

AFFORDABLE CARE ACT IS YOUR BUSINESS READY FOR OBAMACARE?

By Michael Holtermann, CPA

The Patient Protection and Affordable Care Act is a 2010 law. One of its purposes is to improve the availability, quality and affordability of health insurance coverage in the United States.

Under the new health insurance program, U.S. citizens and legal U.S. residents will be able to purchase health insurance through the exchange. Health insurance exchanges are state or federally run marketplaces where individuals can buy health insurance from private health care providers. The coverage will be subsidized for individuals in families with income not exceeding 400 percent of the Federal Poverty Level (\$44,680 for an individual and \$94,200 for a family of four in 2013) who are not eligible for Medicare, Medicaid, the Children's Health Insurance Program, or who do not have access to affordable employer-sponsored insurance.

The provision for employer penalties has been delayed to 2015.

This law assesses an additional "Medicare" tax on wages, self-employment income and net investment income above certain thresholds. It also assesses penalties on large employers who don't provide affordable health care to their full-time employees and on individuals who don't maintain health insurance coverage. The provision for employer penalties has been delayed to 2015.

This push to simplify the "Health Care" industry has left many employers and individuals confused and concerned with how this law is going to impact them.

The Patient Protection and Affordable Care Act could add substantial costs, taxes and/or penalties to certain individuals and businesses. This article is not intended to cover all the details of the new law, but rather to highlight a few items that may affect many of our clients.

Affordable Care Act and its Impact on the "Large Employer"

The Affordable Care Act (ACA) contains a provision known as the "Employer Mandate," which imposes new rules on large employers. Beginning in 2015, applicable large employers who don't offer affordable health coverage that provides essential minimum coverage for their full-time employees could be subject to substantial penalties.

What is a large employer? The ACA defines a "large employer" as a business with more than 50 full-time or full-time equivalent employees. A full-time employee is one who works 30 or more hours a week or 130 hours a month.

In order to determine if you are a large employer:

1. Count the number of full-time employees, making sure to include all the employees in a controlled group,
2. Count the number of hours worked for part-time employees in a month and divide this total by 120 to get the Full-Time Equivalent (FTE).
3. Add the two numbers together and if it equals 51 or greater then you are considered a large employer.

Please note: full-time seasonal employees who work under 120 days during the year are excluded from this calculation.

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Example:

Employer A has 35 full-time employees and 60 part-time employees. The part-time employees work an average 20 hours a week for a total of 4,800 hours in a month. The part-time employees would equate to 40 full-time employees (60 employees x 20 hours x 4 weeks in a month = 4,800; 4,800/120 hours = 40 full-time equivalent employees). Employer A has 75 full-time or full-time equivalent employees and would be considered a large employer.

What is affordable health care insurance?

Whether or not the health care coverage is affordable or not is determined by the amount the full-time employee has to pay for insurance. Under the ACA, affordable health care insurance has been provided when the employee premium cost of single coverage does not exceed 9.5% of the employee’s household income for the taxable year. The large employer may be required to offer coverage to an employee’s dependents; however, the coverage provided to these individuals need not meet the 9.5% affordability coverage standard.

Since it is unlikely that the employer will know the employee’s household income, a large employer has three safe harbors to rely on when determining if coverage is affordable:

1. The W-2 safe harbor – the employee’s annual W-2 wages can be used as the household income.
2. Rate-of-pay safe harbor – the employee’s out-of-pocket cost doesn’t exceed 9.5% of the employee’s monthly income.
3. Federal poverty-line safe harbor – there are federal poverty guidelines based on the household size that can be used.

What is essential minimum coverage? The ACA requires that the plan offered by the employer cover 60% of the essential health benefits.

What is the penalty for failure to provide insurance? A large employer is assessed a penalty if it:

1. doesn’t offer affordable health care insurance **and**
2. one or more of its employees receive premium credits to help purchase health insurance through the exchange.

If the large employer doesn’t provide insurance, and none of its employees receive credits to purchase insurance on the exchange, there is no penalty.

