Kentucky Unemployment Tax for Agricultural Employers
By: Rush Midkiff

Farms in Kentucky have become larger over the years. Larger operations mean a bigger workforce. The larger payrolls have caused more of our clients in the Kentucky Farm Business Management (KFBM) program to become liable for Kentucky Unemployment Tax.

Agricultural employers in Kentucky are liable for Kentucky Unemployment Tax only if they pay at least $20,000 in gross wages in a single calendar quarter, or if they have at least ten workers performing service in any part of 20 weeks out of a calendar year. They do not have to be the same 10 workers in each week, nor do the weeks have to be consecutive. H2A workers’ wages count toward triggering unemployment limits but unemployment taxes are not paid on their wages.

Most employment is covered (taxable) and must be reported for unemployment insurance purposes. Both full-time and part-time employment is covered. Temporary or seasonal employment is also covered. Even if the worker knows that a job is temporary, the work is covered unless it is otherwise excluded.

If corporate officers receive any remuneration, their service is covered. This includes officers of Subchapter S corporations and members of Limited Liability Companies that have elected to be treated as a corporation for federal tax purposes. Officers of corporations may qualify for benefits if they become unemployed through no fault of their own.

In sole proprietorships, service performed by the spouse, parent or child (below the age of 21) of the proprietor is non-covered (excluded from...
unemployment tax). In partnerships, service is non-covered if the worker is a spouse, parent or child (below the age of 21) of each partner. There are no family exceptions for corporations.

Co-op students are exempt (non-covered) as long as they are enrolled in school and are receiving academic credit for the work performed. A co-op student who continues to work between school terms will be covered during those periods.

Employers only pay unemployment tax on the first $9,300 dollars earned by each worker in a calendar year. The amount over $9,300 is called excess wages. You must report each worker’s entire gross wages each quarter. However, you do not pay Kentucky Employment Tax on the excess wages. The taxable wage is going to increase by $300 per year each year until 2022. The taxable wage base will be $12,000.00 in year 2022.

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Tax Update
By: Suzy Martin

There has not been a lot of activity on tax regulations during 2013. If you will recall, on January 2, 2013, the government passed the “Fiscal Crisis Bill” that extended the Section 179 and Bonus Depreciation limits for 2013. The Section 179 limit for 2013 is $500,000 on eligible property. Eligible property includes most equipment, single use buildings and tile. It does not include multi use buildings such as shops and barns. The Section 179 limit is phased out, dollar for dollar, when the purchase of eligible property exceeds $2,000,000. Unless the government changes the regulations, the amounts are set to change considerably for 2014. Next year the Section 179 limit is set for $25,000 and decreases if purchases of eligible property are greater than $200,000.

Bonus Depreciation for 2013 is 50%. Eligible property for this purpose is equipment, single use buildings, tile AND the multi-use buildings. However, the property must be brand new, never used to qualify. As of right now, there will be NO bonus depreciation in 2014.

Here is a review of some of the popular credits used on tax returns. The Child Tax Credit for 2013 remains at $1,000 per child age 16 and younger. The American Opportunity Tax Credit (formerly the Hope Credit) for college expenses is still a maximum of $2,500 per student. Remember, this includes tuition AND course materials (i.e. books.) This credit can be claimed for the first four years of post-secondary education. Each student should receive a 1098T from the education institution reporting their tuition paid.

Finally, the “Fiscal Crisis Bill” also answered some of the uncertainty in federal estate tax regulations. A permanent change was made to increase the exemption to $5.25 million per person or $10.5 million for a married couple. The portability of the unused portion of the exemption from one spouse to the other was made permanent as well. However, the tax for those estates valued over the exemption amount increased from 35% to 40%.

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Maintaining Business Structure Integrity through Proper Record Keeping: Corporations and LLC’s
By: Jonathan Shepherd

The basic business structures include sole proprietorships, partnerships, corporations (both C corporations and S corporations) and limited liability companies (LLC). LLCs are business structures recognized by state statutes that can be treated as a sole proprietorship, corporation, or partnership.

