



**GROWING A NEW GENERATION  
OF ILLINOIS FRUIT AND VEGETABLE FARMERS**

# **BUSINESS STRUCTURES, INSURANCE, LABOR, AND TAXATION FOR SMALL FARMS**

**Rick Weinzierl & Mary Hosier**  
September 2014

(with numerous contributions from Angela Tucker, JD\*)

**Illinois Migrant Council**



# Objectives

- Understand the basics of business structures and the reasons and processes for forming LLCs
- Understand farm, liability, and crop insurance options
- Know (or know where to look for) regulations on labor, hours, wages, and conditions
- Begin planning for tax liabilities and deductions
  - Sales tax, income tax, self-employment tax, and withholding taxes for employees
  - Schedule F, deductions, depreciation, and more
  - Sales, excise, and property taxes

We will spend a fair bit of time on these topics, so settle in for a while



# Costs and income for small farms

- Investments and expenses: Land costs, **real estate/property taxes**; equipment costs; fuel, electricity, and irrigation costs; seeds/planting stock; **labor; insurance; income, self-employment, and sales taxes**; and ...
- Income from crop yield: estimated yields per 100 foot of row, per acre, etc; quality; prices from various markets (some not as lucrative as others)
  - <http://njaes.rutgers.edu/pubs/urbanfringe/pdfs/urbanfringe-v07n01.pdf> and the handout on Illinois garden productivity
  - Enterprise budgets
  - Prices at specific farmers' markets, auctions, etc.
- Agri-tourism income ... and added costs



# Overall references on risk management and legal issues ...

- Illinois Direct Farm Business Guide
  - <http://www.directfarmbusiness.org/>
- Farm Commons
  - <http://farmcommons.org/>
- Illinois Small Business Development Centers
  - <http://www.illinois.gov/dceo/SmallBizAssistance/BeginHere/Pages/SBDC.aspx>

... and many others that are listed on slides that follow



In the long run do not be too frugal to ...

- Pay for the services of a qualified attorney
- Shop around for an insurance agent who understands your farm business
- Pay for the services of a qualified tax accountant familiar with farm taxes





# Business Structure

- Types of Business Setups:
  - Sole Proprietor
  - Partnership
  - LLP (Limited Liability Partnership)
    - LP (Limited Partnership)
  - LLC (Limited Liability Company)
  - Agricultural Cooperative
  - Corporation
    - C Corp
    - S Corp

[www.cyberdriveillinois.com](http://www.cyberdriveillinois.com)  
[www.directfarmbusiness.org](http://www.directfarmbusiness.org)

**\* Table 1. Comparison of Farm Business Entities**

	<b>Sole Proprietor</b>	<b>Partnership</b>	<b>Limited Partnership</b>	<b>Limited Liability Company</b>	<b>Corporation</b>
<b>Formation</b>	Automatic / Informal	Informal or Partnership Agreement	Partnership Agreement	Articles of Organization and Operating Agreement	Articles of Incorporation and Bylaws
<b>Liability and Creditor Protection</b>	None - All of owner's assets can be reached by creditors and claimants	None - All of partners' assets can be reached by creditors and claimants	None for general partners, but protection for limited partners	Exposure is limited to the company's assets. Members are protected.	Exposure is limited to the corporation's assets if formalities are observed.
<b>Management</b>	Proprietor	Partners	General Partners	Member or Manager	Board of Directors
<b>Lifespan / Termination</b>	At proprietor's discretion or at death of proprietor	Agreed term or death of a partner.	Death or withdrawal of partner, or as stated in partnership agreement	Indefinite - terminates upon filing dissolution	Indefinite

\*

**\* Table 1. Comparison of Farm Business Entities**

	Sole Proprietor	Partnership	Limited Partnership	Limited Liability Company	Corporation
Transferrability	Not transferrable	Depends on agreement	Pursuant to agreement - may be able to sell partnership interest	Can sell or transfer membership interests	Transfer of corporate stock
Taxes	Reported on Proprietor's Taxes	Reported on Partners' taxes .	Income allocated to partners per agreement.	Can elect for tax treatment of partnership or corporation.	S-Corp.- Income taxed at shareholder level. C-Corp- Separate entity that pays its own income tax and capital gains tax.

