

Recent Legislation Offers Special Tax Incentives for Small Businesses to Provide Health Care, Hire New Workers

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In recognition of National Small Business Week, the Internal Revenue Service encourages small businesses to take advantage of tax-saving opportunities included in recently enacted federal legislation.

A variety of business tax deductions and credits were created, extended and expanded by the American Recovery and Reinvestment Act of 2009 (ARRA), this year's Hiring Incentives to Restore Employment (HIRE) Act and the Affordable Care Act. Because some of these changes are only available this year, eligible businesses only have a few months to take action and save on their taxes. Here is a rundown of some of the key provisions.

New Health Care Tax Credit Helps Small Employers

The small business health care tax credit, created under the Affordable Care Act, is designed to encourage small employers to offer health insurance coverage for the first time or maintain coverage they already have.

The credit takes effect this year and is generally available to small employers that pay at least half the cost of single coverage for their employees in 2010. The credit is specifically targeted to help small employers that primarily employ low- and moderate-income workers.

For tax years 2010 to 2013, the maximum credit is 35 percent of premiums paid by eligible small business employers. The maximum credit goes to smaller employers — those with 10 or fewer full-time equivalent (FTE) employees — paying annual average wages of \$25,000 or less. The credit is completely phased out for employers with more than 25 FTEs or with average wages of more than \$50,000.

Because the eligibility rules are based in part on the number of FTEs, not the number of employees, businesses that use part-time help may qualify even if they employ more than 25 individuals. More information about the credit is available on the IRS website (www.irs.gov).

Two New Benefits for Employers that Hire and Retain Recently Unemployed

Employers who hire unemployed workers this year (after Feb. 3, 2010, and before Jan. 1, 2011) may qualify for a 6.2-percent payroll tax incentive, in effect exempting them from the employer's share of Social Security tax on wages paid to these workers after March 18. In addition, for each qualified employee retained for at least a year whose wages did not significantly decrease in the second half of the year, businesses may claim a new hire retention credit of up to \$1,000 per worker on their income tax return.

These tax benefits are especially helpful to employers who are adding positions to their payrolls. New hires filling existing positions also qualify but only if the workers they are replacing left voluntarily or for cause. Family members and other relatives generally do not qualify.

Employers must get a signed statement from each eligible new hire, certifying under penalties of perjury, that he or she was not employed for more than 40 hours during the 60 days before

beginning employment with that employer. IRS Form W-11 can be used to meet this requirement. Further details, including are posted on www.IRS.gov.

Work Opportunity Tax Credit Aids Employers That Hire Certain Workers

The work opportunity tax credit (WOTC) offers tax savings to businesses that hire employees belonging to various targeted groups. These groups include people ages 18 to 39 living in designated communities in 43 states and the District of Columbia, recipients of various types of public assistance, certain veterans, ex-felons and certain youth workers. The instructions for Form 8850 detail the requirements for each of these groups.

Certification by the state workforce agency is generally required. Normally, a business must file Form 8850 with the state workforce agency within 28 days after the eligible worker begins work.

An eligible employer can claim both the WOTC and the new hire retention credit for the same employee. However, an employer may not claim both the payroll tax exemption and the WOTC for the same employee. Therefore, any employer that chooses to apply the exemption to wages paid to a qualified employee may not receive the WOTC on any wages paid to that employee during the one-year period beginning on the employee's hiring date.

Exclusion of Gain on the Sale of Certain Small Business Stock

An extra incentive is now available to individuals who invest in small businesses. Investors in qualified small business stock can exclude 75 percent of the gain upon sale of the stock. This increased exclusion applies only if the qualified small business stock is acquired after Feb. 17, 2009, and before Jan. 1, 2011, and held for more than five years. For previously-acquired stock, the exclusion rate remains at 50 percent in most cases.

COBRA Credit

Employers that provide the 65 percent COBRA premium subsidy to eligible former employees can claim credit for this subsidy on their quarterly or annual payroll tax returns. To help avoid imposing an unnecessary cash-flow burden, affected employers can reduce their payroll tax deposits by the amount of the credit. For details, see the instructions for Form 941.

Small business owners can find a variety of helpful on-line resources in the [Small Business and Self-Employed Tax Center](#) on www.IRS.gov.



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Additional Health Act Questions & Answers

1. Do family members of a business owner who work for the business count as employees? Specifically a spouse. (Mike Cvitkovic)

Answer – In general, employees who perform services for the employer during the taxable year are taken into account in determining the employers FTEs, average wages, and premiums paid, with certain individuals excluded and with employees of certain related employers included. Partners in a business and certain owners are not taken into account as employees for purposes of section 45R. Family members of these owners and partners are also not taken into account as employees. For purposes of section 45R, a family member is defined as a child (or descendant of a child) a sibling or step-sibling; a parent (or ancestor of a parent); a step-parent; a niece or nephew; an aunt or uncle; or a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law or sister-in-law. In addition, any other member of the household of these owners and partners who qualifies as a dependent under section 152(d)(2)(H) is not taken into account as an employee for purposes of section 45R. Source: Notice 2010-44, page 3.