There are many factors that should influence a business owners’ decision regarding the best business structure for their operation. Liability and asset protection are often cited as reasons for forming a corporation or LLC. It is not uncommon for farmers to create one or more corporations or LLCs to separate land and building holdings from other assets. Usually, the desire is to protect the farm land from the risk of being lost in a lawsuit. Corporations and LLCs can help create a barrier between the operations of the farm and these assets. However, the recordkeeping practices and financial actions of the business owner can jeopardize this barrier. This article will address two often overlooked recordkeeping requirements that are necessary to maintain the integrity of the corporation and LLC business structures. The purpose of this article is to remind business owners, who already have corporations or LLCs, of these important record keepings issues and highlight some areas of consideration for those who are entertaining the idea of creating such a business structure.
When a corporation or LLC is formed, a separate legal entity is born. It is legally recognized as a separate business entity from any other business entity that you may have or had prior to the creation. You may still be the owner, but the newly created corporation or LLC is distinctly different than the business structure you had before. This is a very important distinction and an area where many business owners are potentially putting themselves at risk of losing the protection they were seeking when forming the corporation or LLC.

While it is strongly recommended that any business has its own bank accounts and financial records, it is required for corporations and LLCs. Corporations and LLCs do not have families or children. The financial records should not include family living expenses. While the monies that are transacted in the corporation or LLC may seem to be yours, the way in which you access those funds determines whether or not the business is recognized as a separate legal entity, or as an extension of your personal affairs. There should never be money taken from the corporation or LLC to pay personal expenses directly. Monies from the corporation to the owner(s)/shareholders should be labor expenses, loans to shareholders, or distributions. It is recommended that salaries are established and dispensed on a regular basis from corporations.

Corporations also require other record keeping items. One area that is often overlooked is adherence to corporate by-laws that were created when the corporation was formed. By-laws dictate how the business will be conducted, when director meetings and shareholder meetings will be held, and how the corporate books will be maintained, among other items. To maintain your corporate status, regular shareholder and director meetings need to be held and documented. This is especially important when considering making major changes or important decisions within the business. These major changes and decisions require meetings and documentation in corporate minutes. These documents should be signed by directors or shareholders and retained for future reference.

LLCs are not required to have by-laws, but are strongly encouraged to have operating agreements, which are very similar to corporate by-laws. An operating agreement explicitly states items such as ownership percentages, how profits will be distributed, voting rights, etc. While this is not required, establishment of and adherence to the agreement can be beneficial if the legal separation between business and personal affairs is ever questioned. Documentation concerning meetings and votes should be maintained within the LLC.

There are other factors not mentioned in this article that can affect the legal perception of your corporation or LLC as a separate legal entity as opposed to an extension of your personal affairs. The importance of treating your corporation or LLC as the separate legal entity that it is cannot be overstated. Doing so will maintain its integrity and help ensure that the protection that you are seeking is legally recognized. It is suggested that you seek legal advice before determining which business structure is best for your operation. Contact your area Kentucky Farm Business Management Specialist for more general information concerning business structures.

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**Agricultural Employer Labor Regulations**

By: Laura Powers

This article provides a brief overview of the primary employment regulations to which some farms may be accountable. This article is not intended as a complete guide to these rules and regulations. Please refer to the appropriate agency for more details. For most regulations covered here, the Department of Labor’s Wage and Hour Division is the regulating authority. The Kentucky Seventh Day Rule is regulated by the Kentucky Labor.

**Family Medical Leave Act (FMLA).** FMLA applies if you have 50 or more employees (including H-2a workers) for at least 20 workweeks in the current or preceding calendar year. An eligible employee has worked 1,250 hours during the 12 months prior to leave, worked at a location where the employer has 50 or more employees within 75 miles, AND has worked for the employer for 12 months in the past seven years. Paid or unpaid leave is not included in the 1,250 hour calculation.

Eligible types of FMLA leave include the following: birth of (or to bond with) son or daughter; placement with employee of an adopted or foster care child; care of immediate family member (not a parent “in-law”) with a serious medical condition; serious medical condition of
employee; qualifying urgent situation arising from the fact that an employee’s immediate family member is covered active duty member of National Guard, Reserves, or Regular Armed Forces.