\*



# LLCs

- LLC Basics
  - <http://www.nolo.com/legal-encyclopedia/llc-basics-30163.html>
- The LLC Operating Agreement
  - <http://www.nolo.com/legal-encyclopedia/llc-operating-agreement-30232.html>

Let's take a look at each of these links

# LLCs

- Covered in general in webinar *5 Things to Know About Federal Taxes When Starting a Farm Business*
  - (<https://connect.usu.edu/p190n2k4vz0/?launcher=false&fcsContent=true&pbMode=normal>)
- Forming an LLC in Illinois:
  - <http://www.youtube.com/watch?v=1xoHQ8h6WKE>.
- Brief summary page on LLCs in Illinois:
  - <http://www.limitedliabilitycompanycenter.com/illinois.html>
- Illinois Secretary of State site with forms:
  - [http://www.cyberdriveillinois.com/publications/business\\_services/llc.html](http://www.cyberdriveillinois.com/publications/business_services/llc.html)



# LLCs in Illinois

- Filing fees
  - \$600 online or \$500 by paper
  - \$300 name registration is NOT necessary
  - Annual reporting fee is \$250 (due the last day of the month before the anniversary month in which the LLC was formed.

Legislation to reduce filing fees to \$39 is still pending in the Illinois legislature.



# Insurance:

Very necessary, but effective risk management requires a broader approach

- Multiple Strategies
  - Risk avoidance
  - Insurance
  - Continual modifications



Peril

- What could possibly go wrong?

Probability

- How likely is it to go wrong?

Frequency

- How often will it go wrong?

Severity

- How bad would it be?
- How much would it cost?

\*

# RISK GRID

**High Cost  
Low Probability**

- 1.
- 2.
- 3.
- 4.
- 5.

**High Cost  
High Probability**

- 1.
- 2.
- 3.
- 4.
- 5.

**Low Cost  
Low Probability**

- 1.
- 2.
- 3.
- 4.
- 5.

**Low Cost  
High Probability**

- 1.
- 2.
- 3.
- 4.
- 5.

\*

....so I buy insurance and call it a day,  
right?



\*

# Limitations for insurance

- Expensive premiums and high deductibles
- Covers only certain risks and perils
- Multiple policies are usually needed
- Only kicks in after loss happens
- Person claiming loss has duty to prove loss
- Only pays what you can prove ... after it's proven

\*





# Some risks are not insurable

- Not measurable
- Unpredictable
- Too frequent
- Too big
- Too small
- Unverifiable
- Moral hazard
- Legal Issues

\*

# Avoiding risks and losses

- Avoid personal injury risks
  - Equipment safety training and safeguards, pesticide safety training, appropriate fencing of animals, clean and tidy farm environments, traffic safety, and ...
- Avoid crop production losses
  - Timely planting, best varieties, irrigation, pest management, high tunnels, and ...
- Avoid food safety risks
  - Farm safety plan, GAPs training, good postharvest handling, and ...
- And ...

# Benefits of insurance

- Provides peace of mind
- Improves safety by encouraging awareness and loss prevention
- Provides recovery from natural disasters
- Protects consumer transactions
- Protects businesses
- Helps the economy
  - Payment of claims
  - Employment
  - Investment of premium

\*



# Two basic types of insurance

**Property**

**Casualty**

“First Party”

“Third Party”

Property

Liability

Person

Defense Costs

\*





# Two basic types of policies

## Personal

- Coverage for individuals
- Does not cover business pursuits (or offers very limited coverage)

## Commercial

- Coverage for sole proprietorships, partnerships, or other business entities
- Does not cover personal property or personal risks

\*



# Property insurance

## Personal

- Home
  - Dwelling
  - Contents
  - Loss of Use
- Auto
  - Collision
  - Comprehensive
  - Rental
- Inland Marine
- Identity Theft

## Commercial

- Building
- Commercial Auto
  - Owned
  - Unowned
  - Hired
- Machinery and Equipment
  - Equipment Breakdown
- Business Interruption
- Crime and Fidelity

\*

# Casualty insurance

## Personal

- Homeowner's Liability
- Auto Liability
  - Property Damage
  - Bodily Injury
- Personal Umbrella

**List specific coverage concerns and discuss them with the agent. Get the agent's written affirmation that specific losses or risks are covered. If the agent misrepresents the policy, he or she is liable through civil / tort law.**

## Commercial

- General Liability
  - Premises/Operations
  - Products/Completed Operations
- Products Liability
- Commercial Umbrella
- Worker's Compensation
- Employment-Related Practices
- Mobile Equipment
- Advertising Liability
- Directors and Officers \*



