the employer to the employee has not occurred and the transaction is, in economic reality, equivalent to a payment in cash, the wage exclusion will not apply.

In determining whether a transaction involving a noncash medium is, in economic reality, a payment in cash, SSA will consider the extent to which the employee exercised dominion and control over the noncash item. Many factors may be relevant including, among other things: (1) Whether the employer has transferred a readily identifiable portion of an item; (2) whether there is documentation of the transfer; (3) the length of time between the employee's receipt and sale of the item; (4) whether the employee negotiates the subsequent sale of the item; (5) whether the risk of gain or loss shifted to the employee; and (6) whether the employee bears the costs incident to ownership of the item, for example, storage, feeding, or maintenance costs.

Example 1: A farm operator agrees to give an employee 30 head of cattle for services performed on the farm. The farm operator sells 100 head of cattle to a commodity purchaser. The commodity purchaser gives the farm operator a check for 70 head of cattle and the employee a check for 30 head of cattle. These facts indicate that the cash proceeds from the sale are wages because the employee did not exercise dominion and control over the cattle.

Example 2: A farm operator pays an employee $50 a month plus 10 head of cattle per month for services performed on the farm. The employee pays the farm operator rent to maintain the cattle on the farm property in an area separate from the farm operator's livestock. The employee assumes the costs of feeding, maintaining, and transferring the cattle to the market for sale. The employee is paid directly by the commodity purchaser for the cattle. These facts indicate that the commodity payments are not wages because the employee exercises dominion and control over the cattle subsequent to receipt and bears the costs incident to ownership of the cattle.

Example 3: An employment agreement provides that a farmer will compensate his wife in cash wages of $100 per month and transfer 100 head of cattle each year. The wife's cattle are raised and maintained with the husband's cattle. Under the employment agreement, the farmer delivers the cattle to a market location agreed upon by the wife and at the market transfers ownership to the wife. The wife's cattle were not distinguishable or readily identifiable from the other cattle taken to market. The wife receives a check directly from the market for the cattle. Since the sale of the cattle occurs almost simultaneously with their delivery to the wife, these facts indicate that the in-kind transfer is, in substance, equivalent to a cash payment and therefore wages for Social Security purposes.

Documentation: Evidence documenting the existence of an employment relationship, the terms of the agreement, and the transfer of commodities should be obtained. There is a presumption that an individual's earnings record as maintained by SSA is correct as posted. SSA determines whether the evidence is sufficient to overcome that presumption of correctness.

Effective Date: This policy is effective upon publication of this Ruling in the **Federal Register**.

Cross-References: Program Operations Manual System, Part 3, Chapter 021, Subchapter 01; and Chapter 014, Subchapter 02, Section RS 01402.020.

[FR Doc. 95–19365 Filed 8–4–95; 8:45 am]

BILLING CODE 4190–29–P

[Social Security Ruling SSR 95–4c]

Supplemental Security Income—Termination of Benefits Due to Excess Resources

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling 95–4c. This Ruling is based on a decision by the U.S. Court of Appeals for the Third Circuit in *Chalmers* v. *Shalala,* 23 F.3d 752 (3rd Cir. 1994), which upheld the Secretary's decision and found that the claimant's equitable interest in real property was a countable resource as set out in the Social Security regulations. Despite her mental impairment, the Court of Appeals found that the claimant had the power to liquidate her equitable interest and apply the proceeds toward her support. Consequently, because her equitable interest in the real property was valued above the resources limit set by the supplemental security income program, the claimant's benefits were properly terminated.

EFFECTIVE DATE: August 7, 1995.

FOR FURTHER INFORMATION CONTACT: Joanne K. Castello, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–1711.

SUPPLEMENTARY INFORMATION: Although we are not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 422.406(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings may be based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and other policy interpretations of the law and regulations.

Although Social Security Rulings do not have the force and effect of the law or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 422.406(b)(1), and are to be relied upon as precedents in adjudicating cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the **Federal Register** to that effect.