



The Affordable Care Act: What Does It Mean for Self-Employed Individuals in Agriculture and Small Business?

FIRM Team Fact Sheet 13-03

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The Patient Protection and Affordable Care Act (ACA) includes provisions that will have significant implications for individuals, families and employers in 2014. These provisions include:

- The creation of Health Insurance Marketplaces (or Exchanges) for each State
- New requirements for all health insurance coverage that is offered for sale to individuals, families, and employers
- Tax credits or cost-sharing subsidies for individuals and families based on income level and family size
- Requirements for individuals to maintain health insurance coverage
- Requirements for some employers to offer health insurance coverage to their employees
- Tax credits for small business employers that offer health insurance coverage to their employees.

This publication is one of a series of four publications designed to provide information for individuals (including self-employed individuals), families, employers, and employees. Because the ACA is a large and complex piece of legislation, these publications are designed to meet the needs of a wide variety of users by providing only that information relevant to each group of users. These topics include the implications of the ACA for:

- Agricultural and Other Small Business Employers with one or more employees
- Self-Employed Individuals in Agricultural and Small Businesses
- Individuals and Families
- Health Insurance Marketplaces (Exchanges) available to individuals, families, employers and employees.

Users are advised to consult all publications relevant to their circumstances. For example, an employer is advised to consult (1) the publication for employers (to determine the business decisions that will be necessary under the ACA) and (2) the publication about individuals and families (to determine the family decisions that will be necessary under the ACA).

Users' Guide to this Publication

This publication is designed to provide a discussion of the rules for the new Health Insurance Marketplaces (also called Exchanges) and how the Marketplaces can be used by individuals, families, self-employed individuals, and employers in agricultural and other small businesses. This publication is organized as follows:

- **The introductory discussion** provides an overview of the provisions of the ACA.

- **Table 1** provides more detailed definitions and rules for self-employed individuals.
- **Information Sources** that include all IRS, HHS, and other government regulations are provided at the end of the publication for users seeking more details on the provisions of the ACA and its regulations.

Two aspects of Table 1 should be noted. First, the answers to the questions in Table 1 were obtained from Internal Revenue Service (IRS) and Department of Health and Human Services (HHS) information sources. Whenever possible, these answers are direct quotations from those sources. Unless otherwise noted, all ACA regulations will be applicable beginning January 1, 2014. Second, the “Comments” in Table 1 are provided as a general discussion of the ACA and its implications for individuals and families. These comments are the product of the publication’s authors and are not official IRS or HHS regulations.

This series of publications is designed to provide a source of information for individuals, families, self-employed individuals, employers and employees. It is not intended to be the sole source of information used to make decisions about compliance with the ACA. These publications are consistent with IRS and HHS regulations at the time of their production and the sources of the regulations are provided at the end of each publication. These publications are intended to provide information for planning and management purposes and is not intended to provide legal, insurance or tax accounting advice. Users should consult their legal, insurance or accounting advisers to analyze the consequences of specific decisions and circumstances.

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Table 1: The Affordable Care Act – General Rules for Self-Employed Individuals in Agricultural and Other Small Businesses.

General Rules for Self-Employed Individuals Under the Affordable Care Act (ACA)	
<p>Question 1: Who is considered to be “self-employed” under the ACA?</p>	<p>Generally, a person is considered to be self-employed if any of the following apply to that person:</p> <p>(a) The person carries on a trade or business as a <u>sole proprietor</u> or an <u>independent contractor</u>.</p> <p>(b) The person is a <u>member of a partnership</u> that carries on a trade or service.</p> <p>(c) The person is otherwise in business for him/herself (including a part-time business).</p> <p><i>Comment: Users with questions about their status as self-employed should consult the IRS website for self-employed individuals available at: http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Self-Employed-Individuals-Tax-Center</i></p>
<p>Question 2: What if a self-employed individual employs other persons as employees or independent contractors?</p>	<p>A self-employed individual <u>who does not hire other persons as employees or independent contractors</u> should continue with this publication to determine their available options under the ACA.</p> <p>A self-employed individual <u>who does hire other persons as employees or independent contractors</u> should consult the companion publication FIRM Fact Sheet 31-02 to determine the available options under the ACA. Business owners <u>who have employees but are not required to or decide not to offer health insurance coverage to employees</u> should return to this publication to determine the available options under the ACA.</p>