In order to safeguard against the potential liability, we recommend large employers consider offering affordable health care insurance to their employees instead of relying on employees not to obtain a credit to purchase insurance on the exchange. As an employer, the penalty provisions only apply if the employee is receiving a subsidy to purchase health insurance on the exchange. If affordable health insurance is offered to all employees, the employee will not be eligible to purchase subsidized health insurance on an exchange, even if the employee declines the employer’s coverage.

The penalty is calculated two separate ways:

1. If the business DOESN’T provide health insurance, its annual penalty equals the total number of full time employees in the firm (government subsidized and unsubsidized) minus 30 x \$2,000.
2. If the business DOES provide health insurance, but the insurance is not “affordable,” the annual penalties equal THE LESSER OF:
 - The number of government subsidized full time employees x \$3,000 OR
 - The number of full time employees in the firm government subsidized and unsubsidized minus 30 x \$2,000.

Neither of these penalties is tax deductible.



If the large employer doesn’t provide insurance, and none of its employees receive credits to purchase insurance on the exchange, there is no penalty.

Highlights of the Medicare 3.8% surtax on “Net Investment Income”

Starting in 2013 a new 3.8% Medicare tax will apply on “Net Investment Income” if modified adjusted gross income (MAGI) is over:

- \$200,000 – Single or Head of Household
- \$250,000 – Married filing jointly or qualifying widow(er) with dependent child
- \$125,000 – Married filing separately

The 3.8% tax will be based upon the lesser of the taxpayer’s net investment income or the excess of the taxpayer’s MAGI over the threshold amounts.

The ACA defines Net Investment Income as:

- Gross income from dividends, interest, annuities, royalties, and rents (unless these items are derived in the ordinary course of a trade or business to which the additional tax does not apply)
- Other gross income derived from a trade or business to which the tax applies
- A passive activity with respect to the taxpayer
- The trade or business of a trader trading in financial instruments or commodities
- Net taxable gain attributable to the disposition of property (other than property held in a trade or business to which the additional tax does not apply)

How is the additional tax calculated?

Example A – Single Taxpayer:

\$140,000 Wages
\$ 50,000 Interest
 \$190,000 MAGI

Net investment income - \$50,000

Additional Tax - \$0 (\$190,000 is less than \$200,000 threshold)

Example B – Single Taxpayer:

\$170,000 Wages
\$ 50,000 Interest
 \$220,000 MAGI

Net investment income - \$50,000

\$220,000 MAGI
(\$200,000) Threshold
 \$ 20,000 Income over the threshold

Additional Tax - \$760 (3.8% X \$20,000 = \$760). The \$20,000 is used to calculate the additional tax because it is less than \$50,000 total net investment income.

Example C – Single Taxpayer:

\$170,000 Wages
 \$100,000 Business Income
\$ 50,000 Interest
 \$320,000 MAGI

Net investment income - \$50,000

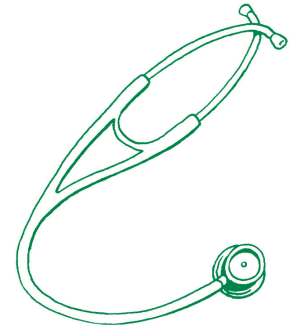
\$320,000 MAGI
(\$200,000) Threshold
 \$120,000 Income over the threshold

Additional Tax - \$1,900 (3.8% X \$50,000 = \$1,900). The \$50,000 is used to calculate the additional tax because it is less than \$120,000 of income over the threshold.

Additional information can also be obtained at the following websites: www.Healthcare.gov and www.Coveredca.com

We suggest that you contact your CPA to discuss the issues that could directly impact you and your business. Planning for the implementation of these items is the key to minimizing the financial impact. Our office would be happy to assist you with any questions or concerns you might have.

Note: The Obama Administration announced on July 2nd that it is postponing until 2015 the portion of the ACA regarding mandatory employer and insurer reporting requirements and the associated employer penalties. At the date of this publication, they have not announced any changes to the requirements for individuals to obtain insurance. We will communicate additional changes as they are announced.