UNIVERSITY OF ILLINOIS  
EXTENSION



# Farm insurance

- Hybrid of personal and commercial insurance.
- Covers
  - Farm Dwelling
  - Farm Property
  - Inland Marine
  - General Liability
  - Personal Property
- Agricultural Capital Assets
  - Like farm insurance
  - Includes Crime and Business Income Coverage
  - Designed for medium-large operations

\*





# Farm insurance

- Farm property includes five separate categories:
  - Farm Dwelling
  - Appurtenant Structures
  - Household Personal Property
  - Farm Personal Property
  - Barns, Outbuildings and Other Farm Structures

\*



# Farm insurance

- Special Farm Provisions Apply
- Liability
  - Farm Liability and
  - Personal Liability
  - Medical Payments
- Umbrella – higher coverage limit, but not broader coverage than provided under farm liability form

A general estimate is that a farm policy that provides \$1 million of coverage should run about \$500 per year.

# Crop insurance

- Standard crop insurance
  - USDA Risk Management Agency and the Federal Crop Insurance Corporation
- Noninsured Crop Disaster Assistance Program (NAP)
  - USDA Farm Service Agency
- Adjusted Gross Revenue – Lite (AGR-Lite)
  - USDA Risk Management Agency

# Standard Crop Insurance

- Contact Illinois office of the USDA RMA ... Call 217-241-6600; e-mail [rsoil@rma.usda.gov](mailto:rsoil@rma.usda.gov); write USDSA RMA 3500 Wabash Ave., Springfield, IL 62711-8287
- Widely available for commodity crops but available only for specific vegetable and fruit crops in specific counties
  - Apples, 2014 ... Calhoun, Clinton, Jackson, Jersey, St. Clair, and Union counties
  - Peaches, 2014 ... Calhoun, Jackson, St. Clair, and Union counties



# NAP

(Noninsured Crop Disaster Assistance Program)

- [http://www.fsa.usda.gov/Internet/FSA\\_File/nap\\_august\\_2011.pdf](http://www.fsa.usda.gov/Internet/FSA_File/nap_august_2011.pdf)
- Administered by the USDA Farm Service Agency (FSA)
- Insures a specific crop; payments based on prior yields (4- to 10-year average) ... requires “approved” records of production or receipts ... often a problem for direct-market growers
  - Be sure that your records of yield will be accepted if you plan to apply for this insurance





# AGR-Lite (Adjusted Gross Revenue – Lite)

- <http://www.rma.usda.gov/pubs/rme/agr-lite2014.pdf>
- Administered by USDA Risk Management Agency
- Covers Gross Revenue of the Operation
- Operation-specific based on IRS Schedule F
- Need income history of 5 years
- Based on actual revenue history rather than market prices
  - benefit for organic farmers
- Targeted to small farms and specialty crops

**Gross revenue insurance coverage and details may change in 2015 as a result of the new farm bill, but expect a program similar to AGR-Lite.**



# Important Considerations

## ✓ Choosing an Agent

- ✓ Type of Agent
  - ✓ Captive
  - ✓ Independent
  - ✓ Broker
- ✓ Designations
  - ✓ CPCU (Chartered Property Casualty Underwriter)
  - ✓ CIC (Certified Insurance Counselor)
  - ✓ CLU (Chartered Life Underwriter)
  - ✓ ChFC (Chartered Financial Counselor)
  - ✓ AAGG\*
- ✓ Experience / Reputation

\*



# Important Considerations

- ✓ Choosing an Insurance Company
  - ✓ Coverage Offered
    - ✓ Full line or partial line
    - ✓ Exclusions
    - ✓ Policy Limits
    - ✓ Coinsurance Requirements
  - ✓ Size
  - ✓ Target Customers
  - ✓ Reputation
    - ✓ Customer Complaints
    - ✓ Financial Rating

\*

# Important Considerations

## ✓ Making Claims

- ✓ Prompt Notification
- ✓ Cooperation
- ✓ Burden of Proof on Insured
- ✓ Understand the Claims Process
  - ✓ ACV vs. Replacement Cost
  - ✓ **Keep Good Records**
  - ✓ Don't Destroy Evidence
  - ✓ Communicate with Adjuster Promptly
  - ✓ Remember How to Catch More Flies

\*

# Labor issues

- Employee, independent contractor, or intern?
- Employee handbook
- Employment rules
- Job descriptions
- Minimum wage
- Child labor
- Unemployment insurance
- Withholding taxes
- Worker's compensation

“Volunteers” who are compensated with “free” produce may not be viewed as volunteers under the Fair Labor Standards Act. If they are compensated, the fair market value of the produce is the basis for withholding taxes ... often ignored, but at your own risk.