	<p><i>Comment: The remainder of this publication is applicable to (a) self-employed individuals who DO NOT hire employees as defined under the ACA or (b) self-employed individuals who DO NOT offer health insurance coverage to his/her employees.</i></p>
<p>Question 3: What is the definition of an “employee” under the ACA?</p>	<p>Under the ACA, employee and employer are defined by the common law standard. At least 3 types of workers should be considered when determining the number of employees and it should be noted that <u>only common law employees are considered employees under the ACA.</u></p> <p><u>Common law employee:</u> An <u>employment relationship exists</u> when the person for whom the services are performed <u>has the right to control and direct the individual who performs the services.</u> Under the common law standard, anyone who performs services for the employer is an employee if the employer has the right to control what will be done and how it will be done.</p> <p><u>Independent contractor:</u> In general, a worker is an independent contractor if the person for whom the services are performed has <u>the right to control or direct only the result of the work and not the means and methods</u> of accomplishing the result. Several factors can be considered in determining the status of a worker as an independent contractor. These factors include (a) behavioral control factors such as the instructions that the business gives to the worker (e.g., when, where and how to do tasks, tools or equipment used, etc.), (b) financial control (e.g., extent to which the worker has unreimbursed business expenses, extent of the worker’s investment, extent to which worker can make a profit or less, etc.), and (c) the type of relationship between the business and a worker (written contracts, whether business provides the worker with employment type benefits, the permanency of the</p>

	<p>relationship, etc.)</p> <p><u>Leased employee:</u> A firm supplying workers to other firms is the employer of those workers. For example, a temporary staffing service may provide the services of workers to its clients on a temporary basis. The staffing service enters into contracts with a client under which the client specifies the services to be provided and a fee is paid to the staffing service for each worker furnished. The staffing service has the right to control and direct the worker's services for the client, including the right to discharge or reassign the worker. The staffing service hires the workers, controls the payment of their wages, provides them with unemployment insurance and other benefits, and is the employer for employment purposes.</p> <p><i><u>Comment:</u></i> <i>Users with questions about the employment status of individuals should consult legal counsel and consult IRS Publication 15A available at http://www.irs.gov/pub/irs-pdf/p15a.pdf</i></p>
<p>Question 4: Is a self-employed individual required to maintain health insurance coverage after January 1, 2014?</p>	<p><u>Yes.</u> The Individual Shared Responsibility (ISR) provision requires all individuals, regardless of employment status, is required to either:</p> <p>(a) Maintain for him/herself (and his/her dependents) health insurance coverage <u>for each month</u> equal to the <u>minimum essential coverage level</u> <u>or:</u></p> <p>(b) Pay an ISR payment (penalty) for each month in which minimum essential coverage is not maintained.</p> <p><i><u>Comment:</u></i> <i>The Individual Shared Responsibility requirement is commonly called the “individual mandate.”</i></p>
<p>Question 5: Can a self-employed individual be exempted from the ISR requirement?</p>	<p><u>Yes.</u> An individual can apply for an exemption based on one or more following categories:</p>

	<ul style="list-style-type: none"> (a) Religious conscience (b) Membership in a health care sharing ministry (c) Incarceration (d) Membership in an Indian tribe (e) Hardship <p><i>Comment: The hardship exemption could be relevant for self-employed individuals in agriculture. The hardship exemption includes a provision for individuals who experience “financial or domestic circumstances, including an unexpected natural or human-caused event, such that he or she had a significant, unexpected increase in essential expenses that prevented him or her from obtaining coverage under a qualified health plan.”</i></p>
Question 6: Are self-employed individuals in agriculture included in the provisions of ACA?	Yes. Self-employed individuals in agriculture and all other industries are included in the provisions of the ACA.
Question 7: Are there any special rules in the ACA for self-employed individuals in agriculture?	No. All provisions of the ACA apply to agriculture and all other industries.
Rules for Maintaining Health Insurance Coverage by Self-Employed Individuals Under the ACA.	
Question 8: How can a self-employed individual obtain health insurance coverage for himself/herself and his/her dependents?	<p>All individuals, families, and self-employed individuals can obtain health insurance coverage from:</p> <ul style="list-style-type: none"> (a) A health insurance issuer (private insurance company) offered on the Health Insurance Marketplace; (b) A health insurance issuer (private insurance company) offered off the Health Insurance Marketplace; (c) An individual’s employer; (d) A public health coverage program (i.e., The Children’s Health Insurance Program (CHIP), Medicaid, Medicare, TRICARE, etc.) <p>Eligibility for CHIP and Medicaid is based on income.</p>
Question 9: What is a Health Insurance Marketplace?	A Health Insurance Marketplace is a governmental agency or non-profit entity that makes Qualified Health Plans (QHPs) available to qualified individuals and qualified employers. Each State will have one Health Insurance Marketplace.

