FSA Entity Confusion

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Overview

My colleague, Paul Neiffer, and I are seeing letters from local FSA offices for the 2026 crop year indicating that an LLC or an S corporation is limited to a single payment limit. This is contrary to the One Big Beautiful Bill Act (OBBBA) provision that fundamentally changed the treatment of pass-through entities (LLCs and S corporations) to allow for individual-level payment limits. In other words, an entity (other than a C corporation) that limits liability is not limited to a single payment limit at the entity level. This is a very significant (and favorable) rule change for many farming operations.

So, what's going on here?

The Source of the Conflict

There is a distinct disconnect between the national-level policy changes (as outlined in the OBBBA and the updated FSA guidelines) and the operational practices at local County Offices. National FSA leadership, including Undersecretary Richard Fordyce, has confirmed that the intent of the OBBBA was to end the "person-trap" that previously forced operations into complex General Partnerships just to obtain separate payment limits. LLCs and S corporations are now intended to be treated as pass-throughs.

However, many (exactly how many is unknown) local FSA County Committees and office staff have operated under the rigid "$125,000-per-entity" rule for decades. The transition to verifying "active management/labor" for *each individual member* within an LLC or S Corp is a massive administrative shift for local offices that are already facing staffing and training bottlenecks. This is, indeed, the most frequent point of friction - the "Actively Engaged in Farming" requirement. For an individual in an LLC to qualify for a separate limit, the FSA must verify that they are providing proportional contributions of labor, management, and capital. Local offices are reportedly being extremely cautious and documentation-heavy, often defaulting to old interpretations until they receive explicit, localized guidance from their State Office.

How to Navigate This

For farmers being told by their local office that "nothing has changed" and that they are still capped at a single entity limit, the problem is likely a training lag rather than an agency-wide refusal to implement the law. The most effective way to challenge an incorrect local determination is to cite the current version of the FSA Handbook 5-PL (Payment Eligibility, Payment Limitation, and Average Adjusted Gross Income…). Since the passage of the OBBBA, the handbook has not yet been amended to reflect the pass-through treatment of LLCs and S-Corps.

If the local County Committee continues to deny the application of the new limits, you can request an appeal or, more effectively, ask them to elevate the question to the State FSA Office. Often, the issue is that local staff are

simply waiting for a specific "how-to" memo from the State office (which is waiting on the National Office) that has been delayed in their inbox.

The primary reason entities get denied the new limits is a lack of documentation regarding *proportional* management and labor. Ensure that you have clear, written records showing that each member claiming a limit is actively performing tasks proportional to their interest. Providing this documentation *up-front* can often preempt the office's desire to default to the old "single-entity" rule.

Summary

The OBBBA clearly changed the rule for LLCs and S corps. It looks as if the reality of federal policy implementation is at issue**.** The law has changed, but the institutional inertia is high. If you are being told there is only one limit, the local office is likely applying outdated 2024-era logic to a 2026 regulatory environment. It's going to take time and training to fix this agency problem.

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