# Employee, Intern or Independent Contractor?

Fair Labor Standards Act Definition: 29 USC § 203

"Employ" includes "to suffer or permit to work."

"Employee" is "any individual employed by an employer."

\*



# “Economic Reality” Test:

“Is the worker economically dependent on the business to which he renders service or, as a matter of economic reality, in business for him or herself?”

## Factors:

- ✓ the degree to which the alleged employee is independent or subject to the control of the "employer" as to the manner in which the work was performed;
- ✓ the alleged employee's opportunities for profit or loss;
- ✓ the alleged employee's investment in the facilities and equipment of the business;
- ✓ the permanency and duration of the relationship between the business and the alleged employee;
- ✓ the degree of skill required to perform the work of the alleged employee; and
- ✓ the extent to which the services rendered are an integral part of the employing entity.

\*

# Employee or intern?

“Those who work for their own advantage on the premises of another” are not employees. Walland v. Portland Terminal Co., 330 U.S. 148 (1947).

Six factors that define an internship to allow payment of less than minimum wage ([www.dol.gov/whd/regs/compliance/whdfs71.pdf](http://www.dol.gov/whd/regs/compliance/whdfs71.pdf))

- ✓ Internship must be for the benefit of the intern.
- ✓ Intern must not provide the business with an immediate advantage
- ✓ Internship must involve an educational course (with classroom or academic experience)
- ✓ Interns cannot displace regular employees
- ✓ Farmers cannot use internships to trial-run potential new employees
- ✓ Intern and farmer must agree that the intern is not entitled to wages (or minimum wage)

# Employee Handbook

- An employee handbook provides a complete record of employer's policies and procedures.
- At a minimum an Employee Handbook should include:
  - Non-disclosure agreements / conflicts of interest statements
  - Anti-discrimination and harassment policies
  - Job Description / Compensation information
  - Work schedules
  - Standards of conduct
  - Disciplinary guidelines
  - General employment information
  - Safety and security
  - Employee benefits
  - Time off policies

\*



# Rules

- Need to be clear about the rules and expectations for employees.
- The best way to ensure clarity is to have Employee Rules of Conduct
  - Include with Employee Handbook
  - Employee signs form acknowledging they have read and agree to abide by the rules
  - It's important to include that any violation of the Rules of Conduct is grounds for discipline or termination

\*





# Job Description

- Each position should have a job description
- Applicants and employees understand their roles and what they need to do to be accountable
  - Helps attract the right candidates
  - Serves as a basis for outlining performance expectations, job training, and career advancement
  - Provides a reference point for compensation decisions
  - Protects from accusations of unfair employment practices

\*



# Job Description

- Should include:
  - Title
  - Purpose statement,
  - Summary of the job,
  - Description of the scope of duties and responsibilities
- Optional items to include are:
  - Job specifications, such as minimum amount of qualifications and experience
  - Job location
  - Equipment used, and
  - Salary range for the position

\*



# Minimum Wage

- Minimum wage is defined both federally and by state and local government
  - In IL the minimum wage is currently \$8.25/hour
  - For workers under age 18, minimum wage is \$7.75/hour
- Agricultural labor is exempt if:
  - Employee is the parent, spouse, child or other member of employer's immediate family
  - Employer did not use more than 500 man days of labor in any quarter of preceding calendar year
    - Man Day = any day during which an employee performs any agricultural labor for not less than one hour (29 USC § 203(u))
- Agricultural labor does not include any retail



# Child Labor

- Members of a farmer's immediate family who live with the farmer are exempt from federal and state child labor regulations
  - Exemption applies when the parent or person standing in the place of a parent is a part owner of the farm, a partner in a partnership or an officer of a corporation that owns the farm if the ownership interest in the partnership or corporation is substantial.
- Employing other children:
  - 16 years or older can be employed in any agricultural occupation at any time
  - Under 16 require parental consent to work
  - Minors under 12 cannot work on a farm where employees are required to be paid minimum wage

[www.regulations.gov](http://www.regulations.gov)



