



LEGISLATIVE BRIEF

Health Care Reform: IRS Guidance on the Small Employer Health Care Tax Credit

EXECUTIVE SUMMARY

The Patient Protection and Affordable Care Act (PPACA), as amended by the Health Care and Education Reconciliation Act (the Reconciliation Act), provides a tax credit to certain small employers that provide health care coverage to their employees, effective with **tax years beginning in 2010**.

On May 17, 2010, the Internal Revenue Service (IRS) issued Notice 2010-44 (the Notice), which provides guidance on the credit applicable to tax years beginning before January 1, 2014. Specifically, the Notice explains how to:

- Determine whether an employer is eligible for the credit;
 - Calculate the credit; and
 - Claim the credit.
- The Notice also provides transition relief for certain employers for qualifying for the credit.

This Ron Sellers & Associates Legislative Brief discusses the guidance contained in IRS Notice 2010-44. Please read below for further information. For a copy of Notice 2010-44, see www.irs.gov/pub/irs-drop/n-10-44.pdf. For a tax credit calculator, please see www.smallbusinessmajority.org/tax-credit-calculator/ or www.nfib.com/issues-elections/healthcare/credit-calculator. We will continue to monitor legislative and regulatory developments related to these rules and health care reform in general.

EXPLANATION OF IRS NOTICE 2010-44

Section 1421 of PPACA added Section 45R to the Internal Revenue Code (IRC). Section 45R offers a tax credit to certain small employers that provide health insurance to their employees. It is effective for taxable years beginning in 2010. Both taxable and tax-exempt employers that may be eligible for the section 45R credit. In most cases, employers that are agencies or instrumentalities of the federal government, or of a state, local or Indian tribal government, will not be eligible for the credit.

Eligible Small Employers

The IRS refers to employers that satisfy the requirements for the credit as "eligible small employers." The Notice specifies that the following requirements must be met in order for an employer to be considered an eligible small employer:

- The employer must have fewer than 25 full-time equivalent employees (FTEs) for the taxable year;
- The average annual wages of its employees for the year must be less than \$50,000 per FTE; and
- The employer must maintain a "qualifying arrangement."

According to the Notice, a qualifying arrangement is one under which the employer pays premiums for each employee enrolled in the employer's health insurance coverage, in a uniform percentage that is at least 50 percent of the premium cost of the coverage. However, as discussed below, the Notice also provides transition relief with respect to the requirements for a qualifying arrangement.

The Notice sets out specific steps for determining whether an employer is **eligible** for the tax credit.

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