	<p><i>Comment: A Health Insurance Marketplace is also known in the ACA legislative language as an “Exchange.”</i></p>
<p>Question 10: Can a self-employed individual use an insurance agent or broker to purchase health insurance coverage on a Health Insurance Marketplace?</p>	<p>Yes. A State may permit registered agents and brokers to enroll individuals, employers or employees in any QHP in the individual or small group market offered through a Health Insurance Marketplace in a State.</p>
<p>Question 11: How will health insurance premiums be determined for a self-employed individual?</p>	<p>Only the following factors can be used in setting health insurance premium rates for a particular coverage or plan:</p> <ul style="list-style-type: none"> (a) Whether the plan or coverage covers an individual or family; (b) Geographic rating area in the state; (c) Age (within a ratio of 3:1 for adults over 21); and (d) Tobacco use (within a ratio of 1.5:1).
<p>Question 12: Can a self-employed individual be denied coverage under a QHP that is offered by a health insurance issuer?</p>	<p>No. A health insurance issuer offering health insurance coverage in the individual or group market in a State must offer to any individual or employer in the state all of the issuer’s products and must accept any individual or employer that applies for those products.</p> <p>A health insurance issuer can deny coverage to individuals or groups for the following reasons:</p> <ul style="list-style-type: none"> (a) Geographic reasons (the individual does not live or reside in the geographic region in which the coverage is sold or an employer’s eligible individuals do not live, work, or reside in the geographic region in which the coverage or plan is sold). (b) The health insurance issuer has limited network or financial capacity that would limit additional enrollment. (c) An employer fails to satisfy minimum contribution or group participation requirements permitted by State regulation. <p><i>Comment: This question refers to the “Guaranteed Availability” provision in the ACA and relates to the commonly called “pre-existing condition” issue.</i></p>
<p>Question 13: If a self-employed individual has health insurance</p>	<p>No. A health insurance issuer offering health insurance coverage in</p>

<p>coverage through a health insurance issuer, can that coverage be cancelled by the issuer at the end of the coverage period?</p>	<p>the individual or group market is required to renew or continue in force the coverage at the option of the individual or group plan sponsor. An issuer may refuse renewal or discontinue health insurance coverage offered in the group or individual market based only on one or more of the following factors:</p> <ul style="list-style-type: none"> (a) Nonpayment of premiums (b) Fraud (c) Violation of participation or contribution rules (d) Termination of the plan (i.e., the issuer terminates the plan for all individuals or groups) (e) The individual’s movement outside the geographic region in which the coverage or plan is offered. (f) The individual ceases to be a member of the association offering the coverage. <p><i>Comment: This question relates to the “Guaranteed Renewability” provision in the ACA.</i></p>
<p>Question 14: What if a self-employed individual purchases health insurance coverage from an association such a trade group or other organization?</p>	<p>Health insurance coverage offered through bona fide associations must meet the provisions of “Guaranteed Availability” and “Guaranteed Renewability” discussed in Questions 12 and 13.</p>
<p>Question 15: What benefits will be provided by the Qualified Health Plans?</p>	<p>Health insurance issuers offering health insurance coverage in the individual or small group market must provide coverage that includes the Essential Health Benefits (EHB) package. The EHB includes:</p> <ul style="list-style-type: none"> (a) Ambulatory patient services. (b) Emergency services. (c) Hospitalization. (d) Maternity and newborn care. (e) Mental health and substance use disorder services, including behavioral health treatment. (f) Prescription drugs. (g) Rehabilitative and habilitative services and devices. (h) Laboratory services. (i) Preventive and wellness services and chronic disease management.

