

# 2010 Health Reform Act: Tax Provisions Impacting Nonprofits



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# Learning Objectives

At the end of the session, you will be able to:

- Apply the new tax credit for small employers offering health insurance
- Recognize new coverage requirements affecting employer-provided health benefits



# Tax Credit for Small Employer Health Premiums

- Tax credit for % of employer-provided health insurance premiums

<u>Tax Yr. Beginning</u>	<u>Employer</u>	
	<u>Taxable</u>	<u>Exempt 501(c)</u>
2010-2013	35%	25%
2014-2015	50%	35%

Offset:                      Income tax      Payroll tax



# Tax Credit for Small Employer Health Premiums

## Eligible small employer:

- |                               | <u>Full Credit</u> | <u>Upper Limit</u> |
|-------------------------------|--------------------|--------------------|
| • Number of FTEs              | $\leq 10$          | 25                 |
| • Ave. annual payroll per FTE | $\leq \$25,000$    | \$50,000           |
- Employer contributes  $\geq 50\%$  of employee premium
    - Policy from state-licensed ins. co. 2010-2013
    - Policy thru state-based ins. exchange 2014-2015



# Tax Credit for Small Employee Health Premiums

## Phase-out for 501(c) Exempt Employer (2010-2013):

No. <u>FTEs</u>	<u>Ave. Wage/FTE</u>			
	<u>\$25K</u>	<u>\$30K</u>	<u>\$40K</u>	<u>\$50K</u>
< 10	25%	20%	10%	0%
15	17%	12%	2%	-
20	8%	3%	-	-
25	-	-	-	-



# Tax Credit for Small Employer Health Provisions

Data to calculate the credit:

- FTE count: Total hrs. of payroll up to 2,080 per person
  - Include part-time but not seasonal (<120 days)
  - Divide by 2,080 hrs. for FTE count
- FICA wages: Add all wages, but exclude seasonals
  - Calculate ave. wages per FTE
- IRS Guidance in IR-2010-38
- Nine-step approach



# Tax Credit for Small Employer Health Provisions

1. Qualified health plan offered?
2. Calculate Total Hours
3. Calculate FTEs
4. Do FTEs exceed 25?
5. Calculate Total Qualified Wages
6. Calculate Average Wages per FTE
7. Do Average Wages Exceed \$50,000?
8. Calculate credit
9. Reduce expenses by credit amount



# Dependent Coverage in Health Plans

- Old law: Employer-provided health ins. is tax-free to employee, spouse and kids < age 19 or student < age 24
- New law: Tax-free coverage for employee's child < age 27
  - Effective March 30, 2010
- IRS Guidance: Notice 2010-38
  - OK via Cafeteria Plan also
- Confusion vs. health insurer requirement (< age 26)



# W-2 Disclosure of Health Coverage Cost

- Effective for 2011, W-2 must disclose cost of employer-provided health benefits
  - Includes medical insurance, dental and vision plans, and self-insured arrangements
  - No reporting for employee salary-reduction FSAs



# New SIMPLE Cafeteria Plans

- Avoids discrimination testing of regular cafeteria plan
- Requirements:
  - 100 or fewer employees
  - Employer funds either 2% of employee comp. or
  - Lesser of 2x employee contributions or 6% of compensation
  - Cover employees with over 1,000 hrs. service
- Effective in 2011



# Expanded 1099 Reporting

- Effective for payments in 2012 and after, a business must issue a 1099 for any pmt. for **property** over \$600
  - Previously, only services, interest, etc.
- Also, a 1099 must be issued to any corporation, but not to a tax-exempt, for any property or services over \$600



# Fees on Self-Insured Health Plans

- Effective for plan years ending after 9-30-2012, a self-insured plan must pay a \$2 fee per participant
- A similar fee is imposed on each health insurance policy
  - Fee assessed on insurer



# Increased Medicare Tax on Earned Income

- Present employee FICA payroll tax: 6.2% OASDI on first \$106,800; 1.45% Medicare on all earnings
- Effective in 2013, Medicare tax up .9% to 2.35% on higher income earners:
  - Single earned income over \$200,000
  - Joint earned income over \$250,000
  - Assessed on employee share only, but employer withholds



# Contribution Cap on FSAs

- Present law: No \$ cap on employee salary reduction into employer health care Flex Saving Account (FSA)
- Beginning in 2013, \$2,500 annual cap on health care FSA