2. How will S Corps take advantage of the Small Business Health Care Credit since their income passes through? (Mike Doughty)

Answer – Employers eligible for the credit generally are small employers that provide health care coverage to their employees and that meet certain requirements (Qualified Employers). In order to be a qualified employer, (1) the employer must have fewer than 25 full-time equivalent employees (FTEs) for the tax year, (2) the average annual wages of its employees for the year must be less than \$50,000 per FTE, and (3) the employer must pay the premiums under a qualifying arrangement. Source: FAQs from IRS.gov; Notice 2010-44.

3. Does a church that does not file a tax return and provides health care insurance for their employees qualify for the credit? (Ann Makres)

Answer – An organization described in section 501(c) that is exempt from tax under section 501(a) may be eligible for the 45R credit. Source: Notice 2010-44, page 2.

4. 2% Shareholders who have health care have to have the insurance on their W-2. Does the S-Corporation then qualify for the tax credit? (Ann Makres)

Answer – If an owner of a business also provides services to it, the owner generally does “not” count as an employee for purposes of the credit. A sole proprietor, a partner in a partnership, a shareholder owning more than two percent of an S Corporation, and any owner of more than five percent of other businesses are not considered employees for purposes of the credit. Thus, the wages or hours of these business owners and partners are not counted in determining either the number of FTEs or the amount of average annual wages, and premiums paid on their behalf are not counted in determining the amount of the credit. More information about the credit, including tax tips, guides and answers to frequently asked questions, is available at www.IRS.gov.

5. I know my child under age 26 can be carried on my employer sponsored health plan even if they are married, do the same rules apply for me to carry their spouse on my plan? (Ann Makres)

Answer – A health plan or health insurance issuer is not required to cover the spouse of an eligible child. Source: 54.9815-2714T (including the Preamble to TD 9482 at page 10); Notice 2010-38.

6. My client reimburses for health insurance premiums paid by her employees where her employees have their own insurance policies outside of the business because it is cheaper to have the policies as individuals/family outside of a business group policy. She is paying for their health care but doesn't hold the policy itself. Is she still eligible to claim the health insurance credit on her taxes for 2010? Does this situation meet the requirements of a “qualifying arrangement”? (Ann Makres)

Answer – No. An employers premium payments are not taken into account for purposes of determining eligibility for the 45R credit unless they are paid for health insurance coverage under a qualifying arrangement. To count as a qualifying arrangement, employers must contribute to insurance offered by the employer, not for insurance purchased by employees outside a group policy offered by the employer. Source: Notice 2010-44.

2010 Tax Credit Helps Small Employers Provide Health Insurance Coverage

IR-2010-38, April 1, 2010

Many small businesses and tax-exempt organizations that provide health insurance coverage to their employees now qualify for a special tax credit, according to the Internal Revenue Service.

Included in the health care reform legislation, the Patient Protection and Affordable Care Act, approved by Congress and signed by President Obama on March 23, the credit is designed to encourage small employers to offer health insurance coverage for the first time or maintain coverage they already have. In general, the credit is available to small employers that pay at least half the cost of single coverage for their employees.

“This credit provides a real boost to eligible small businesses by helping them afford health coverage for their employees,” said IRS Commissioner Doug Shulman. “We urge small businesses and tax-exempt employers to look closely at this important tax break — which is already effective — to see if they qualify.”

The maximum credit is 35 percent of premiums paid in 2010 by eligible small business employers and 25 percent of premiums paid by eligible employers that are tax-exempt organizations. In 2014, this maximum credit increases to 50 percent of premiums paid by eligible small business employers and 35 percent of premiums paid by eligible employers that are tax-exempt organizations.

The credit is specifically targeted to help small businesses and tax-exempt organizations that primarily employ low and moderate income workers. It is generally available to employers that have fewer than 25 full-time equivalent (FTE) employees paying wages averaging less than \$50,000 per employee per year. Because the eligibility formula is based in part on the number of FTEs, not the number of employees, many businesses will qualify even if they employ more than 25 individual workers.

The maximum credit goes to smaller employers — those with 10 or fewer FTEs — paying annual average wages of \$25,000 or less.

Eligible small businesses can claim the credit as part of the general business credit starting with the 2010 income tax return they file in 2011. For tax-exempt employers, the IRS will provide further information on how to claim the credit.

The IRS will use postcards to reach out to millions of small businesses that may qualify for the credit. The postcards will encourage small business owners to take advantage of the credit if they qualify.