Planning for the implementation of these items is the key to minimizing the financial impact.

TAX IDENTITY THEFT: PROTECT YOURSELF

By Amy Lau, Professional Staff

Tax identity theft is an issue that is on the rise. Every tax season, millions of dollars in tax refunds and credits are claimed by identity thieves who file fraudulent returns with lost or stolen personal information and, in many cases, also use it to gain employment. Stories of phishing schemes, mail theft, and dumpster rummaging continue to surface as more people become targets of identity theft. Thieves are finding unconventional ways to get personal information as technology allows them a gateway into the lives of victims with only a few pieces of information.



Thieves may also use “phishing” to solicit personal information by assuming the false identities of the IRS or other government agencies.

Fraudulent returns tend to be filed early in the tax filing season, before the legitimate taxpayer has had a chance to file their tax return. This time frame is favorable for thieves for two reasons; there is a low chance of the Internal Revenue Service (IRS) identifying the forms as duplicate returns, and cross checking information becomes difficult when W-2 and 1099 forms are still being received and processed by the IRS.

In 2012, the IRS saw a dramatic increase in complaints of fraud. Nearly 900 tax identity theft investigations were initiated leading to 544 prosecution recommendations and 223 sentences. This is more than triple the 276 initiated investigations in 2011. As of January 31, 2013, the IRS has already opened 542 new investigations. At the current rate, the number of investigations for the 2013 tax season will far surpass any previous years.

Effects of Tax ID Theft

Victims of tax identity theft usually don't know their personal information has been compromised until they file their tax return. The use of the same Social Security number on more than one return triggers the IRS to send a letter stating a return has already been filed, or

in a case where information was fraudulently used in employment, a letter stating additional wages were reported to the IRS but not claimed on their return. This may significantly delay the legitimate taxpayer's refund while the IRS confirms who the correct claimant is. This can become a financial burden on victims who are anticipating their refunds to be received in a timely manner and also to those who sacrifice resources of time and money to correct the false claims. The agency explains that “(a) typical case can take about 180 days to resolve, and the IRS is working to reduce that time period.”

How Thieves Acquire Information

Stolen wallets that contain driver's licenses, Social Security cards, credit cards and other identifying material are commonly used in connection with tax fraud. Thieves may also use illegitimate emails and phone calls, also referred to as “phishing,” to solicit personal information by assuming the false identities of the IRS or other government agencies. They commonly ask potential victims to click on a link to a website that appears legitimate or update personal information related to their tax return. Other avenues of obtaining information include digging through trash for old tax returns, credit card statements, and bank records.

Identifying Fraudulent Returns

The IRS has emphasized their commitment to “preventing, detecting and resolving identity theft cases....” The agency has allocated 3,000 employees to investigating identity theft cases and trained over 35,000 to recognize and respond to potential cases. Screening filters created by the IRS are designed to catch suspicious returns which are then flagged and sent for further inquiry. Discrepancies must be clarified by the taxpayer before the return is processed.

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BPF
Ag Business
Award
2013

The Baker, Peterson & Franklin Ag Business Award honors an organization whose achievements and impact have significantly contributed to the ag industry and the community.

Criteria

- Any for-profit agribusiness or farming entity based in the central San Joaquin Valley is eligible.
- Prior Baker, Peterson & Franklin Ag Business Award winners are not eligible.
- Self-nominations are encouraged.
- The award is bestowed annually at the Ag Awards Luncheon with the Fresno Chamber of Commerce.
- Award recipient is selected by a committee of representatives from the BP&F Ag Department and local agribusiness community.
- Submitted nominations are considered for the following three years.