# Mandatory Health Insurance: 2014

## Individuals

- Beginning in 2014, individuals must obtain “minimum essential coverage” or pay a penalty
- Minimum essential coverage:
  - Medicare, Medicaid, TRICARE
  - Insurance purchased through a state-approved exchange
  - Employer-sponsored insurance
  - A grandfathered health plan
- Legislation defines coverages that are not “minimum essential”



# Mandatory Health Insurance: 2014

- Individual penalty in 1040 for failure to maintain health coverage is greater of:

	<u>Per uninsured person</u>	<u>% of household income &gt;1040 threshold</u>
2014	\$ 95	1%
2015	325	2%
2016	695	2.5%

- Limits:
  - Cap of 3 uninsured individuals per household, with kids =  $\frac{1}{2}$
  - Overall limit = “bronze level” health ins. premium
  - Hardship exception if required premium > 8% household income



# Employer Health Insurance Mandate: 2014

- Employers with 50+ FTEs must “pay or play”
- Employers not offering minimum essential health coverage:
  - \$2,000 penalty per full-time employee, excluding first 30



# Employer Health Insurance Mandate: 2014

- Employers offering minimum essential health coverage
  - Penalties if any employees obtain Ins. Exchange subsidies for health ins. (federal premium or cost sharing assistance) based on household income
  - Minimum: \$3,000 x # of full-time employees receiving assistance
  - Cap: \$2,000 x total employees in excess of 30
  - No penalty if employer provides a free choice voucher to employee



# Examples of Employer Penalty

## Scenario 1: Employer who provides minimum essential coverage

- 400 Employees
- 100 receive federal premium/cost share subsidies
- Employer must pay a fee which is the lesser of:
  - \$3000 x 100 (# of FT employees receiving subsidies) = \$300,000

**OR**

- \$2000 x (400 (total # of FT employees - 30) = \$740,000

**Employer Fee = \$300,000**

## Scenario 2: Employer does NOT offer coverage

- 400 Employees
- 100 receive federal premium/cost share subsidies
- Employer must pay a fee =  
 $\$2000 \times (400 \text{ (# of FT employees - 30)}) = \$740,000$

**Employer Fee = \$740,000**



# Example 3: Employer Penalty

## Scenario 3: Employer provides minimum essential coverage

- 400 Employees
    - 250 take up employer-sponsored insurance
    - 50 receive free choice vouchers
    - 100 receive federal premium/cost share subsidies
  - Employer must pay a fee which is the lesser of:
    - $\$3000 \times 100$  (# of FT employees receiving subsidies) = \$300,000
- OR**
- $\$2000 \times (400 \text{ (total \# of FT employees)} - 30 \text{ (first 30 full time employees)}) = \$740,000$

**Employer Fee = \$300,000**



# Employer Health Insurance Mandate: 2014

- All employers offering health coverage, regardless of # of employees, must offer “free choice” vouchers to eligible employees
- Eligible employees:
  - Do not participate in employer health plan
  - Household income: < 400% fed. poverty line for family size, and
  - Required contribution to employer coverage between 8%-9.8% of household income



# Employer Health Insurance Mandate: 2014

## Free Choice Vouchers:

- Voucher value = employer's monthly contribution to health coverage at highest % paid
  - Employee keeps excess if ins. cost in Exchange is < voucher
  - No employee or employer penalty if employer provides voucher



# Employer Reporting of Health Coverage to IRS

## Effective in 2014:

- Employers who self-insure must report coverage info. to employee and to IRS
- Large employers with 50+ FTEs must also report extensive info. to IRS on health ins. Benefits
- New penalties added for noncompliance



# Excise Tax on High Cost Employer Health Coverage

- Beginning in 2018, 40% excise tax on health insurer or plan administrator offering high-cost health coverage
  - High cost = annual premium > \$10,200 single coverage or \$27,500 family coverage
- Example of complexity
  - Code Sec. 4980I, as added by 2010 HC Sec. 9001
  - Code Sec. 4980I(f), as amended by 2010 HC Sec. 10901
  - Code Sec. 4980I(d), as amended by 2010 Recon. Act Sec. 1401
  - Etc., etc.!



# Other Revenue Raisers on Health Care Industry

- Prescription drugs: Manufacturers and importers of branded drugs assessed industry-wide excise tax (\$2.5B in 2011 rising to \$4.1B in 2018)
- Medical devices: Effective in 2013, 2.3% excise tax on sale price on manufacturer
- Health ins. companies: Industry-wide fee starting at \$8B in 2014 and rising to \$14.3B by 2018, allocated by IRS



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