

Deconstructing the 2010 Health Care Act

Part II of II: Businesses

For owners of small businesses and their employees, the 2010 Health Care Act has some key provisions to pay attention to. The major ones include: tax credits, excise taxes, and penalties. But whether a business will be affected by them depends on a variety of factors, such as the number of employees the business has. We'll take a look at the provisions in the bill with the biggest impact on small business. Of course, if you are a business owner, you should meet with your financial advisor to discuss details specific to your situation.

Tax credits for certain small employers that provide insurance To qualify for partial credit, the business must have: a) no more than 25 full-time equivalent employees ("FTEs") who have b) annual FTE wages that average no more than \$50,000. To qualify for the full amount of the credit, the business must employ no more than 10 FTEs with annual wages averaging less than \$25,000.

Phase one of the credit is available for the tax years 2010 – 2013. Health insurance coverage purchased from an insurance company licensed under state law will qualify for the credit during these years. In phase two, years 2014 – 2015, the credit is available only to an eligible small employer that purchases health coverage through a state "Exchange". Therefore, eligible employers could potentially qualify for this credit for six tax years, four years under the first phase and two years under the second phase.

Penalties for not offering health coverage to employees We've all heard about the "pay or play" penalties, but businesses having fewer than 50 employees will be exempt. Beginning in 2014, businesses with at least 50 employees ("applicable large employers") will pay penalties as follows:

Scenario 1: If the business does not offer coverage and has at least one full-time employee who receives a premium tax credit, the business will be assessed a fee of \$2,000 per the number of full-time employees after the first 30 employees. So, for example, an employer with 51 employees who doesn't offer health insurance to his employees will be subject to a penalty of \$42,000 (\$2,000 multiplied by 21).

Scenario 2: Employers with at least 50 employees that do offer coverage but have at least one full-time employee receiving a premium tax credit will pay \$3,000 for each employee receiving a premium credit. This is capped at the amount of the penalty that the employer would have been assessed under scenario 1.

Note: Even "large" employers aren't subject to the penalty for not offering coverage if the employer doesn't have any full-time employees who are certified to the employer as having purchased health insurance through a state exchange with respect to which a tax credit or cost-sharing reduction is allowed or paid to the employee.

Penalties are calculated on a monthly basis (i.e. – 1/12 of \$2,000 x # of employees counting for the penalty for the month). Any employee working an average of at least 30 hours or more each week is counted as one employee. All other employees are counted on a pro-rated basis.

The "Cadillac" tax The new law places a 40% excise tax on high-cost "Cadillac" employer-sponsored health plans. The tax, which is paid by insurance companies, is based upon premiums exceeding certain amounts. However, expect that employers and their employees to ultimately bear the cost in the form of higher premiums passed on by the insurers. (To add insult to injury, this tax is nondeductible!)

Free Choice Vouchers Beginning in 2014, employers offering minimum essential coverage and paying a portion of that coverage through an eligible plan must provide qualified

employees with a voucher which could be applied to the purchase of insurance through the Insurance Exchange. Qualified employees are employees who:

- Do not participate in the employer's health plan
- Have required contributions for employer-sponsored minimum essential coverage over 8%, but not exceeding 9.8% of household income, and
- Have total household income that does not exceed 400% of the poverty line for the family.

The value of the voucher would be equal to the dollar value of the employer contribution to the employer offered health plan. Employers providing free choice vouchers will not be subject to penalties for employees that receive a voucher.

In brief

- **Corporate reporting** In general, all persons engaged in a trade or business must file an information return with the IRS for payments made to another person in the course of the payor's trade or business for payments of \$600 or more in any tax year. For payments made after Dec. 31, 2011, "person" includes any corporation that is not tax-exempt.
- **For years beginning after 2010**, a new employee benefit cafeteria plan known as a Simple Cafeteria Plan will be available. These plans will include self-employed individuals as qualified employees
- **For tax years beginning after December 31, 2010**, employers must disclose the value of the benefit provided by them for each employee's health insurance coverage on the employee's annual Form W-2
- **Beginning in 2014**, insurers that provide minimum essential coverage to any individual during a calendar year must report detailed information on the coverage to both the covered individual and to the IRS, including the dates during which the individual was covered under the policy during the calendar year and any other information that the IRS may require.

As one reader just emailed to me, there seem to be more questions than answers at this point. He is correct – a lot of details in this legislation are still being ironed out. Ask plenty of questions and do your own research if you think your insurance coverage will be affected by the new rules. A good website to help you is the Kaiser Foundation's www.statehealthfacts.org. Until next month, be well!