3 SIMPLE STEPS

If you are a small employer (business or tax-exempt) that provides health insurance coverage to your employees, determine if you may qualify for the **Small Business Health Care Tax Credit** by following these three simple steps:

1 Determine the total number of your employees (not counting owners or family members): Full-time employees: _____ (enter the number of employees who work at least 40 hours per week) + Full-time equivalent of part-time employees: _____ (Calculate the number of full-time equivalents by dividing the total annual hours of part-time employees by 2080.) = <input type="text"/> total employees If the total number of employees is fewer than 25 GO TO STEP 2	2 Calculate the average annual wages of employees (not counting owners or family members): Take the total annual wages paid to employees: _____ ÷ Divide it by the number of employees from STEP 1: _____ (total wages ÷ number of employees) = <input type="text"/> average wages If the result is less than \$50,000, AND
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3 You pay at least half of the insurance premiums for your employees at the single (employee-only) coverage rate, then

»» you may be able to claim the **Small Business Health Care Tax Credit**.
Find out more information at **IRS.gov**

Small Business Health Care Tax Credit

Health coverage legislation enacted this year includes a Small Business Health Care Tax Credit to help small businesses and small tax-exempt organizations afford the cost of covering their workers.

Received a Postcard from the IRS?

Millions of small businesses will receive [postcards](#) from the IRS beginning the week of April 19 that alert them to the new Small Business Health Care Tax Credit and encourage them to check their eligibility. Even if you don't receive a postcard, your business still may be eligible. Read [more](#) about this effort.

Eligibility Rules

- Providing health care coverage. A qualifying employer must cover at least 50 percent of the cost of health care coverage for some of its workers based on the single rate.
- Firm size. A qualifying employer must have less than the equivalent of 25 full-time workers (for example, an employer with fewer than 50 half-time workers may be eligible).
- Average annual wage. A qualifying employer must pay average annual wages below \$50,000.
- Both taxable (for profit) and tax-exempt firms qualify.

Amount of Credit

- Maximum Amount. The credit is worth up to 35 percent of a small business' premium costs in 2010. On Jan. 1, 2014, this rate increases to 50 percent (35 percent for tax-exempt employers).
- Phase-out. The credit phases out gradually for firms with average wages between \$25,000 and \$50,000 and for firms with the equivalent of between 10 and 25 full-time workers.

Three Simple Steps for Employers to Qualify

To determine if your small business or tax exempt organization qualifies for the Small Business Health Care Tax Credit, follow the [three simple steps on our fact sheet](#).

Examples

Scenarios illustrate [how the credit applies to employers in different circumstances](#).

Questions and Answers

Need more detailed information? [We have answers](#).

YouTube Primer on Health Care Credit

This new [video explains the who, what, why and how](#) of the Small Business Health Care Tax Credit.

Get more information at www.irs.gov and enter "Health Insurance Credit" in the search box in the upper right corner.

Small Business Health Care Tax Credit: Frequently Asked Questions

The new health reform law gives a tax credit to certain small employers that provide health care coverage to their employees, effective with tax years beginning in 2010. The following questions and answers provide information on the credit as it applies for 2010-2013, including information on transition relief for 2010. An enhanced version of the credit will be effective beginning in 2014. The new law, the Patient Protection and Affordable Care Act, was passed by Congress and was signed by President Obama on March 23, 2010.

Employers Eligible for the Credit

1. Which employers are eligible for the small employer health care tax credit?

A. Small employers that provide health care coverage to their employees and that meet certain requirements (“qualified employers”) generally are eligible for a Federal income tax credit for health insurance premiums they pay for certain employees. In order to be a qualified employer, (1) the employer must have fewer than 25 full-time equivalent employees (“FTEs”) for the tax year, (2) the average annual wages of its employees for the year must be less than \$50,000 per FTE, and (3) the employer must pay the premiums under a “qualifying arrangement” described in Q/A-3. See Q/A-9 through 15 for further information on calculating FTEs and average annual wages and see Q/A-22 for information on anticipated transition relief for tax years beginning in 2010 with respect to the requirements for a qualifying arrangement.

2. Can a tax-exempt organization be a qualified employer?

A. Yes. The same definition of qualified employer applies to an organization described in Code section 501(c) that is exempt from tax under Code section 501(a). However, special rules apply in calculating the credit for a tax-exempt qualified employer. A governmental employer is not a qualified employer unless it is an organization described in Code section 501(c) that is exempt from tax under Code section 501(a). See Q/A-6.

Calculation of the Credit

3. What expenses are counted in calculating the credit?

A. Only premiums paid by the employer under an arrangement meeting certain requirements (a “qualifying arrangement”) are counted in calculating the credit. Under a qualifying arrangement, the employer pays premiums for each employee enrolled in health care coverage offered by the employer in an amount equal to a uniform percentage (not less than 50 percent) of the premium cost of the coverage. See Q/A-22 for information on transition relief for tax years beginning in 2010 with respect to the requirements for a qualifying arrangement.