<p>Question 16: What levels of coverage will be available for self-employed individuals?</p>	<p>(j) Pediatric services, including oral and vision care.</p> <p>The level of coverage provided by a QHP is determined by the plan’s “Actuarial Value” (AV). A health plan’s AV is determined by the average share of medical spending that is paid by the plan. A plan with an AV of 70%, for example, means that the insurer will pay 70% of an enrollee’s health care expenses, while the enrollee will pay 30% through a combination of deductibles, co-pays, and coinsurance.</p> <p>The levels of coverage available are:</p> <p>(a) A bronze health plan has an AV of 60 percent. (b) A silver health plan has an AV of 70 percent. (c) A gold health plan has an AV of 80 percent. (d) A platinum health plan has an AV of 90 percent.</p>
<p>Question 17: If a self-employed individual has existing health insurance coverage or is enrolled in an existing group health insurance plan, can that individual retain that coverage even though it is not one of the four “metal” plans identified in Question 16?</p>	<p>Yes, provided that the health insurance issuer continues to offer that coverage without changes in that coverage. The ACA defines grandfathered health plan coverage to be coverage provided by a group health plan, or a group or individual health insurance issuer, in which the individual was enrolled on March 23, 2010. A plan will cease to have its grandfathered status if changes (such as elimination of benefits or increases in cost-sharing provisions such as co-pay provisions) in the coverage occur.</p> <p>It should be noted that health insurance issuers offering grandfathered health plan coverage are required to provide some of the provisions contained in the ACA (e.g., guaranteed availability and guaranteed renewability), but are not required to provide some other provisions required by the ACA.</p> <p><i>Comment: Users for whom this question is relevant should discuss the availability and grandfathered status of their coverage with their health insurance issuer or group health plan provider. Users should also inquire about which provisions of a QHP <u>will not be provided</u> by the grandfathered plan.</i></p>

<p>Rules for Health Insurance Premium Tax Credits and Cost-sharing Subsidies available to Self-Employed Individuals Under the ACA.</p>	
<p>Question 18: What tax credits or cost-sharing subsidies are available for self-employed individuals seeking to maintain health insurance coverage?</p>	<p>The ACA provides an Advance Premium Tax Credit (APTC) and cost-sharing subsidies for some individuals and families. Tax credits and subsidies will be based on income level and family size.</p> <p><i>Comment: Users should see the companion publication FIRM Fact Sheet 13-04 for details on the Advanced Premium Tax Credit.</i></p>
<p>Question 19: Is a self-employed individual eligible for the Small Business Health Care (SBHC) tax credit for the health insurance coverage that person purchases for himself/herself?</p>	<p>No. The SBHC tax credit is only available to employers who offer health insurance coverage to employees.</p>
<p>Rules for Calculation of the Individual Shared Responsibility payment for Failure to Maintain Health Insurance Coverage Under the ACA.</p>	
<p>Question 20: If a self-employed individual does not maintain health insurance coverage for a month or more, when and how will the Individual Shared Responsibility (ISR) payment be paid?</p>	<p>The ISR payment for each month will be included with a taxpayer's return for the taxable year in which the month occurs.</p>
<p>Question 21: What is an individual's ISR payment for a taxable year?</p>	<p>The ISR payment for a taxable year is equal to the lesser of:</p> <p>(a) The sum of the monthly penalty for all months in the taxable year, or</p> <p>(b) The national average premium for the QHPs which have a bronze level of coverage (for the family size involved) for the taxable year.</p>
<p>Question 22: How is the monthly ISR payment calculated for self-employed individuals?</p>	<p>The ISR payment for each month will be equal to 1/12 of the greater of the following:</p> <p>(a) A flat dollar amount equal to the applicable dollar amounts per individual (the applicable dollar amount equals \$95 for the taxable year 2014, \$325 for the taxable year 2015, \$695 for the taxable year 2016 and \$695 plus cost of living adjustments in all taxable years thereafter) or</p> <p>(b) A percentage of income amount equal to the applicable percentage</p>