# Child Labor

## Restrictions for under 16:

- No working during school hours
- No “Particularly Hazardous” activities 29 CFR 570.71
  - operating a tractor over 20 hp,
  - riding on a tractor as a passenger or helper,
  - operating many different types of power equipment such as power post hole diggers, band saws, or chain saws,
  - working in a pen with “dangerous animals” such as bulls, boars, or sows with suckling pigs,
  - handling or applying certain chemicals
  - Working at a height over 20’
- Some exceptions for kids who have a training certificate from 4H or who are involved in legit agricultural vocational education





# Unemployment compensation

- Most for-profit employers are required to pay contributions (taxes) as soon as they have:
  - Paid \$1,500 in wages in a single calendar quarter, or employed one or more persons for 20 weeks in a given calendar year; or
  - Paid \$1,000 in cash wages in one calendar quarter for domestic work; or
  - Paid \$20,000 in cash wages in one calendar quarter or employed 10 or more workers for 20 weeks in a given calendar year for farm work.



UNIVERSITY OF ILLINOIS  
EXTENSION



# Unemployment compensation in agriculture

Under [26 U.S.C. ' 3306\(a\)\(2\)](#), agricultural employment is subject to the Unemployment Compensation Act if the farm employer pays cash wages of \$20,000 or more to employees during any calendar quarter of the current or preceding calendar year; or the farmer employs ten or more individual employees on at least one day during each of 20 different calendar weeks. However, the farmers spouse and children under 21 are not considered in determining whether the \$20,000 cash wages or ten-employees test is met. Farm employers who meet either of the above tests are required to pay a tax based upon the amount of cash wages paid. [26 U.S.C. ' 3301](#).

If a farmer is subject to the Illinois Act ([820 Ill. Comp. Stat. 405/211.4](#)), the farmer must notify the Illinois Department of Labor within a specified time after operations begin. A quarterly return and tax payment (called "contributions") must be filed.

See [http://www.farmdoc.illinois.edu/legal/minWage\\_empyTax.html](http://www.farmdoc.illinois.edu/legal/minWage_empyTax.html)

# What about FICA / Social Security and Medicare?

- **When are farmer-employers required to pay social security taxes on employee wages and what procedures must be followed?**
- The Social Security taxes are applicable to almost all farmers even if the farmer himself is the sole employee. Like other employers, a farmer has certain obligations to contribute to an employee's future social security benefits. Generally, employers are required to pay FICA (Federal Insurance Contributions Act) taxes upon the wages of an employee, other than the employer's children under the age of 18, who has either received wages of at least \$150, or is one of several farmworkers who collectively were paid \$2,500 or more during the year.

From: <http://www.directfarmbusiness.org/>





Department of the Treasury  
Internal Revenue Service

## Publication 51

Cat. No. 10320R

# (Circular A), Agricultural Employer's Tax Guide

For use in **2014**

## Contents

What's New .....	<a href="#">1</a>
Reminders .....	<a href="#">2</a>
Calendar .....	<a href="#">5</a>
Introduction .....	<a href="#">5</a>
1. Taxpayer Identification Numbers .....	<a href="#">7</a>
2. Who Are Employees? .....	<a href="#">8</a>
3. Wages and Other Compensation .....	<a href="#">9</a>
4. Social Security and Medicare Taxes .....	<a href="#">10</a>
5. Federal Income Tax Withholding .....	<a href="#">11</a>
6. Required Notice to Employees About Earned Income Credit (EIC) .....	<a href="#">14</a>
7. Depositing Taxes .....	<a href="#">14</a>
8. Form 943 .....	<a href="#">19</a>
9. Reporting Adjustments on Form 943 .....	<a href="#">19</a>
10. Federal Unemployment (FUTA) Tax .....	<a href="#">20</a>
11. Reconciling Wage Reporting Forms .....	<a href="#">21</a>

**Farmers and crew leaders also must withhold federal income tax from the wages of farmworkers if the wages are subject to social security and Medicare taxes.**



# Worker's compensation

- An "agricultural enterprise" is exempt from the workers' compensation program if it employs less than 400 working days of agricultural labor per quarter in any quarter in the preceding year, excluding family members (820 ILCS § 305/3(19)). Even if exempt from the law, businesses can elect to be covered by filing notice with the Illinois Workers' Compensation Commission and obtaining appropriate insurance.
- Some aspects of a direct farm marketing operation, however, may not fall under the "agricultural enterprise" exception. If any of the operation's employees engage in activities that would not qualify as a traditional farming activity—processing food, for example—or if the employee's time is divided between agricultural and non-agricultural activities (such as marketing), the direct farm business should consult an attorney to determine the applicability of the Illinois Workers' Compensation Act.