If an employer pays only a portion of the premiums for the coverage provided to employees under the arrangement (with employees paying the rest), the amount of premiums counted in calculating the credit is only the portion paid by the employer. For example, if an employer pays 80 percent of the premiums for employees’ coverage (with employees paying the other 20 percent), the 80 percent premium amount paid by the employer counts in calculating the credit. For purposes of the credit (including the 50-percent requirement), any premium paid pursuant to a salary reduction arrangement under a section 125 cafeteria plan is not treated as paid by the employer.

In addition, the amount of an employer’s premium payments that counts for purposes of the credit is capped by the premium payments the employer would have made under the same arrangement if the average premium for the small group market in the State (or an area within the State) in which the employer offers coverage were substituted for the actual premium. If the employer pays only a portion of the premium for the coverage provided to employees (for example, under the terms of the plan the employer pays 80 percent of the premiums and the employees pay the other 20 percent), the premium amount that counts for purposes of the credit is the same portion (80 percent in the example) of the premiums that would have been paid for the coverage if the average premium for the small group market in the State were substituted for the actual premium.

4. What is the average premium for the small group market in a State (or an area within the State)?

A. The average premium for the small group market in a State (or an area within the State) will be determined by the Department of Health and Human Services (HHS) and published by the IRS. Publication of the average premium for the small group market on a State-by-State basis is expected to be posted on the IRS website by the end of April.

5. What is the maximum credit for a qualified employer (other than a tax-exempt employer)?

A. For tax years beginning in 2010 through 2013, the maximum credit is 35 percent of the employer's premium expenses that count towards the credit, as described in Q/A-3.

Example. For the 2010 tax year, a qualified employer has 9 FTEs with average annual wages of \$23,000 per FTE. The employer pays \$72,000 in health care premiums for those employees (which does not exceed the average premium for the small group market in the employer's State) and otherwise meets the requirements for the credit. The credit for 2010 equals \$25,200 (35% x \$72,000).

6. What is the maximum credit for a tax-exempt qualified employer?

A. For tax years beginning in 2010 through 2013, the maximum credit for a tax-exempt qualified employer is 25 percent of the employer's premium expenses that count towards the credit, as described in Q/A-3. However, the amount of the credit cannot exceed the total amount of income and Medicare (i.e., Hospital Insurance) tax the employer is required to withhold from employees' wages for the year and the employer share of Medicare tax on employees' wages.

Example. For the 2010 tax year, a qualified tax-exempt employer has 10 FTEs with average annual wages of \$21,000 per FTE. The employer pays \$80,000 in health care premiums for those employees (which does not exceed the average premium for the small group market in the employer's State) and otherwise meets the requirements for the credit. The total amount of the employer's income tax and Medicare tax withholding plus the employer's share of the Medicare tax equals \$30,000 in 2010.

The credit is calculated as follows:

- (1) Initial amount of credit determined before any reduction: (25% x \$80,000) = \$20,000
- (2) Employer's withholding and Medicare taxes: \$30,000
- (3) Total 2010 tax credit is \$20,000 (the lesser of \$20,000 and \$30,000).

7. How is the credit reduced if the number of FTEs exceeds 10 or average annual wages exceed \$25,000?

A. If the number of FTEs exceeds 10 or if average annual wages exceed \$25,000, the amount of the credit is reduced as follows (but not below zero). If the number of FTEs exceeds 10, the reduction is determined by multiplying the otherwise applicable credit amount by a fraction, the numerator of which is the number of FTEs in excess of 10 and the denominator of which is 15. If average annual wages exceed \$25,000, the reduction is determined by multiplying the otherwise applicable credit amount by a fraction, the numerator of which is the amount by which average annual wages exceed \$25,000 and the denominator of which is \$25,000. In both cases, the result of the calculation is subtracted from the otherwise applicable credit to determine the credit to which the employer is entitled. For an employer with both more than 10 FTEs and average annual wages exceeding \$25,000, the reduction is the sum of the amount of the two reductions. This sum may reduce the credit to zero for some employers with fewer than 25 FTEs and average annual wages of less than \$50,000.

Example. For the 2010 tax year, a qualified employer has 12 FTEs and average annual wages of \$30,000. The employer pays \$96,000 in health care premiums for those employees (which does not exceed the average premium for the small group market in the employer's State) and otherwise meets the requirements for the credit.