Previous recipients:

Sun-Maid Growers of California
Allied Grape Growers
Fresno Equipment Co.
Errotaberre Ranches
Harris Farms
Borba Farms
National Raisin Co.
Ballantine Produce Co.
Wolf Enterprises
Producers Dairy Foods
P-R Farms
J&L Vineyards
Fowler Packing Co.
Joseph Gallo Farms,
Wawona Frozen Foods
Wilbur-Ellis Western Division
Zacky Farms

Complete the form on the reverse side and mail or fax by September 13, 2013.
For further information, please call:

Baker, Peterson, & Franklin, CPA, LLP

Julie Maldonado
Ag Business Award Selection Committee
970 W. Alluvial, Suite 101
Fresno, CA 93711
Phone: (559) 432-2346
Fax: (559) 432-5831
mail@bpfcpa.com



**BAKER, PETERSON &
FRANKLIN, CPA, LLP**

CONSULTING & FINANCIAL
SERVICES

BPF
Ag Business
Award
2013

Application

Name of organization: _____

Mailing address: _____

City: _____ Zip: _____ County: _____

Street address (if different from above): _____

City: _____ Zip: _____ County: _____

Phone: _____ Fax: _____

Chief Executive: _____ Title: _____

Contact person: _____ Title: _____

Contact person email: _____ Year established: _____

Brief description of the company and its products or services: _____

You may use one sheet of paper to answer the following questions; attach the sheet to this application.
(Please be specific, list accomplishments, etc.)

1. Describe the organization's growth and success.
2. What are the contributions of the organization to the agricultural industry and our community?

Nominated by: (Optional)

Name: _____ Title: _____

Email address: _____

Name of organization: _____

Address: _____

City: _____ Zip: _____

Phone: _____ Fax: _____

Only the application form and your one-page response to the above questions will be judged.
Deadline September 13, 2013.

2013 AG AWARDS LUNCHEON

Both Baker, Peterson & Franklin's Ag Business Award and the Fresno Chamber of Commerce Agriculturist of the Year recipients for 2013 will be honored at the Ag Awards Luncheon on Wednesday, November 13th. The lunch event will be held at Tornino's in Fresno, 11:30 – 12:00 check in, 12:00 – 1:30 luncheon and program. Luncheon tickets at \$40 for members/\$55 for non-members and tables of 8 at \$320 for members/\$440 for non-members will be available through the Fresno Chamber of Commerce (559) 495-4800. Sponsorship opportunities for this ag industry event are also available.

Call for Nominations

Nominations for both awards will be accepted until Friday, September 13th. A BP&F Ag Business Award nomination form is enclosed in this newsletter to nominate a deserving ag business or farming entity. To nominate a deserving individual for the Agriculturist of the Year, please visit the Fresno Chamber website, www.fresnochamber.com.



Tax Identity Theft: Protect Yourself – continued

Responding To Tax ID Theft

- File an identity theft report with the Federal Trade Commission (www.consumer.ftc.gov) and your local police department. Keep a copy of both for your records.
- Submit Form 14039, Identity Theft Affidavit, and obtain an identity protection PIN from the IRS for future tax return filings.
- Notify credit card issuers or banking institutions where applicable account information may have been stolen or compromised. Ask to freeze or close these accounts.
- Contact one of the three credit bureaus to place a fraud alert on your account. They are required to notify the other two bureaus and alerts last for 90 days, although they can be renewed.
- Keep important documents, such as tax returns, social security cards, birth certificates, etc., in a locked safe at home.
- Do not click on an email link to an IRS website or respond to an IRS email with any personal information. The IRS does not initiate contact via email to taxpayers. Forward suspicious email to phishing@irs.gov.
- Review your credit report on an annual basis.
- Promptly respond to any IRS notices or forward to your accountant for examination.

Visit these agencies for additional information:

Federal Trade Commission - www.consumer.ftc.gov

Internal Revenue Service - www.irs.gov

Equifax Credit Bureau – www.equifax.com

Experian Credit Bureau – www.experian.com

TransUnion Credit Bureau – www.transunion.com

ID Theft Prevention

- Never store your Social Security card or number in your purse or wallet.

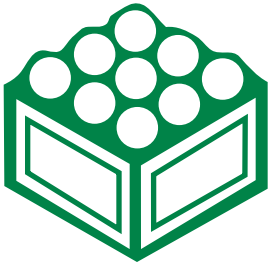
Review your credit report on an annual basis.