FMLA provides eligible employees up to 12 workweeks of unpaid leave a year. Employees are entitled to return to their same or equivalent job when they return from FMLA leave. The act is intended to make sure employers do not fire an employee because of their need for FMLA-eligible absence from work.

Covered employers must: Post a notice explaining rights and responsibilities under the FMLA (www.dol.gov/whd/regs/compliance/posters/fmla.htm); include information about FMLA to employees at time of hire; inform employee of their rights under the FMLA for FMLA eligible leave, and; notify employees if leave is designated as FMLA leave and the amount of leave that will be deducted from the employee’s FLMA entitlement.

Fair Labor Standards Act. The FLSA establishes standards for minimum wage, overtime pay, recordkeeping and child labor. All farm workers are exempt from FLSA overtime pay requirements. Farm workers employed on farms that use less than 500 “man-days” of farm labor in any calendar quarter are exempt from FLSA minimum wage and overtime pay requirements. A “man-day” is defined as any day during which an employee performs work for one hour. 500 “man-days” of farm labor generally equates to 6 to 8 workers. Immediate family members and piece-rate local hand harvesters are exempt from minimum wage and overtime pay requirements.

Migrant and Seasonal Agricultural Worker Protection Act (MSPA). MSPA requires that farm labor contractors, agricultural employers and agricultural associations, who recruit, solicit, hire, employ, furnish, transport, or house agricultural workers as well as providers of migrant housing, meet certain minimum requirements in their dealings with migrant and seasonal agricultural workers. MSPA regulations do not apply to H-2a employers and workers.

MSPA provisions include (but are not limited to) the following: farm labor contractors must register with the Department of Labor; employers must disclose terms and conditions of employment to workers in writing; wages are to be paid when due; housing must be inspected prior to habitation and must meet appropriate standards; vehicles used to transport migrant workers must be properly insured, safe, and operated by a licensed driver; farm labor contractors must comply with written agreements with agricultural employers; Wage and Hour Division may inspect premises, review records, and interview workers and employers; employers must post a poster explaining MSPA rights and protections for workers; MSPA housing must have posted the written terms and conditions of occupancy; at time of recruitment, workers must receive written details of work and location of work; and, properly detailed payroll records must be maintained for three years.

Field Sanitation Guidelines. Field Sanitation Guidelines are applicable to “any agricultural establishment where eleven or more employees are engaged on any given day in hand-labor operations in the field”. If you fit this description, the following calendar year you have specific guidelines to follow regarding availability of handwashing facilities, potable water and toilet facilities to your workers while in the field. Please go to www.osha.gov and search on “Field Sanitation Guidelines” for those specific guidelines.

Kentucky’s Seventh Day Rule. If an agricultural employer requires an employee to work seven consecutive days, the employer must pay time and a half for all hours worked on the seventh day, provided the employee works over 40 hours. For example, if in the previous 6 days, the employee had worked a total of 35 hours, then on the seventh day the employee worked 8 hours, the employee is due time and a half for all eight hours on the seventh day, not just for the hours over and above 40 hours for the week.

Issues for New Farmers
By: Michael Forsythe

Deciding to make a living by farming requires a lot of thought and consideration because it involves a large amount of land and capital. Acquiring these resources can be very challenging for a beginning farmer. Inheriting a farm may allow a new farmer to acquire the other needed resources, but there may be other issues that need to be considered. If land is inherited by more than one individual, there may be issues as each individual envisions how the farm shall be
operated. There may also be issues with the other individuals wanting to sell their share of the land; and the farmer needs to closely examine the situation to determine if they can afford to buyout the other individuals. All of these decisions and issues should be thoroughly discussed by all individuals involved.