The credit is calculated as follows:

- (1) Initial amount of credit determined before any reduction: (35% x \$96,000) = \$33,600
- (2) Credit reduction for FTEs in excess of 10: ($\$33,600 \times \frac{2}{15}$) = \$4,480
- (3) Credit reduction for average annual wages in excess of \$25,000: ($\$33,600 \times \frac{\$5,000}{\$25,000}$) = \$6,720
- (4) Total credit reduction: ($\$4,480 + \$6,720$) = \$11,200
- (5) Total 2010 tax credit: ($\$33,600 - \$11,200$) = \$22,400.

8. Can premiums paid by the employer in 2010, but before the new health reform legislation was enacted, be counted in calculating the credit?

A. Yes. In computing the credit for a tax year beginning in 2010, employers may count all premiums described in Q/A-3 for that tax year.

Determining FTEs and Average Annual Wages

9. How is the number of FTEs determined for purposes of the credit?

A. The number of an employer's FTEs is determined by dividing (1) the total hours for which the employer pays wages to employees during the year (but not more than 2,080 hours for any employee) by (2) 2,080. The result,

if not a whole number, is then rounded to the next lowest whole number. See Q/A-12 through 14 for information on which employees are not counted for purposes of determining FTEs.

Example. For the 2010 tax year, an employer pays 5 employees wages for 2,080 hours each, 3 employees wages for 1,040 hours each, and 1 employee wages for 2,300 hours.

The employer's FTEs would be calculated as follows:

(1) Total hours not exceeding 2,080 per employee is the sum of:

- a. 10,400 hours for the 5 employees paid for 2,080 hours each (5 x 2,080)
- b. 3,120 hours for the 3 employees paid for 1,040 hours each (3 x 1,040)
- c. 2,080 hours for the 1 employee paid for 2,300 hours (lesser of 2,300 and 2,080)

These add up to 15,600 hours

(2) FTEs: 7 (15,600 divided by 2,080 = 7.5, rounded to the next lowest whole number)

10. How is the amount of average annual wages determined?

A. The amount of average annual wages is determined by first dividing (1) the total wages paid by the employer to employees during the employer's tax year by (2) the number of the employer's FTEs for the year. The result is then rounded down to the nearest \$1,000 (if not otherwise a multiple of \$1,000). For this purpose, wages means wages as defined for FICA purposes (without regard to the wage base limitation). See Q/A-12 through 14 for information on which employees are not counted as employees for purposes of determining the amount of average annual wages.

Example. For the 2010 tax year, an employer pays \$224,000 in wages and has 10 FTEs.

The employer's average annual wages would be: \$22,000 (\$224,000 divided by 10 = \$22,400, rounded down to the nearest \$1,000)

11. Can an employer with 25 or more employees qualify for the credit if some of its employees are part-time?

A. Yes. Because the limitation on the number of employees is based on FTEs, an employer with 25 or more employees could qualify for the credit if some of its employees work part-time. For example, an employer with 46 half-time employees (meaning they are paid wages for 1,040 hours) has 23 FTEs and therefore may qualify for the credit.

12. Are seasonal workers counted in determining the number of FTEs and the amount of average annual wages?

A. Generally, no. Seasonal workers are disregarded in determining FTEs and average annual wages unless the seasonal worker works for the employer on more than 120 days during the tax year.

13. If an owner of a business also provides services to it, does the owner count as an employee?

A. Generally, no. A sole proprietor, a partner in a partnership, a shareholder owning more than two percent of an S corporation, and any owner of more than five percent of other businesses are not considered employees for purposes of the credit. Thus, the wages or hours of these business owners and partners are not counted in determining either the number of FTEs or the amount of average annual wages, and premiums paid on their behalf are not counted in determining the amount of the credit.

14. Do family members of a business owner who work for the business count as employees?

A. Generally, no. A family member of any of the business owners or partners listed in Q/A-13, or a member of such a business owner's or partner's household, is not considered an employee for purposes of the credit. Thus, neither their wages nor their hours are counted in determining the number of FTEs or the amount of average annual wages, and premiums paid on their behalf are not counted in determining the amount of the credit. For this purpose, a family member is defined as a child (or descendant of a child); a sibling or step-sibling; a parent (or ancestor of a parent); a step-parent; a niece or nephew; an aunt or uncle; or a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law or sister-in-law.

15. How is eligibility for the credit determined if the employer is a member of a controlled group or an affiliated service group?

A. Members of a controlled group (e.g., businesses with the same owners) or an affiliated service group (e.g., related businesses of which one performs services for the other) are treated as a single employer for purposes

of the credit. Thus, for example, all employees of the controlled group or affiliated service group, and all wages paid to employees by the controlled group or affiliated service group, are counted in determining whether any member of the controlled group or affiliated service group is a qualified employer. Rules for determining whether an employer is a member of a controlled group or an affiliated service group are provided under Code section 414(b), (c), (m), and (o).

How to Claim the Credit

16. How does an employer claim the credit?

A. The credit is claimed on the employer's annual income tax return. For a tax-exempt employer, the IRS will provide further information on how to claim the credit.

