

## Health Care Reform: What it Means for Your Business

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**The Patient Protection and Affordable Care Act (Act) was passed by Congress and signed by President Obama on March 23, 2010. Following is a summary of how the new law may impact your business.**

### Overview

The new law is designed to provide coverage to over 32 million uninsured or under-insured Americans by setting minimum requirements for individually-mandated and employer health coverage. The new law reforms Medicare, Medicaid, and other government programs, establishes new state-based exchanges, reforms insurance markets and imposes new reporting and notification requirements.

### “Pay or Play” Employer Provision

The Act places new responsibilities on employers. Employers choosing not to offer their employees qualifying coverage will pay an additional tax to help finance their employees’ health care. An exception applies for smaller businesses.

**Grandfather provision:** The Act allows personal or employer-provided health benefit coverage existing at the time of enactment to stay in place under a “grandfather” provision. Group health plans in existence on March 23, 2010 generally are considered “grandfathered” for many provisions of the new law. Employers should take care in making any significant modifications to existing plans to protect the grandfathered status.

### Which Employers Are Affected?

To what extent your business is impacted depends on a number of factors; your business’ size, its current health care benefits and the composition of its work force.

<u>Act Provision</u>	<u>Applies to Employers with</u>
SHOP Exchange eligibility	100 or fewer employees *
Small employer tax credit for providing health insurance	25 or fewer employees*; \$50,000 maximum average wage
Penalty for not providing minimum essential health coverage or affordable coverage	50 or more employees *
Simple cafeteria plans for small businesses	100 or fewer employees*
Automatic enrollment in employer health plan	Employers that have more than 200 employees* and offer health coverage
Grants for wellness programs	Fewer than 100 employees who work 25 or more hours a week and does not have a wellness program in place on March 23, 2010

\* Full-time or full-time equivalent employees

### Simple Cafeteria Plan

A simple cafeteria plan is a cafeteria plan that is maintained by an employer with 100 or fewer employees, makes a specified contribution to the plan and meets eligibility and participation requirements. Meeting these requirements will allow the plan to meet all nondiscrimination requirements. This is effective for years beginning after December 31, 2010.

(over)

## Small Business Health Care Tax Credit

The tax 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 25 or fewer full-time equivalent (FTE) employees paying wages averaging not more than \$50,000 per employee per year and contribute at least 50% of the premiums. 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.

**Maximum credit:** For tax years beginning in 2010 through 2013, the maximum credit is 35% of the employer's premium expenses that count towards the credit. In 2014, the credit increases to 50%. For tax-exempt organizations, the maximum credit is 25%. In 2014, this maximum credit increases to 35%. The maximum credit applies to employers with 10 or fewer full time equivalent employees paying annual average wages of \$25,000 or less.

**Owner eligibility to claim 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. Family members of the owners identified above are also no considered employees.

**How to claim the credit:** The credit is treated as a general business credit and 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. The credit can be considered when calculating estimated tax payments.

**Health insurance premiums deduction:** The health insurance deduction is reduced by the credit taken.

## Adult Children

Effective March 30, 2010, the Act enables more young adults to remain on their parents' health insurance policies. Generally, employer-sponsored group health plans covering dependent children will be required to provide coverage for adult children up to age 26. A special rule applies to health plans in place on March 23, 2010.

Employers with cafeteria plans may immediately allow employees to begin making pre-tax contributions to pay for the expanded benefit even if the plan has not yet been modified to cover children under 27. However, a retroactive amendment to a cafeteria plan to cover such children must be made before January 1, 2011, and must be effective retroactively to the first date in 2010 when workers are allowed to make pre-tax contributions to cover adult children.

The health care reform package also extends the employer-provided health coverage gross income exclusion to coverage for adult children under age 27 as of the end of the tax year.

## Reporting and Notification Requirements

The new law imposes several reporting and disclosure requirements. Insurers will be required to report information about the coverage to the IRS and the covered individual. The report will include the individual employees, number of months covered, the coverage type, and the premium amount paid by the employer. This is effective in 2014.

**Form W-2, Wage and Tax Statement:** Employers that provide health insurance coverage must disclose the benefit's cost on each employee's annual Form W-2. This provision does not alter the tax-free treatment of employer-provided health coverage. This is effective for taxable years after December 31, 2010.

**Information Returns:** Information returns will be required to report payments for gross proceeds paid in consideration for property or services where the aggregate payment exceeds \$600. In addition, information returns will be required to be sent to corporations. These provisions are effective for payments made after December 31, 2011.

## Paying for Health Care Reform

To finance the cost of health care reform, the new law imposes varying levels of taxes on insurers, employers, administrators and individuals, as well as numerous cost savings measures, such as:

**"Cadillac" plans:** Imposes a 40% excise tax insurance on companies who provide "Cadillac" plans starting in 2018. Cadillac plans are plans with premiums greater than \$10,200 for individual coverage and \$27,500 for family coverage, indexed for inflation in later years. The excise tax is also paid by the employer for contributions to an FSA or HSA when the combined benefit exceeds the threshold amounts above.

**Flexible spending accounts:** Limits annual contributions to health flexible spending accounts (FSAs) to \$2,500 for tax years beginning in 2013.

**Non-qualified health account distributions:** Over the counter drugs no longer an allowable expense under FSA, HSA or HRA. This provision applies in 2011.