If a beginning farmer does not have the luxury of inheriting debt free land, they must first decide how to pay the loan already on land or obtain the land needed to farm. If the farmer has the financial ability to do so, they may choose to buy some of the land, but a new farmer most often rents most or all of the land they plan to farm. In this case, the farmer must sit down with the landlord and decide if the land will be rented through crop sharing, cash rent, or a flex lease. Cash rent places all of the risk on the farmer and provides the landlord with a guaranteed payment. A crop share shifts some of the risk to the landlord, but in good years it allows the landlord the opportunity to receive a higher rent payment than a cash rental situation would. The flex lease is a combination of the previous two. The landlord has no risk involved and receives a guaranteed payment each year, but this guaranteed payment would be less than in the cash rent situation because the landlord has the ability to receive a portion of the crop above the guaranteed payment in good years. This is a very important decision because there is limited available land and the competition for renting and purchasing land is very intense. A new farmer has to be careful that they don’t get caught up in this competition and spend too much of their resources on purchasing or renting land.

Another issue beginning farmers face is whether they should buy equipment or hire someone to custom farm for them. In many cases, a farmer may need to do a combination of the two. Some equipment may be more essential and feasible to purchase than others. A new farmer who is only farming a small amount of acreage may be better off hiring someone to harvest and spray crops for them than purchasing a combine and a sprayer themselves. The money that would be used to purchase these resources can then be put to use in other areas. The farmer must also decide what size of equipment is right for the operation.

The third, and possibly most important, issue that a new farmer needs to consider is how big their operation will be and what their plan for growth is. If a new farmer tries to grow the operation too quickly, this may place the farm in a financial situation that it may never recover from.

There are many other decisions that will also need to be made by a new farmer before beginning a farming operation. It is not enough to have the physical resources, such as land and capital, because a farmer must also have the managerial skills necessary to turn the operation into a profitable and efficient farming business. For someone completely new to farming, this may require assistance from other more established farmers that are willing to help.

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**Updating QuickBooks**

By: Michael Forsythe

If you are looking into purchasing QuickBooks for Mac, QuickBooks Online, or QuickBooks Enterprise Solutions, or updating your current version please consult your specialist before doing so. All of these are viable options, but there may be some issues, such as payroll, that your specialist would like to discuss with you. It is always better to consult your specialist when making decisions about QuickBooks before you make the purchase. Your specialist can discuss the pros and cons of your programming needs. If you plan to update your QuickBooks version please consult your specialist first to make sure they have access to that version. The newest version of QuickBooks is available to the public before it is available to the specialists. Also, before making any changes to your QuickBooks please create at least one backup copy for your file.

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**Filing Late Tax Returns for Kentucky**

By: Amanda Jenkins and Laura Powers

Kentucky House Bill 440 which became effective July 1, 2013, allows the Department of Revenue, in conjunction with the appropriate agency, board, commission or transportation cabinet to:

~Deny or revoke your professional license
~Deny or revoke your driver’s license
~Deny your ability to register your motor vehicle
~Revoke your existing motor vehicle registration

if you are considered a “delinquent tax payer”. A delinquent tax payer either has an outstanding tax liability or has not filed all necessary tax returns. This includes not filing LLC tax returns. If you
have an LLC, please make sure your tax preparer is filing this and all other appropriate returns. If you dissolve an LLC, the last tax return needs to say final tax return on it.

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Welcome Tarrah Dunaway

Tarrah Dunaway was hired as an Area Farm Management Apprentice in July. She will be training in the Lincoln Trail Area. Tarrah is originally from Wilmore, Kentucky. Tarrah received her Bachelor’s degree in Agricultural Economics from the University of Kentucky and will complete her Master’s degree in Agricultural Economics in December from the University of Kentucky. Before joining KFBM, Tarrah worked in the Agricultural Economics Department at UK as staff support for faculty members.

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Upcoming KFBM Events:

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<td>Oct. 25th</td>
<td>2013 Lender’s Conference: 9:00-12:00 Mayfield (Graves County Extension Office) and 1:00-4:00 Hopkinsville (Christian County Extension Office)</td>
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<td>Nov. 8th</td>
<td>2013 Lender’s Conference: Owensboro (Daviess County Extension Office)</td>
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<td>Nov. 18th</td>
<td>Purchase Farm Analysis Group Annual Meeting</td>
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<td>Dec. 10th</td>
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