17. Can an employer (other than a tax-exempt employer) claim the credit if it has no taxable income for the year?

A. Generally, no. Except in the case of a tax-exempt employer, the credit for a year offsets only an employer's actual income tax liability (or alternative minimum tax liability) for the year. However, as a general business credit, an unused credit amount can generally be carried back one year and carried forward 20 years. Because an unused credit amount cannot be carried back to a year before the effective date of the credit, though, an unused credit amount for 2010 can only be carried forward.

18. Can a tax-exempt employer claim the credit if it has no taxable income for the year?

A. Yes. For a tax-exempt employer, the credit is a refundable credit, so that even if the employer has no taxable income, the employer may receive a refund (so long as it does not exceed the income tax withholding and Medicare tax liability, as discussed in Q/A-6).

19. Can the credit be reflected in determining estimated tax payments for a year?

A. Yes. The credit can be reflected in determining estimated tax payments for the year to which the credit applies in accordance with regular estimated tax rules.

20. Does taking the credit affect an employer's deduction for health insurance premiums?

A. Yes. In determining the employer's deduction for health insurance premiums, the amount of premiums that can be deducted is reduced by the amount of the credit.

21. May an employer reduce employment tax payments (i.e., withheld income tax, social security tax, and Medicare tax) during the year in anticipation of the credit?

A. No. The credit applies against income tax, not employment taxes.

Anticipated Transition Relief for Tax Years Beginning in 2010

22. Is it expected that any transition relief will be provided for tax years beginning in 2010 to make it easier for taxpayers to meet the requirements for a qualifying arrangement?

A. Yes. The IRS and Treasury intend to issue guidance that will provide that, for tax years beginning in 2010, the following transition relief applies with respect to the requirements for a qualifying arrangement described in Q/A-3:

(a) An employer that pays at least 50% of the premium for each employee enrolled in coverage offered to employees by the employer will not fail to maintain a qualifying arrangement merely because the employer does not pay a uniform percentage of the premium for each such employee. Accordingly, if the employer otherwise satisfies the requirements for the credit described above, it will qualify for the credit even though the percentage of the premium it pays is not uniform for all such employees.

(b) The requirement that the employer pay at least 50% of the premium for an employee applies to the premium for single (employee-only) coverage for the employee. Therefore, if the employee is receiving single coverage, the employer satisfies the 50% requirement with respect to the employee if it pays at least 50% of the premium for that coverage. If the employee is receiving coverage that is more expensive than single coverage (such as family or self-plus-one coverage), the employer satisfies the 50% requirement with respect to the employee if the employer pays an amount of the premium for such coverage that is no less than 50% of the premium for single coverage for that employee (even if it is less than 50% of the premium for the coverage the employee is actually receiving).

Affordable Care Act Provides Expanded Tax Benefit to Health Professionals Working in Underserved Areas

IR-2010-74, June 16, 2010

As part of a larger Administration announcement on efforts to strengthen the health care workforce, the Internal Revenue Service today announced that under the Affordable Care Act health care professionals who received student loan relief under state programs that reward those who work in underserved communities may qualify for refunds on their 2009 federal income tax returns as well as an annual tax cut going forward.

“Doctors and nurses who choose to practice in underserved areas make a great contribution to their local communities,” Commissioner Doug Shulman said. “By expanding the tax exclusion for student loan forgiveness, the Affordable Care Act provides an even greater incentive to practice medicine in areas that need it most.”

The Affordable Care Act included a change in the law, effective in 2009, that expands a tax exclusion for amounts received by health professionals under loan repayment and forgiveness programs. Prior to the new law, only amounts received under the National Health Service Corps Loan Repayment Program or certain state loan repayment programs eligible for funding under the Public Health Service Act qualified for a tax exclusion.

The Affordable Care Act expands this tax exclusion to include any state loan repayment or loan forgiveness programs intended to increase the availability of health care services in underserved areas or health professional shortage areas and makes this exclusion retroactive to the 2009 tax year.

Health care professionals participating in these programs who have reported income from repaid or forgiven loan amounts on their 2009 returns, possibly after receiving a Form W-2, Wage and Tax Statement, or Form 1099, may be due refunds. Those who believe they qualify for this relief may want to consult their state loan program offices to determine whether the program is covered by the new law.

Health care professionals who have not yet filed for 2009 need not report eligible loan repayment or forgiveness amounts when they file. Those who have already filed may exclude eligible amounts by filing Form 1040X, Amended U.S. Individual Income Tax Return. This form can be downloaded at www.irs.gov or obtained by calling the IRS toll-free at 1-800-TAX-FORM (1-800-829-3676). Individuals filing Form 1040X to claim this exclusion should write “Excluded student loan amount under 2010 Health Care Act” in the Explanation of Changes box.

