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Small Farms and the ACA

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Under the rules of the Affordable Care Act (ACA), farm employers are generally subject to the employer mandate if, under special rules for counting employees, there are 50 or more full time employees. Briefly, the employer mandate requires these larger farm employers to offer coverage to full time employees or pay a penalty. A small farm employer with under 50 full time employees is not subject to the employer mandate.

Note. See the earlier farmdoc daily article on the impact of the ACA's employer mandate on large farm operations and the applicable rules entitled "Your Farm Business and the Affordable Care Act" (*farmdoc daily*, August 26, 2014)

Because the small farm employer is not subject to the employer mandate, a small farm employer that does not provide health care coverage may continue to do so without being subject to a penalty. Of course, the small farm business can choose to begin offering coverage, but nothing in the ACA requires this or imposes the minimum requirements for such coverage that are applicable to large farm businesses.

However, the ACA still has implications for the small farm employer. First, each farmer who is a business owner and each member of their family is generally subject to the **individual mandate** to obtain "minimum essential coverage" (MEC) for themselves and any dependents or face a penalty at the individual level. Beginning on January 1, 2014, a penalty is imposed on the farmer for each month that the farmer does not have MEC in effect that covers their personal health and that of their dependents.[1] Every individual is subject to this mandate unless they qualify for an exemption under the rules. If the small farm business does have an employer-sponsored plan in effect, the farmer and the farmer's family can meet the individual mandate requirement (and avoid personal penalties) if that coverage qualifies as MEC. If the small farm business does not have an employer-sponsored health plan in place that provides MEC for the farmer and farmer's family, coverage must be obtained through the Marketplace exchange.

[1] IRC §5000A

Some states have established their own exchange while other states rely on the federal exchange for residents to obtain coverage.

The ACA requires that the coverage offered on Marketplace exchanges fall into four general categories. Each category provides different levels of coverage for the costs incurred by the person insured. These categories and coverage levels are as follows.

Coverage Category	Coverage Level
Bronze	60%
Silver	70%
Gold	80%
Platinum	90%

The Premium Assistance Credit

Farmers who do not have the option of obtaining MEC through a qualifying employer-sponsored plan provided by their own farm business or through that of another employer must obtain their MEC through the Marketplace exchange. Farmers who obtain coverage through the Marketplace may qualify for assistance in paying for the cost of their health insurance. The premium assistance credit (PAC) may be available to the farmer if the farmer's household income is in the range of 100%[1] to 400% of the federal poverty guideline. The federal poverty guideline level of income for the farmer depends upon the number of people in the farmer's household. The 2014 federal poverty guideline amounts are summarized in the following table.

TABLE A	
Number of Persons in the Household	**Poverty Guideline**
1	$11,670
2	$15,730
3	$19,790
4	$23,850
5	$27,910
6	$31,970
7	$36,030
8	$40,090
For each additional person over 8 add an additional	$ 4,060

Calculating the farmer's PAC amount is complicated and involves an analysis of the farmer's household income using a sliding scale that is part of the ACA legislation. This sliding scale will provide a percentage (referred to under ACA rules as the farmer's "applicable percentage") by which the farmer's household income is multiplied. The sliding scale that provides the applicable percentage for 2014 is as follows.[2]

[1] Farmers with incomes below 100% of the federal poverty guideline may still qualify for the PAC under special rules.

[2] Within each tier of the table, the income within the range provided and the applicable percentage are linearly related. Therefore, if a farmer's household income is 141.5% of the poverty income guideline that farmer's income falls in the second tier. Because that income is at the midpoint between 133% and 150% (the low and high income levels for that tier) the applicable percentage would be 3.5% (the midpoint between the lower and upper applicable percentages of 3% and 4% respectively).

