Chapter 4: Agricultural Issues and Rural Investments

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Please note. Corrections for all of the chapters are available at www.TaxSchool.illinois.edu. For clarification about acronyms used throughout this chapter, see the Acronym Glossary at the end of the Index.

THE AFFORDABLE CARE ACT AND AGRICULTURAL PRODUCERS

REQUIREMENT THAT LARGE EMPLOYERS OFFER HEALTH INSURANCE

Under the Affordable Care Act (ACA), an applicable large employer (ALE) must offer health insurance to its employees. An ALE is defined as one that employed an average of at least 50 full-time equivalent (FTE) employees during the preceding calendar year.1 For this purpose, related entities are treated as a single employer in accordance with IRC §414 qualified retirement plan aggregation rules.

A full-time employee is an individual employed an average of at least 30 hours per week. The number of FTE employees for any month is determined by dividing the aggregate number of service hours of employees who are not full-time for the month by 120.2

The employer is not considered an ALE if the number of full-time employees plus FTE employees exceeds 50 for no more than 120 days during the year, and the employees in excess of 50 were seasonal employees.3

The 2015 mandate for employers that have 100 or more employees requires that they offer health insurance coverage to at least 70% of eligible employees. The percentage increases to 95% for 2016 and later years. For employers with 50–99 employees, the employer mandate is delayed until 2016.4 Employers will use information about the number of employees they employ and their hours of service during 2014 to determine whether they are considered an ALE for 2015. A small employer (one with fewer than 50 FTE employees) is not required to offer health insurance.

1. IRC §4980H(c)(2)(A).
2. IRC §4980H(c)(2)(E).
3. IRC §4980H(c)(2)(B)(i).
There are penalties that apply to ALEs. The penalty for failing to provide coverage to full-time employees when required applies if at least one employee receives a premium tax credit (PTC) or other cost subsidy because insurance is not offered or the insurance offered is unaffordable. Affordability is determined based on the employee’s household income (but the employer may rely on the employee’s income reported on Form W-2, Wage and Tax Statement.) The PTC is not available if an employee’s income exceeds 400% of the federal poverty level. If no insurance is offered when it is required, the penalty is $2,000 per employee. For 2015, there is no penalty on the first 80 employees. If inadequate insurance is offered, the penalty is $3,000 per employee, but the total penalty cannot exceed the penalty that would have applied if no insurance had been offered.

Note. For more information about the employer mandate, see the 2014 University of Illinois Federal Tax Workbook, Volume A, Chapter 3: Affordable Care Act Update.

Single Employer Common Control Test and Constructive Ownership

It is necessary to determine whether related organizations must be treated as a single employer for purposes of meeting various ACA requirements. A multiple-entity farming structure whose companies were established under separate tax identification numbers is treated as a single employer under the controlled group rules of IRC §414.

If two or more entities are owned by five or fewer persons who own more than 50% of the total combined voting power or more than 50% of the stock value, the ownership structure of the entities must be examined. For this purpose, an individual is deemed to own the stock of their spouse and minor children. An individual who owns more than 50% of the voting power or stock value is considered to own the stock of their lineal ancestors and descendants. However, the ownership interests of siblings are not included. Consider the following examples.

Example 1. Bob owns 65% of FarmCo and 50% of LandCo. Bob’s daughter, Julia, owns 35% of FarmCo and 50% of LandCo. Because Bob owns more than 50% of FarmCo, Julia’s ownership is attributed to him. As a result, Bob is deemed to own 100% of FarmCo. However, because neither Bob nor Julia owns more than 50% of LandCo, there is no attribution for that entity.

Example 2. Bob owns 100% of FarmCo and 50% of LandCo. Julia owns 50% of LandCo but none of FarmCo. Because Bob and Julia’s common ownership does not exceed 50%, each company is recognized as a separate employer.

Example 3. Bob owns 100% of FarmCo, Julia owns 100% of LandCo, and both Bob and Julia own 50% of MachineCo. Because there is no ownership combination resulting in common ownership in excess of 50%, there is no attribution.

CREDIT FOR SMALL EMPLOYER HEALTH INSURANCE PREMIUMS

For 2014 and 2015, a credit of 50% (35% in 2013) is available to offset the cost of providing insurance coverage to employees. The credit is claimed on Form 8941, Credit for Small Employer Health Insurance Premiums, and is calculated by applying the percentage to employer-paid insurance premiums and is subject to phaseout limits based on the number of FTE employees and wages paid. The full amount of the credit is available if the number of FTE employees does not exceed 10. The credit is reduced if the employer has between 11 and 24 FTEs and is unavailable once the number of FTE employees reaches 25.

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5. IRC §4980H(b)(1).
6. IRC §318.
7. The examples are adapted from a presentation by Chris Hesse of CliftonLarsonAllen at the AICPA Agriculture Conference, Austin, TX, May 8, 2014.
8. The credit is 25% for a tax-exempt small employer. See IRC §45R(g)(2).
In addition, the full amount of the credit is available if average wages do not exceed $25,000. A reduced credit is available if average wages are between $25,000 and $50,000 and is unavailable if the average wages equal or exceed $50,000.

Each of the phaseout computations is applied separately to the gross amount of the credit. Due to the phaseouts and stringent eligibility rules, the credit has limited ability to assist small employers who provide health insurance.

Starting in 2014, the employer must purchase insurance through the Small Business Health Options Program (SHOP) exchange in order to be eligible for the credit. It is only available for the first two consecutive taxable years. 

A self-employed farmer can deduct the cost of their health insurance premiums when computing adjusted gross income (AGI). Beginning in 2014, self-employed persons may be eligible for the PTC, which is based on the taxpayer’s income and family size. For larger families, the PTC may be available even when income levels are near six figures. The PTC is also based on AGI. Because the self-employed health insurance deduction is allowed in computing AGI and AGI is used in computing the PTC, the taxpayer must know the allowable self-employed health insurance deduction to compute the PTC.

The IRS issued Rev. Proc. 2014-41 to provide calculation methods that are designed to resolve the circular relationship. An example in the Rev. Proc. illustrates a married couple with two dependent children and earned income of $75,000 who are enrolled in the second-lowest-cost silver plan, with an annual premium of $14,000. Under 2013 law, the taxpayer would pay $14,000 and deduct the entire amount. However, with the change in the law effective beginning in 2014, the outcome is different, with the result that the taxpayer could claim a self-employed health insurance deduction of approximately $6,000 and a PTC of almost $7,000.

### Table

<table>
<thead>
<tr>
<th>Year</th>
<th>Calculation</th>
<th>Tax Savings</th>
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<td>2013</td>
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<tr>
<td>2014</td>
<td>($6,000 × 25%) + $7,000 PTC</td>
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</tbody>
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10. IRC §§45R(b)(1) and (c)(2).