Health care professionals may request an employer or other issuer to provide a Form W-2c, Corrected Wage and Tax Statement, or 1099 and may attach the corrected form to the Form 1040X. However, the Form 1040X may also be filed without attaching a corrected form.

An individual whose employer withheld and paid taxes under the Federal Insurance Contributions Act (FICA) on payments covered under the new exclusion may request that the employer seek a refund of withheld FICA on the employee’s behalf. And because employers also pay a portion of the FICA tax, the employer also may be entitled to a refund.

To obtain a refund, an employer should file a separate Form 941-X, Adjusted Employer's QUARTERLY Federal Tax Return or Claim for Refund, for each Form 941, Employer’s Quarterly Federal Tax Return, which needs to be corrected. An employer filing a Form 941-X is also required to file a Form W-2c for each employee who benefits from the exclusion.

Health Care Reform - Tax Hikes on the Way

Here are 13 changes in the massive overhaul that could impact your tax bill, for better or worse.

By Joan Pryde, Senior Tax Editor, the Kiplinger letters, April 5, 2010 -- *This is an updated version of a March 23 story, incorporating the final changes signed into law by President Obama on March 30, 2010.*

The new health care reform law is chock-full of new taxes and tax increases that will affect many individuals and businesses, but it will be years before most of these hikes take a bite out of your -- or your company's -- wallet. **The law also has tax breaks** to help both individuals and small businesses pay for insurance.

1. A new 10% excise tax on indoor tanning services on services provided after June 30, 2010.

2. The new law gives small firms tax credits as incentives to provide coverage, starting this tax year. Employers with 10 or fewer workers and average annual wages of less than \$25,000 can receive a credit of up to 35% of their health premium costs each year through 2013. The credit is phased out for firms larger than that and disappears completely if a company has more than 25 employees or average annual wages of \$50,000 or more.

Beginning in 2014, the system changes. The law requires each state to establish a health insurance exchange -- a marketplace where individuals, the self-employed and small businesses can buy health insurance coverage. The government-regulated exchanges would offer insurance policies with different levels of coverage and price tags. Small firms that sign up with one of the health exchanges to be created can receive a credit of up to 50% of their costs -- with the same phaseouts for average income and size as the earlier program. The credit disappears after 2015.

3. A requirement that businesses include the value of the health care benefits they provide to employees on W-2s, beginning with W-2s for 2011. The amount reported is not considered taxable income.

4. Elimination of a deduction employers now take for providing Medicare Part D prescription drug coverage to their retirees to the extent that the federal government subsidizes the coverage. This will not take effect until 2013.

5. Doubling the penalty for nonqualified distributions from health savings accounts, to 20%, beginning in 2011.

6. A limit on the amount that employees can contribute to health care flexible spending accounts to \$2,500 a year, but the cap won't take effect until 2013. This was previously left to the employer's discretion, with many firms choosing a limit of \$4,000 to \$5,000 or so

7. A ban on using funds from flexible spending accounts, health reimbursement arrangements or health savings accounts for the cost of over-the-counter medications, starting in 2011.

8. Starting in 2013, a **0.9% Medicare surtax** will apply to wages in excess of \$200,000 for single taxpayers and over \$250,000 for married couples. Also, **for the first time ever, a Medicare tax will apply to investment income of high earners.** The 3.8% levy will hit the lesser of (1) their unearned income or (2) the amount by which their adjusted gross income exceeds the \$200,000 or \$250,000 threshold amounts. The new law defines unearned income as interest, dividends, capital gains, annuities, royalties, and rents. Tax-exempt interest won't be included, nor will income from retirement accounts.

9. **A hike in the 7.5% floor on itemized deductions** for medical expenses to 10%, beginning in 2013. But taxpayers age 65 and over are exempt from the cutback through 2016.

10. **A new 40% excise tax, beginning in 2018, on high-cost health plans**, levied on the portion that exceeds \$10,200 for individuals and \$27,500 for families. The provision is aimed mostly at gold-plated plans offered by employers, although it can affect individual policies

11. **A new tax on individuals who don't obtain adequate health coverage by 2014 -- this is often referred to as the individual mandate..** The tax is to be phased in over three years, starting at the greater of \$95, or 1% of income, in 2014, and rising to the greater of \$695, or 2.5% of gross income, in 2016.

12. Providing a refundable tax credit, once the individual mandate takes effect in 2014, **to help low-income folks purchase coverage.** To be eligible, a person's household income must be between 100% and 400% of the federal poverty level, generally around \$11,000 to \$44,000 for singles and \$22,000 to \$88,000 for families. The credit is a sliding scale, based on income. Low-incomers get a credit for all costs. Then, as income rises, the credit phases out.