**Worker's compensation insurance protects the employer from many costs associated with employee injuries.**

From: <http://www.directfarmbusiness.org/>





If a court holds that a direct farm business is liable for an employee's claim and the operation was required to obtain workers' compensation insurance but failed to do so, the direct farm business will have to pay all of the workers' compensation benefits. It is unlikely that the operation's general insurance policy would cover such a liability, and the benefits owed to the injured employee can be quite costly. On the other hand, workers' compensation insurance itself can be very expensive. For these reasons, it is important to consult a lawyer to determine the business's precise needs. Furthermore, the Act imposes significant fines for failure to obtain workers' compensation insurance. Negligently failing to maintain coverage can be a class A misdemeanor with a fine up to \$2,500; knowingly failing to have insurance can be a class 4 felony with a fine up to \$25,000. In addition, the government can fine employers \$500 per day for every day that they failed to have coverage.

From: <http://www.directfarmbusiness.org/>



- ***Employer Liability When Exempt from Workers' Compensation Requirements***

In cases where employers are exempt from mandatory workers' compensation insurance coverage, Illinois' common law tort principles will determine an employer's liability for an employee's on-the-job injuries. A tort is an injury or harm to another person or person's property that the law recognizes as a basis for a lawsuit. Torts are part of the *common law*, which is the body of laws and rules that courts (rather than legislatures or other lawmaking bodies) create as they issue decisions. However, the legislature can modify the common law by passing legislation, and in several instances, the Illinois legislature has modified traditional common law rules and created special rules for tort liability within the employer-employee context.

From: <http://www.directfarmbusiness.org/>



<http://www.directfarmbusiness.org/labor-and-employment/> for guidance on

- *Employer's Negligence*
- *Assumption of the Risk*
- *Employees Injuring Third-Parties*

# Illinois Workers' Compensation Handbook on Workers' Compensation and Occupational Diseases

- <http://www.iwcc.il.gov/handbook020106.pdf>



# Taxes

- Business or hobby?
- Initial requirements
- Taxation of business income
  - Income tax and Schedule F
  - Self employment taxes
- Sales taxes
- Excise taxes
- Property taxes



# Taxation of business income

- Farmer's Tax Guide, IRS publication 225 (91 pages)  
... <http://www.irs.gov/pub/irs-pdf/p225.pdf>
- Ruraltax.org (<http://ruraltax.org/>)
  - *Tax Guide For Owners and Operators of Small Farms*  
(<http://ruraltax.org/files/uploads/TaxGuide%20Small%20to%20Mid-sized%20Farms%202011%2007%2014.pdf>)
  - *5 Things to Know About Federal Taxes When Starting a Farm Business* (includes self-employment tax, hobby loss rules, Form 1099, business structures, and estimated tax payments)  
(<https://connect.usu.edu/p190n2k4vz0/?launcher=false&fcsContent=true&pbMode=normal>)

# Hobby versus business losses

- Hobby losses not deductible
- Is it a business?
  - Yes, if profitable 3 of the last 5 years, or IRS examines the following ...
    - Is the endeavor carried out in business-like manner (LLC, separate banking accounts)?
    - Appropriate expertise or training?
    - Significant devotion of time ... doing what?
    - Assets expected to increase in value?
    - Evidence of experience?
    - Examination of ongoing practices?
    - Some prior profits?
    - Other income?
    - Just for fun?

# To document that your effort is a business ...

- Record your farm with FSA
- Develop a viable business plan, keep books separately for your business
- Show some profit in 3 of 5 years
- Keep written records of time spent working or attending training, adaptations to increase income, reasons for losses

# Initial requirements related to taxes

- Business probably needs a federal EIN (definitely if LLC ... note instruction for this on the LLC video referenced earlier)
- Register with the Illinois Department of Revenue at the Illinois Business Gateway ([https://mytax.illinois.gov/\\_/](https://mytax.illinois.gov/_/))
- If you hire employees, register with the Illinois Department of Employment Security at <http://www.ides.illinois.gov/Pages/default.aspx>





Department  
of the  
Treasury  
Internal  
Revenue  
Service

**Publication 225**  
Cat. No. 11049L

# Farmer's Tax Guide

For use in preparing  
**2013** Returns

**Acknowledgment:** The valuable advice and assistance given us each year by the National Farm Income Tax Extension Committee is gratefully acknowledged.