TABLE B		
Household Income Amount	**Lower Applicable Percentage**	**Upper Applicable Percentage**
100% - 133%	2%	2%
133% - 150%	3%	4%
150% - 200%	4%	6.3%
200% - 250%	6.3%	8.05%
250% - 300%	8.05%	9.5%
300% - 400%	9.5%	9.5%

Multiplying the farmer's household income by the appropriate applicable percentage results in the farmer's **annual contribution** for health care. This annual contribution amount is compared to the cost of the second lowest cost silver plan (called the "benchmark plan") that is available to the farmer on the Marketplace exchange through which the farmer can obtain coverage. The difference between the cost of the benchmark plan and the farmer's annual contribution amount is the amount of PAC that the farmer will qualify for in the tax year.

Example. Nancy is a single farmer who operates the family farm on a full-time basis. She has no dependents and is the only person in her household. On the Marketplace exchange in the state in which Nancy lives, the cost of the benchmark plan for 2014 is $4,300. Her household income, which consists of her 2014 farm income and some tax exempt interest from municipal bonds amounts to $23,340. This is exactly 200% of the federal poverty guideline level of income that applies to her (which is the first tier in Table A that shows her federal poverty guideline income level to be $11,670). Because her income is 200% of the federal poverty guideline, she finds 200% in Table B and finds that her applicable percentage is 6.3%.

She multiplies her household income by her applicable percentage to obtain her annual contribution amount, which is $1,470 ($23,340 × 6.3%).

The amount of PAC that Nancy will qualify for is calculated as follows.

Amount of PAC Assistance = (Benchmark Plan Cost - Annual Contribution Amount)
= $4,300 - $1,470
= $2,830

The anticipated income amount Nancy may use when obtaining coverage online through her Marketplace exchange may be different than the actual amount of income of $23,340 that she has for 2014 that appears on her 2014 tax return (when it is prepared in early 2015). When Nancy files her 2014 tax return, the amount of PAC that was estimated for her through the online Marketplace will be reconciled with her actual income for the year to ensure that her claim of $2,830 was correct. If Nancy's income was lower or higher than expected, her PAC will be adjusted accordingly. She may have claimed some "excess" PAC if her income turns out to be higher than she expected. She may need to repay some or all of this excess. She may benefit from some "caps" on the amount that must be repaid.

When Nancy purchases coverage in the Marketplace exchange, she has the option to claim an "advance" PAC (which will provide her with assistance over the duration of 2014 with actual payments toward her actual coverage costs). Payments that offset part or all of the cost of her coverage will be made directly from the federal government to her health care insurance company. She will pay the difference, only, if any, if she opts for the advance PAC. If she does not opt for the advance PAC, the amounts that she would have qualified for will be instead paid to her in the form of a tax refund because the PAC is a refundable tax credit. IRS Form 8962, *Premium Tax Credit* will serve to "track" and reconcile her PAC with her actual income amount for the year when she files her tax return. This is a new IRS form that will be filed with Nancy's tax return starting with the 2014 tax year.

Exemptions

There are a total of **nine** exemptions under the ACA rules. Generally, some of these exemptions are administered by the Department of Health and Human Services through the Marketplace exchanges while other exemptions are administered by the IRS. It is possible to apply for and qualify for more than one exemption. Many of these exemptions are applied for using the online tools of the Marketplace exchange for the state in which the farmer resides. While the rules associated with some of these exemptions are complex, these nine exemptions are summarized as follows.

Exemption	**Administration**	
	IRS	**Exchange**
Affordable coverage unavailable	X	
Income below filing threshold	X	
Indian tribe members	X	X
Short coverage gap period	X	
Hardship	Depends on grounds	Depends on grounds
Religious conscience		X
Health care sharing ministry	X	X
Nonresident alien, undocumented alien residents	X	
Incarcerated individuals	X	X

For the small farm business owner, the following four exemptions are perhaps the most important:

- Affordable coverage unavailable
- Income below filing threshold
- Hardship
- Short-coverage gap period

Affordable Coverage Unavailable

The farmer is exempt if affordable coverage is not available. "Affordable" however, is defined with reference to the farmer's household income. Household income is defined as the farmer's "modified adjusted gross income" (or MAGI) plus the MAGI for all family members who are required to file a tax return for the year. The family members whose income must be included are those family members for whom the farmer properly claims an exemption on the year's tax return.[1] MAGI is generally AGI plus any tax exempt interest the farmer or a family member (who is required to file a return) receives. Assuming there are no changes to the IRS draft version of the 2014 tax return form (Form 1040), AGI will appear on line 37 for 2014.