	<p>(the applicable percentage equals 1.0 percent for the taxable year 2014; 2.0 percent for the taxable year 2015; and 2.5 percent for taxable years 2016 and thereafter) of the difference between taxpayer’s household income for the taxable year the amount of gross income with respect to the taxpayer for the taxable year.</p> <p><i>Comment:</i> <i>It should be noted that a monthly ISR payment will be assessed for an individual and for each dependent of that individual.</i></p>
<p>Question 23: Are children and other dependents included in the ISR provision?</p>	<p>Yes. The provision applies to individuals of all ages, including children. The adult or married couple who can claim a child or another individual as a dependent for federal income tax purposes is responsible for making the payment if the dependent does not have coverage or an exemption.</p>
<p>Question 24: What is the ISR payment for children or dependents in the ISR payment provision?</p>	<p>The ISR payment is required for all dependents who do not maintain health insurance coverage for each month of a taxable year. If an individual has not attained the age of 18 on the first day of a month, the applicable dollar amount for the individual is equal to one-half of the applicable dollar amount identified in Question 22. For purposes of the ISR payment, an individual attains the age of 18 on the anniversary of the date when the individual was born.</p> <p>Thus, the flat dollar amount ISR payment for each dependent under age 18 would be \$47.50 per person for the taxable year 2014; \$162.50 per person for the taxable year 2015; \$347.50 per person for the taxable year 2015; and \$347.50 plus cost of living adjustments in all taxable years thereafter).</p>
<p>Question 25: What are the definitions of “family size,” and “household income,” and “modified adjusted gross income” used in calculating the ISR payment?</p>	<p>Family size is defined as the number of individuals for whom the taxpayer is permitted to claim a deduction for the taxable year.</p> <p>Modified adjusted gross income is defined as a taxpayer’s adjusted gross income plus any amount excluded from gross income plus any amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax.</p>

	<p><u>Household income</u> is defined as a taxpayer's <u>modified adjusted gross income plus</u> the aggregate <u>modified adjusted gross incomes of all other individuals</u> who were—(a) taken into account in determining the taxpayer's family size in determining the ISR payment and (b) were required to file a tax return for the taxable year.</p>
<p><u>Question 26:</u> Are there any other penalties for failure to maintain health insurance coverage or failure to pay the ISR payment?</p>	<p><u>No.</u> The ISR payment will be assessed and collected in the same manner as other assessable penalties under Internal Revenue Code. A taxpayer that fails to timely pay an ISR payment <u>will not</u> be subject to any criminal prosecution or penalty, and a lien <u>cannot</u> be filed on the property of a taxpayer failing to pay an ISR payment.</p>

References

Information contained in this publication was obtained from the following sources. Users are encouraged to consult qualified legal or tax accounting advisers to obtain updated information on all issues.

Glossary of ACA terminology

Available at: <https://www.healthcare.gov/glossary/>

Regulations related to tax provisions for individuals and families, including self-employed individuals

Internal Revenue Service: *Affordable Care Act Tax Provisions for Individuals and Families*. Available at: <http://www.irs.gov/uac/Affordable-Care-Act-Tax-Provisions-for-Individuals-and-Families>

Internal Revenue Service: *The Premium Tax Credit*. Available at: <http://www.irs.gov/uac/The-Premium-Tax-Credit>

Insurance premium and tax credit calculator for individuals and families, including self-employed individuals

Available at: <http://kff.org/interactive/subsidy-calculator/>

Other information available at: <https://www.healthcare.gov/how-can-i-get-an-estimate-of-costs-and-savings-on-marketplace-health-insurance/>

Regulations related to the Individual Shared Responsibility Provision

Internal Revenue Service: *Questions and Answers on the Individual Shared Responsibility Provision*. Available at: <http://www.irs.gov/uac/Questions-and-Answers-on-the-Individual-Shared-Responsibility-Provision>

Internal Revenue Service. *26 CFR Parts 1 and 602. Shared Responsibility Payment for Not Maintaining Minimum Essential Coverage*. Available at: <http://www.gpo.gov/fdsys/pkg/FR-2013-08-30/pdf/2013-21157.pdf>