## Contents

Introduction .....	<a href="#">1</a>
What's New for 2013 .....	<a href="#">2</a>
What's New for 2014 .....	<a href="#">3</a>
Reminders .....	<a href="#">3</a>
Chapter 1. Importance of Records .....	<a href="#">3</a>
Chapter 2. Accounting Methods .....	<a href="#">5</a>
Chapter 3. Farm Income .....	<a href="#">8</a>
Chapter 4. Farm Business Expenses .....	<a href="#">20</a>
Chapter 5. Soil and Water Conservation Expenses .....	<a href="#">28</a>
Chapter 6. Basis of Assets .....	<a href="#">31</a>
Chapter 7. Depreciation, Depletion, and Amortization .....	<a href="#">37</a>
Chapter 8. Gains and Losses .....	<a href="#">49</a>
Chapter 9. Dispositions of Property Used in Farming .....	<a href="#">57</a>
Chapter 10. Installment Sales .....	<a href="#">60</a>
Chapter 11. Casualties, Thefts, and Condemnations .....	<a href="#">65</a>
Chapter 12. Self-Employment Tax .....	<a href="#">73</a>
Chapter 13. Employment Taxes .....	<a href="#">77</a>
Chapter 14. Excise Taxes .....	<a href="#">82</a>
Chapter 15. Estimated Tax .....	<a href="#">85</a>
Chapter 16. How To Get Tax Help .....	<a href="#">87</a>
Index .....	<a href="#">89</a>

## Introduction

You are in the business of farming if you cultivate, operate, or manage a farm for profit, either as owner or tenant. A farm includes livestock, dairy, poultry, fish, fruit, and truck farms. It also includes plantations, ranches, ranges, and orchards.



# Farmer's Tax Guide covers

- Farmer's Tax Guide covers ... records, accounting methods, expenses, deductions, depreciation, self-employment taxes, employment taxes, excise taxes, and estimated taxes (and other topics).
- Ruraltax.org offers sample tax returns (<http://www.ruraltax.org/htm/sample-tax-returns>) and explanations for how they are done. One that is very relevant for us is <http://ruraltax.org/htm/sample-tax-return-ima-hopefull>.
- State income taxes are based on federal tax forms.

# Self employment tax

- Payment not required if profits less than \$400
- 12.4% on first \$117,000 of profit (or total income with other wages) of profit for FICA
- 2.9% on all profits for Medicare

# Form 1099

- Informational return
- IRS uses to match income on tax returns
- One copy sent to individual or other entity and one sent to IRS
- You may need to issue them
- You may receive them, and the amounts need to show up on your tax return

From: <http://ruraltax.org/>



# Form 1099 required if ...

- 1099-Misc for payments of \$600 or more for rents and services or for payments of at least \$10 in royalties
- 1099-Int for payments of \$600 or more of business interest

From: <http://ruraltax.org/>



# Payments (you make) that are not subject to a 1099

- Payments other than medical or health care made to a corporation of any kind
- Payments for merchandise, phone service, freight, storage, and similar items
- Payments of rent to real estate agents
- Wages and business travel allowances paid to employees
- Payments made to tax exempt organizations

From: <http://ruraltax.org/>





# 1099 Reporting Examples

Situation	Forms needed
\$4,000 herbicide purchase	none
\$1,200 to Luke Carefully, a certified crop consultant for disease scouting	1099-MISC
\$1,100 for soil testing to Cropmaster, Inc	none
\$500 to neighbor to plow	none
\$750 paid to neighbor's LLC to haul grain	none
\$5,000 cash rent to Sally's sister	1099-MISC
\$2,500 interest payment on installment purchase of land from cousin Jason	1099-INT
\$1,000 paid to Brad Handy for services and supplies to fix shed	1099-MISC

# Sales taxes

- The tax rate for food is based on whether it is intended for consumption on or off the premises. Food for human consumption *off the premises*, and not for immediate consumption, has a 1% tax rate. The general 6.25% rate applies to all other food.
- Food or not? If a pumpkin patch sells pie pumpkins and gourds, the pie pumpkin, if not intended for consumption on the premises, qualifies for the 1% tax rate. The gourd, if not edible, is taxed at the 6.25% rate.
- Establishments that sell food primarily (more than 50%) in individualized servings are deemed to sell food for immediate consumption, and have a 6.25% tax rate.
- The 6.25% rate applies to all sales of hot foods and all sales of alcohol.