Note. Determining the farmer's household income is not always easy. There are special rules used under the Tax Code to determine if a child with income is "required to file a return". If the child is required to file a return for the year, the child's income is included in the household income amount. A child's income inclusion may mean that the farmer is disqualified from claiming this exemption if household income becomes high enough with the child's income included.

Once the farmer determines the amount of household income for the year, the farmer is exempt from the requirement to obtain health coverage under the individual mandate if the cost of that coverage to the farmer is more than 8% of household income for the year. While the 8% threshold applies for 2014, this

[1] Treas. Reg. §1.5000A-1(d)(4).

threshold is subject to a special inflation indexing rule each year (and for 2015, the threshold will be 8.05%).

Example. Rebecca is a single farmer who operates the family farm. She has no dependents. Her household income is $35,010 for 2014, which includes her farming income and some tax exempt interest from her municipal bonds. She is self-employed and **not** eligible to enroll in any employer-sponsored health plan. The annual premium for the lowest-cost self-only bronze plan available from the state exchange in her area is $4,400. The cost of the benchmark plan (second lowest cost silver plan) through her Marketplace exchange is $ 4,826. According to her tax advisor, she will qualify for a premium assistance credit of $1,500.[1]

Rebecca's 2014 health insurance cost is the annual premium for the lowest-cost self-only bronze plan that she can obtain through her state exchange less her PAC. Her required contribution is therefore $2,900 ($4,400 − $1,500).

Because her required contribution of $2,900 is more than 8% of her household income, or $2,800 ($35,010 × 8%), she does not have affordable coverage available to her for 2014. She is therefore exempt from the individual mandate to maintain MEC for 2014 and will not be subject to any penalty if she does not obtain coverage.

Income Below Filing Threshold

Under Tax Code rules, the farmer may not be required to file a tax return if the farmer's income is below the threshold amount that "triggers" the requirement to file a tax return for the year. These threshold amounts are based on the farmer's filing status. The table below summarizes these amounts for 2014 (which are subject to annual indexing adjustments).

Filing Status	**Filing Threshold Amount**	**Filing Threshold Amount if One Taxpayer is Age 65+ or Blind**	**If Both Taxpayers are Age 65+ or Blind**
Single	$10,150	$11,700	
Married Filing Jointly	$20,300	$21,500	$22,700
Married Filing Separately	$ 3,950	$ 5,150	
Head of Household	$13,050	$14,600	
Qualifying Widow(er)	$16,350	$17,550	

The IRS administers the exemption from the individual mandate for farmers who are below the filing threshold. Under IRS rules, the farmer below the filing threshold is automatically exempt. That farmer does not need to file a tax return to claim the exemption. If the farmer still files a tax return to claim a benefit, the exemption may be claimed on Form 8965, *Health Coverage Exemptions.* This is a new form being developed by the IRS (currently available only in draft form at the present date).

Hardship Exemption

Several hardship definitions exist under which the farmer may qualify. The farmer's Marketplace exchange is typically responsible for administering this exemption and for determining the farmer's eligibility.

General Hardship. Any of the following three circumstances qualify under the general definition of hardship.

[1] This PAC amount for Rebecca is calculated in the same manner as shown in the previous example for Nancy.

