

PART V: SMALL BUSINESS PROVISIONS

Employer Income Tax Credit for Health Insurance

76. Which employers are eligible for the tax credit for the purchase of health insurance available in 2010 and thereafter?

The new health insurance tax credit¹ is designed to help small for-profit businesses and tax-exempt organizations (estimated to be four million in number) that primarily employ low- and moderate-income workers.² This credit is available to employers that:

- Have twenty-four or fewer eligible full-time equivalent (FTE) employees with wages averaging less than \$50,000 per employee per year, and
- Pay at least 50 percent of health insurance costs.³

Eligible employees do not include seasonal workers who work for an employer 120 days a year or less,⁴ owners, and owners' family members with average annual compensation of less than \$50,000. Such employees are also not eligible if the business pays 50 percent or more of employee-only (single person) health insurance costs. Thus, compensation for seasonal workers, specified owners, and their family members and dependents is not counted in determining average compensation, nor is the health insurance cost for these people eligible for the health insurance tax credit.⁵

The credit is a general business credit and can be carried back for one year and forward for twenty years.⁶ The credit, which can be applied to tax liability under the alternative minimum tax, is as follows:⁷

- 35 percent (25 percent for a tax-exempt employer) in 2010 to 2013, and
- 50 percent (35 percent for a tax-exempt employer) beginning in 2014.

A tax-exempt employer can use the credit against payroll taxes.

77. Can more than one employer be treated as a single employer for determining the credit available, the number of employers, and the average compensation?

Yes. All employers treated as a single employer under the controlled group rules or the affiliated service group rules are treated as a single employer for purposes of the tax credit.⁸

1. IRC Sec. 45R.

2. <http://www.irs.gov/newsroom/article/0,,id=223666,00.html> (last accessed May 25, 2011).

3. IRC Sec. 45R(d)(2).

4. IRC Sec. 45R(d)(5).

5. <http://www.irs.gov/newsroom/article/0,,id=220839,00.html> (last accessed May 25, 2011).

6. IRC Sec. 38(b) & 39(A).

7. IRC Sec. 38(c)(4)(B)(vi).

8. IRC Sec. 45R(e)(5), incorporating the controlled group rules of IRC Sec. 414(b) and (c), the affiliated service group rules of IRC Sec. 414(m), and the anti-abuse rules of IRC Sec. 414(o).