farmdoc DAILY

Department of Agricultural and Consumer Economics, University of Illinois Urbana-Champaign

IFES 2013: Farms and the Affordable Care Act

Marc Lovell

Tax School and Department of Agricultural and Consumer Economics
University of Illinois

January 9, 2014

Recommended citation format: Lovell, M. "IFES 2013: Farms and the Affordable Care Act." *farmdoc daily*, Department of Agricultural and Consumer Economics, University of Illinois at Urbana-Champaign, January 9, 2014.

Permalink: http://farmdocdaily.illinois.edu/2014/01/ifes-2013-farms-affordable-care-act.html

This is a presentation summary from the 2013 Illinois Farm Economics Summit (IFES) which occurred December 16-20, 2013 at locations across Illinois. A complete collection of presentations including PowerPoint Slides (PPT), printable summaries (PDF) and interviews are available here.

Two New Medicare Taxes for 2013 Onward

Effective January 1, 2013, there are two new Medicare taxes that will affect higher-income farmers. The Net Investment Income Tax (NIIT) is a new 3.8% tax on certain types of passive income. Wages, self-employment income and other sources of income subject to Medicare tax may be subject to the new Additional Medicare tax of 0.9%. Whether these taxes will affect a farmer depends upon the farmer's tax filing status and level of adjusted gross income (AGI) for the year. The income thresholds for each filing status are as follows.

Filing Status	AGI Threshold
Married Filing Jointly	$250,000
Married Filing Separately	$125,000
Single and Others	$200,000

Farmers with incomes above these thresholds may trigger tax liability under the rules for one or both of these new Medicare taxes.

The Net Investment Income Tax

The NIIT is a 3.8% tax on the amount of income for the year that the farmer receives that constitutes "net investment income". Generally, this is passive income such as interest, dividends and rental income. Capital gains may also attract the 3.8% tax. The rules in this area are complex but there is a "business exception" to this tax. If the income is from a "**trade or business**" (as that term is understood under Tax Code §162) **and** if the farmer "**materially participates**" (as defined by Tax Code §469) in the activity generating the income, that income will not be considered "net investment income" and will therefore not attract the 3.8% NIIT. For farmers, the greatest concerns are whether the NIIT of 3.8% will apply to **rental**

income (such as cash rents) and **capital gains**. As a general rule of thumb, all rental income the farmer receives that is in excess of the income threshold for that farmer's filing status noted earlier will attract the 3.8% tax. In addition, a capital gain from the sale of farmland or other farm property will also attract the 3.8% tax unless the farmer meets the "trade or business" and "material participation" tests.

Additional Medicare Tax

Generally, this 0.9% tax applies to wages or self-employment income in excess of the thresholds noted earlier. Generally, if the source of income is already subject to our current Medicare tax, it is the type of income subject to the new 0.9%.

Employer Insurance Mandate

This mandate becomes effective January 1, 2014 with enforcement of any penalties delayed until 2015. Whether a farm business is subject to this mandate and its potential penalties depends upon the number of full-time persons the farm business employs. Generally, if there are at least 50 full-time employees, the farm business is considered an "applicable large employer" subject to the employer mandate rules. However, special rules exist that must be used to calculate the number of full-time employees. These special rules require the farming business to take into account not only those employees that are actual full-time employees but also part- time employees. The total number of hours that the part-time employees work is used in a formula that determines how many "full-time equivalent" (FTE) employees that the part-time workers are composed of. The actual full-time employees and the FTEs are added together to determine whether at least the 50 full-time employees exist that are necessary to subject the farming business to the mandate and possible penalties.

Complex rules exist in connection with the time frame that the employer may use as the counting period for counting employees. A special rule exists for seasonal workers. Generally, if the only reason a farming business exceeds 50 employees is because of the work of seasonal workers, the farming business will not be considered an applicable large employer as long as the period of time over which the full-time employee count exceeded 50 was 120 days or less in the year. For farmers or farming families owning more than one business, entities are aggregated for purposes of counting employees.

The employer mandate rules do not require a farming business to offer health coverage to full time employees. However, there are penalties for a farm business that is subject to the mandate that either does not offer coverage or which offers coverage that does not meet certain minimum standards. These penalties are not tax deductible. Farm businesses subject to these rules will need to file a detailed report each year to the Internal Revenue Service. Which will be used to determine the amount of any penalty.

No farming business or other type of business will be subject to any penalty for 2014 because the requirement to file this detailed report, which triggers the penalty, has been **delayed** until January 1, 2015. The first report will be filed by farming businesses in early 2016 in connection with the 2015 tax year.

Individual Mandate

Effective January 1, 2014, every farmer will be required to maintain "minimum essential coverage" (MEC) unless they qualify for an exemption. Among the exemptions available is an exemption for lower-income farmers with incomes low enough that a return isn't required, an exemption for hardship (defined using various grounds) and the lack of ability to obtain affordable coverage (meaning generally that the farmer would be obligated to pay more than 8% of household income for health insurance).