THE FOOD CORNER

By Nancy Ervin, MBA, CVA, CMAP

Have you ever been to Pike Place Market in Seattle, or the Farmers Market at the Ferry Building in San Francisco? Both of these landmark locations are considered “public markets.”

Wikipedia describes a public market as “a market, in public spaces, where independent merchants can sell their products to the public. Typical products sold at public markets include fresh produce, baked goods, locally raised meats and dairy products and various other food items and handcrafted goods. Public markets often emphasize foods, clothing, and artisanal products reflective of the ethnicities in their respective regions. They can also serve as popular venues for public events and performances.”



A public market in Fresno would be the place to test market new ideas, as well as meet with distributors from across the country year round.

The San Francisco Public Market was formed in 1989 by a group of food lovers and city planners. The goal was to create a center for locally owned bakeries, seafood, dairy and butcher shops, as well as fresh, locally produced food with a year-round farmers market.

An interesting fact about the San Francisco public market is many of the “local farmers” are from the Central Valley. The San Joaquin Valley is home to hundreds of food companies and farmers, and yet we have allowed Southern California and the Bay Area to claim regional products and pass them off as “local.” Many of the food products and much of the produce you have seen in farmers markets across

California could be considered “local,” if you use the term generously. But take a look at the fruit and vegetable crates and jar labels, and they originate from Sanger, Selma, Kingsburg, Dinuba, Mendota and Ceres, to name a few local towns.

Therefore, it is interesting to consider – could a Fresno Public Market revitalize our city and help us to become the “undisputed food capital of the world”?

One of the leaders pushing for a Fresno Public Market is Craig Scharton, the city’s Business Development Director. Scharton envisions a public market that would have a minimum of 25,000 square feet for local food companies—many of whom cannot get their products into the local Whole Foods or specialty markets. A public market in Fresno would be the place to test market new ideas, as well as meet with distributors from across the country year round. Local ethnic specialties such as Armenian lahmajoon, Mexican tamales, Hmong pho, German-Russian beerocks and Swedish pastries are just a few of the products Scharton sees pitched at a future public market—not to mention the bevy of fresh produce including local pistachios, almonds, stone fruit and grapes.

The benefits are numerous: the market could serve as a focus for health food and living education; a hub of food entrepreneurship; a commercial kitchen incubator where young companies could experiment with their ideas; and a food and entertainment center that could have an economic multiplier effect with the opening of new restaurants, microbreweries and other businesses. Judging by the success of other public markets across the country and the world, a public market is an opportunity for Fresno to not only spark economic development, but take ownership of its amazing local food products.

2ND ANNUAL BP&F GOLF TOURNAMENT

Baker, Peterson & Franklin is very pleased to announce our 2nd Annual Golf Tournament, on June 3rd, raised \$50,000 to be donated to The Community Food Bank in Fresno. Community Food Bank serves over 190,000 people in need in Fresno, Madera, Kings and Kern Counties. We sincerely thank the sponsors, donors and players for supporting our golf fundraiser to benefit our local community and for making a difference.

Tournament Sponsor

Leon S. Peters Foundation

Special Event Sponsor

Lyons Magnus

Hole Sponsors

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Dowling Aaron Incorporated

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2013 AG BUSINESS AWARDS & LUNCHEON • 2nd ANNUAL BP&F GOLF TOURNAMENT**

RETURN SERVICE REQUESTED

CALENDAR

- September 2** Labor Day – BP&F office closed.
- September 8** 36th annual Ag Boosters BBQ, Rancho Vista del Rio, Madera. For more Information, please contact Ag One at 559-278-4266.
- September 13** Nomination deadline for 2013 BP&F Ag Business Award and Fresno Chamber of Commerce Agriculturist of the Year.
- September 16** Deadline to file calendar year end corporate and partnership income tax returns on extension.
- October 2-14** The Big Fresno Fair.
- October 15** Deadline to file individual income tax returns on extension.
- November 13** 2013 Ag Awards Luncheon honoring BP&F Ag Business Award & Fresno Chamber of Commerce Agriculturist of the Year recipients at Tornino's. For more information, please contact 559-495-4800.

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