Units of local government may levy additional taxes above the 6.25% rate. See <http://www.sale-tax.com/Illinois>.

From: <http://ruraltax.org/>



# Exemptions for the payment of sales taxes

- When a direct farm business purchases items from another business that are related to farm production, the purchase is exempt from the sales (use) tax (35 ILCS § 105/3-5). These include: farm chemicals; certain farm machinery and equipment and replacement parts (greenhouse structures such as horticultural greenhouses or hoop houses qualify as machinery or equipment, as well as lighting and mesh tables for the greenhouse, and carts protecting the plants during shipment); and precision farming equipment such as computers and GPS devices.
- When a direct farm business purchases farm machinery or equipment primarily for the purpose of farm production incident to the purchase of *service*, the goods are exempt from the 6.25% service occupation/use tax (35 ILCS §§ 110/3-5, 115/3-5).

From: <http://www.directfarmbusiness.org/>



# Federal excise taxes

- *IRS Publication 510: Excise Taxes* and *IRS Publication 225: Farmer's Tax Guide* explain fuel excise taxes as well as which uses of fuel qualify for tax credits and refunds. Fuel used on a farm for farming purposes and fuel used for off-highway business purposes are exempt from excise taxes. Farmers may claim the tax as a credit at the end of the year or obtain quarterly refunds of the tax, depending on how the fuel was used. To substantiate claims, the IRS requires businesses to keep certain records, such as the name and address of the person who sold the fuel.

From: <http://www.directfarmbusiness.org/>





# State excise taxes

- **Illinois Fuel Excise Taxes**
- The *Motor Fuel Tax Law* (35 ILCS § 505) and accompanying regulations (86 IAC Part 500) govern fuel taxation in Illinois. Any person who uses motor fuel for purposes other than operating a motor vehicle on a public highway can seek a refund of the state excise tax on fuel (35 ILCS § 505/13). Refunds are available to farmers for gasoline (taxed at 19 cents/gallon) and un-dyed diesel fuel (taxed at 21 1/2 cents/gallon). Form RMTF-11-A is the form used to make an Illinois motor fuel tax refund claim. Purchasers must retain proof of taxes paid.

From: <http://www.directfarmbusiness.org/>





# Property taxes

- The term "farm" does not include property primarily used for residential purposes, even though some farm products may be grown or farm animals bred or fed on the property incidental to its primary residential use. The assessment value for farm dwellings and parcels of property on which farm dwellings are immediately situated is 33 1/3% of fair market value (rather than the agricultural economic value) (35 ILCS 200/10-145).
- Improvements, which include buildings such as on-farm retail stores or processing facilities for value added products, are assessed as part of the farm when such buildings contribute in whole or in part to the operation of the farm. Their assessment value is 33 1/3% of the value of the building's contribution to the farm's productivity, which is usually similar the building's fair market value (35 ILCS 200/10-140).

From: <http://www.directfarmbusiness.org/>



In the long run do not be too frugal to ...

- Pay for the services of a qualified attorney
- Shop around for an insurance agent who understands your farm business
- Pay for the services of a qualified tax accountant familiar with farm taxes



# Resources

- Illinois Direct Farm Business Guide
  - <http://www.directfarmbusiness.org/>
- Farm Commons <http://farmcommons.org/>
- Forming an LLC
  - <http://www.youtube.com/watch?v=1xoHQ8h6WKE>
  - <http://www.limitedliabilitycompanycenter.com/illinois.html>
- Rural Tax Guide
  - <http://ruraltax.org/files/uploads/TaxGuide%20Small%20to%20Midsized%20Farms%202011%2007%2014.pdf>
- USDA Insurance Programs
  - <http://www.rma.usda.gov/pubs/rme/agr-lite2014.pdf>
  - [http://www.fsa.usda.gov/Internet/FSA\\_File/nap\\_august\\_2011.pdf](http://www.fsa.usda.gov/Internet/FSA_File/nap_august_2011.pdf)



# To reach us

---

## Contacts

Rick Weinzierl

Mary Hosier

## Contact information

[weinzier@illinois.edu](mailto:weinzier@illinois.edu)  
217-244-2126

[mhosier@illinois.edu](mailto:mhosier@illinois.edu)  
217-333-7512

---