13. **A nondeductible fee charged to businesses with 50 or more employees** if the firms fail to offer adequate coverage. The fee will equal \$2,000 times the number of employees, though it won't count the first 30 workers in that calculation.

The Health Coverage Tax Credit (HCTC) Program

This page provides links to information for those interested in receiving the monthly or yearly HCTC, for monthly participants, and for our partners who help administer the HCTC. **To find these links, go to “www.irs.gov” and search in the specific topic.**

HCTC Latest News and Background: For an overview of the HCTC, including latest updates and a history of the HCTC, check out the Latest News and Background page. From this page, you also can link to information about how the Stimulus Bill (also known as the American Recovery and Reinvestment Act or ARRA) enhanced the HCTC and find out about upcoming HCTC events.

New! HCTC Online Tutorial: The HCTC Program has developed a new online tutorial that is customized for both individuals and partners. **Take the tutorial now** to learn more about the HCTC Program, including how the HCTC works, who is eligible, how to enroll in the monthly HCTC Program, and how to claim the yearly HCTC.

Beginning January 2010, after a PBGC payee or TAA recipient enrolls in Medicare, dies, or finalizes a divorce, his or her family members may be eligible to continue receiving the HCTC for up to 24 months. For more information, go to the **qualified family members page**.

HCTC Information for Those Interested in Receiving the HCTC: The HCTC helps make health insurance more affordable for eligible individuals and their families by paying 80% of health insurance premiums. From this page, you will be provided information that will help you determine if the *monthly* or *yearly* option is right for you, and you will be able to link to information on how to register for the **monthly HCTC** or how to claim the **yearly HCTC** on your federal tax return.

HCTC Information for Monthly Participants: If you are a monthly HCTC participant, you can link to information about managing your monthly HCTC account including:

- **Requesting reimbursement**
- **Making payments** to the HCTC Program
- **Updating your account information**

HCTC Information for Yearly Filers: If you would like to receive the HCTC as a credit on your end-of-year tax return, you can access information about the yearly option by going to this page. With the yearly option, you pay your health plan premiums in full and then claim the HCTC on your tax return. The credit will be refunded or credited toward your year-end taxes.

HCTC Information for our Partners: The HCTC Program partners with companies, unions, the Department of Labor, state workforce agencies, PBGC, and tax professionals to administer the HCTC. Find information designed to support our partners here.

HCTC Information for Health Plan Administrators and State Departments of Insurance: Health Plan Administrators and State Departments of Insurance are key to the success of the HCTC by providing health coverage to eligible individuals. Go to this page to learn more including how to get involved and processes for participating in the HCTC Program.

HCTC Information for Media and Public Relations: Go to this page to view and download an electronic press kit, including fact sheets, interest stories, bios, and b-roll footage here.

HCTC Quick References: This site offers links to additional HCTC-related information including contact information, a glossary of common terms, frequently asked questions, and popular forms, documents, and links.

For questions about the HCTC Program, please call the HCTC Customer Contact Center toll-free at 1-866-628-HCTC (4282).

Eight Important Facts about the Health Coverage Tax Credit

IRS Tax Tip 2010-54 – March 18, 2010

The Health Coverage Tax Credit pays **80 percent** of health insurance premiums for eligible taxpayers and their qualified family members. However, many people who could be receiving this valuable credit don't know about it, and are missing out on big savings that can help them and their families keep their health insurance.

Here are the top eight things the IRS wants you to know about the HCTC:

1. The HCTC pays 80 percent of an eligible taxpayer's health insurance premiums.
2. The HCTC is a refundable credit, which means it not only reduces a taxpayer's tax liability but also may result in cash back in his or her pocket at the end of the year.
3. Taxpayers can receive the HCTC monthly—when their health plan premiums are due—or as a yearly tax credit.
4. Nationwide, thousands of people are eligible for the HCTC.
5. You may be eligible for the HCTC if you receive Trade Readjustment Allowances—or unemployment insurance in lieu of TRA—through one of the Trade Adjustment Assistance programs.
6. You also may be eligible for the HCTC if you are a Pension Benefit Guaranty Corporation payee and are 55 years old or older.
7. The most common types of health plans that qualify for the HCTC include COBRA, state-qualified health plans, and spousal coverage. In some cases, non-group/individual plans and health plans associated with Voluntary Employee Benefit Associations established in lieu of COBRA plans also qualify.
8. HCTC candidates receive the HCTC Program Kit by mail. The Kit explains the tax credit and provides a simple checklist to determine eligibility. Also included in the Kit is the HCTC Registration Form.

For more information on the HCTC and how it may benefit you, call the HCTC Customer Contact Center toll free at 1-866-628-HCTC (4282). If you have a hearing impairment, please call 1-866-626-4282 (TTY). You also can visit the HCTC online at "www.IRS.gov/hctc".