Affordable Care Act: Impact on Farmers and Farm Businesses

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Overview

1. 3.8% net investment income tax (1/1/13)
2. 0.9% add’l Medicare tax (1/1/13)
3. Individual mandate to maintain healthcare coverage (1/1/14)
4. Employer mandate with respect to healthcare coverage (1/1/14)
Affected Taxpayers

- Individuals
- Trusts
- Estates

Individual Taxpayers

- 3.8% NIIT applies to lesser of:
  - Taxpayers net investment income for year, or
  - Amount of modified adjusted gross income in excess of threshold amount
### Threshold Amounts

<table>
<thead>
<tr>
<th></th>
<th>NIIT</th>
<th>ATRA</th>
<th>Top Bracket</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Phaseouts</td>
<td></td>
<td></td>
</tr>
<tr>
<td>S</td>
<td>$200,000</td>
<td>$250,000</td>
<td>$400,000</td>
</tr>
<tr>
<td>MFJ</td>
<td>250,000</td>
<td>300,000</td>
<td>450,000</td>
</tr>
<tr>
<td>MFS</td>
<td>125,000</td>
<td>150,000</td>
<td>225,000</td>
</tr>
<tr>
<td>HOH</td>
<td>200,000</td>
<td>275,000</td>
<td>425,000</td>
</tr>
<tr>
<td>QW</td>
<td>200,000</td>
<td>300,000</td>
<td>450,000</td>
</tr>
</tbody>
</table>

### NII Categories of Income

1. Gross interest, dividends, annuities, royalties, and rents.
2. Other income from covered trade or business
Two part test for exception:
- “Trade or business” under §162
- “Material participation” under §469 (and Temp. Treas. Reg. §1.469-5T)

A business that trades in financial instruments or commodities cannot be exempt.

Application of §469

- Material participation
- Real estate professional
- Rental activity
- Grouping
Self-Employment Income

NII does not include income subject to SE tax.

Expenses

- NII is gross investment income less expenses:
  - Investment interest
  - Investment advisory fees
  - Brokerage fees
  - Rental expenses
  - Royalty expenses
  - State and local income taxes
### Additional Medicare Tax

#### Filing Status vs. Threshold Amount

<table>
<thead>
<tr>
<th>Filing Status</th>
<th>Threshold Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>MFJ</td>
<td>$250,000</td>
</tr>
<tr>
<td>MFS</td>
<td>125,000</td>
</tr>
<tr>
<td>S, HoH, QW</td>
<td>200,000</td>
</tr>
</tbody>
</table>

### Types of Income Affected

- Wages and other employment compensation.
- SE income
Individual Mandate

- There are 9 exemptions, including:
  1. Individuals lacking access to affordable MEC,
  2. Individuals with less than filing threshold amount, and
  3. Individuals determined by state exchange to have suffered hardship preventing obtaining coverage.

No Access to Affordable Health Care
### Income Below Filing Threshold

<table>
<thead>
<tr>
<th>Filing Status</th>
<th>Filing Threshold Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>S</td>
<td>$10,000</td>
</tr>
<tr>
<td>MFJ</td>
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<tr>
<td>MFS</td>
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<tr>
<td>HoH</td>
<td>12,850</td>
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<tr>
<td>QW</td>
<td>16,100</td>
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</tbody>
</table>

### Hardship Exemption

- Significant increase in essential expenses,
- Expense causes deprivation of essentials,
- No affordable coverage,
- Gross income below filing threshold,
- Eligible for Medicaid,
- Eligible for employer plan (but cost >8%),
- Other circumstances
Farmer Bill’s income for:
A. 2012
B. 2013
C. 2014
will determine whether he is subject to the individual mandate for 2014.

Farmer Bill’s income for:
A. 2012
B. 2013
C. 2014
will determine the amount of any 2014 shared responsibility payment (penalty) he owes.
Filing Requirement Delayed

IRC Section 6056

- Applicable large employers must file annual return with the IRS regarding:
  - Details about employees
  - Nature of the coverage offered
    - Minimum value (60%)
    - Affordable (9.5%)

- Notice to employees required by Oct. 1, 2013 for employers with:
  - At least one employee used in interstate commerce, and
  - $500,000 in “annual dollar volume of business”

www.dol.gov/ebsa/newsroom/tr13-02.html
Questions for Farm Businesses

- Delayed enforcement
- Which farm businesses are affected?
- What are the penalties?
- Should the farm business offer coverage to full time employees?

Which Farm Businesses are Affected?

- Count employees (common law “right of control test”)
  
  \[
  \text{Full Time} + \text{FTEs} = 50 \text{ or more}^* 
  \]

*Seasonal employee exception exists
Counting Employees

Count employees during a “controlled period”

- Standard Measurement Period (SMP) (3 to 12 months)
- Administrative Period
  - Max. 90 days
  - Optional
- Stability Period (At least 6 months and no longer than SMP)

Counting Employees: Example

For a calendar year plan year:

- SMP Nov. 1/13-Oct. 31/14
- Administrative Period Nov. 1/14-Dec. 31/14
- Stability Period Jan. 1/15 – Dec. 31/15
Penalties

- **Section 4980H(a) for “no-coverage” farm employers:**
  
  \[(FT \text{ employees} - 30) \times 2,000\]

- **Section 4980H(b) for “coverage” farm employers:**
  
  Lesser of:
  
  \[3,000 \times \# \text{employees obtaining PAC}\]
  
  or the 4980H(a) penalty