- The farmer experiences financial or domestic circumstances, including an unexpected natural or human-caused event, that causes a significant and unexpected increase in essential expenses that prevents the farmer from obtaining MEC
- The expense of obtaining qualified coverage would cause the farmer serious deprivation of food, shelter, clothing, or other necessities
- The farmer has other circumstances that precludes that farmer from acquiring MEC

A Marketplace exchange that finds the farmer qualifies under one of the three tests above, **must** grant the farmer a hardship exemption. This exemption must cover the number of months in which the farmer's hardship exists, plus the month before and the month after the duration of the hardship.
The Center for Medicare and Medicaid Services[1] provides guidance on what circumstances may constitute hardship, which include a farmer who

• Became homeless
• Was evicted in the past six months, or faces eviction or foreclosure
• Received a shut-off notice from a utility company
• Recently experienced domestic violence
• Recently experienced a death of a close family member
• Recently experienced a fire, flood, or other natural or human-caused disaster that resulted in substantial damage to the farmer's property
• Filed for bankruptcy in the last six months
• Incurred unreimbursed medical expenses in the last 24 months that resulted in substantial debt
• Experienced unexpected increases in essential expenses due to caring for an ill, disabled, or aging family member

Hardship Based on Projected Income. The Marketplace must also grant an exemption to the farmer who shows that coverage is unaffordable based on projected income. The farmer may use projected income in the online Marketplace exchange system to determine whether they may qualify for this exemption. This exemption protects farmers who fail to obtain coverage because the Marketplace provides a projection that coverage is not affordable but who later learns that income is high enough to disqualify the farmer for the "affordable coverage unavailable" exemption discussed earlier. The farmer in this situation may also qualify for a general hardship exemption. Under this projected income hardship exemption, the farmer's required contribution is generally the same as used and calculated under the "affordable coverage unavailable" exemption.

In order to obtain this hardship exemption based on projected income, the farmer must apply before the final date on which the farmer may enroll in a Marketplace plan for the months for which the farmer is requesting the exemption. A change in the farmer's circumstances during the year will not nullify this exemption for the remainder of the year once the farmer qualifies for this exemption.

Short-Coverage Gap Exemption

A farmer may obtain an exemption for a period without coverage if that period is a continuous period of less than three months. If the farmer has coverage in effect for at least one day of a month, the coverage is considered to have been in effect for the entire month. Only one such short-coverage gap period of this nature is allowed within each tax year. If the farmer has more than one such gap period without coverage within the tax year, only the first gap period within the tax year qualifies for this exemption.[2] If the farmer may qualify for another exemption for some or all of the months in the gap period, the other exemption(s) must be used instead of this short-coverage gap period exemption.[3] There are special rules if the gap period "straddles" over two tax years.

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[1] Center for Medicare and Medicaid Services correspondence of Mr. Gary Cohen, Deputy Administrator and Director, dated June 26, 2013.
[2] Treas. Reg. §1.5000A-3(j)(2)(iii).
[3] Treas. Reg. §1.5000A-3(j)(2)(ii).

Small Farm Businesses Offering Coverage

While the small farm business with less than 50 full time employees is not subject to the employer mandate, it may still choose to provide coverage to its employees (or continue doing so if it already has a plan in place). The small farm business will not face any penalties in connection with the coverage offered to employees. However, starting with the 2014 tax year, if the farm business intends on claiming the Small Business Health Care Tax Credit in connection with the cost of the coverage, the coverage must be obtained through the Small Business Health Options Program (SHOP) exchange. This is the exchange established for businesses with 50 or fewer full-time employees to obtain an employer plan for business owners, including farm businesses.

Conclusion

Small farm businesses with under 50 employees is are not subject to the ACA employer mandate and are not subject to the employer-related penalties associated with the decision to not offer coverage to full time employees. However, farmers with small farm businesses must comply with the requirements of the individual mandate to obtain and maintain coverage in order to avoid personal penalties. The individual mandate applies to the farmer and members of the farmer's family with the exception of those who qualify for an exemption.

References

Lovell, M. "Your Farm Business and the Affordable Care Act." *farmdoc daily* (4):161, Department of Agricultural and Consumer Economics, University of Illinois at Urbana-Champaign, August 26, 2014.