



North Carolina Law Life

Health Reform: Part Two is About Taxes

By: Donna Ray Chmura. *This was posted Wednesday, July 14th, 2010*

[In a previous post, John Vandenhoff](#) briefly talked about the new Healthcare legislation which was signed into law ([H.R. 4872 the Healthcare and Education Reconciliation Act of 2010 \(Reconciliation Act, P.L. 101-152\)](#)) (the "Healthcare Act") and described a couple of the major individual mandates contained within that Act.

In this and future posts, we continue to present a brief overview of some of the key tax changes affecting individuals and businesses in the Healthcare Act. Please call our Virginia business lawyers and [North Carolina corporate attorneys](#) in our [Richmond office](#) and [Research Triangle office](#) for details of how the new changes may affect your specific situation.

Income Tax Credit for Eligible Small Employers.

The Healthcare Act provides for an income tax credit for "[Eligible Small Business Employers](#)" (defined below) that: i) offer health insurance to employees; ii) pay at least fifty percent (50%) of the cost of the insurance, and iii) contribute a uniform percentage (at least fifty percent (50%)) of the premium cost of each employee who enrolls in the employer's employee health plan. The maximum credit of thirty-five percent (35%) is available for tax years beginning after 2009. The maximum credit increases to fifty percent (50%) for tax years beginning after 2013. The credit is only available to an employer that purchases health insurance coverage for its employees through a state exchange, and is only available for a maximum coverage of two (2) consecutive tax years.

The credit is only available to employers that meet the definition of "Eligible Small Employers", and other specified criteria. Only premiums paid by the Eligible Small Employer under an arrangement meeting certain requirements are counted in calculating the credit.

An "Eligible Small Employer" is generally defined as an employer with no more than twenty-five full-time equivalent employees, and whose employees have annual full-time equivalent wages that average no more than Fifty Thousand and 00/100 Dollars (\$50,000.00). However, because of certain phase-out rules, the full amount of the credit is available only to an Eligible Small Employer with ten (10) or fewer full-time equivalent employees and whose employees have average annual full-time equivalent wages from the employer of less than Twenty-Five Thousand and 00/100 Dollars (\$25,000.00).

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To determine whether an employer is eligible for the credit, and the amount of the credit, the employer must first calculate how many [full-time equivalent employees](#) the employer employs and the average annual full-time equivalent wages. The number of full-time equivalent employees is determined by dividing the total employee hours worked for the year (counting all full-time and part-time employees) by 2,080. The result of this computation is rounded to the lowest whole number. Average annual full-time employee wages are determined by dividing the employer's aggregate wages for the year by the number of full-time employees (rounded down to the nearest 1,000).

Therefore, during the years in which the credit is available, small employers have incentive not to hire as many employees nor pay them wages which would increase their average full-time equivalent wages above Fifty Thousand and 00/100 Dollars (\$50,000.00).

The credit is not allowed for health insurance premiums paid for partners, sole proprietors, more than two percent (2%) shareholders of an S corporation, more than five percent (5%) owners of a regular C corporation, or "non-qualifying family members" of the foregoing owners. Further, seasonal workers (individuals who work for less than one hundred twenty (120) days for the employer) are not included in the computation for full-time equivalent employees or full-time equivalent wages.

Adoption Credit.

For tax years beginning after 2009 and before 2012, the Healthcare Act increases the adoption tax credit from Twelve Thousand One Hundred Seventy and 00/100 (\$12,170.00) to Thirteen Thousand One Hundred Seventy (\$13,170.00), and the credit is refundable for those years.

Expanding Health Coverage to Adult Children Under 27 Years of Age.

Effective March 30, 2010, the Healthcare Act requires that [group health plans](#) provide coverage to an enrollee's dependents up to age twenty six (26). The requirement applies regardless of factors such as a young adult's marital status, student status, financial dependence on the primary enrollee, eligibility for other coverage or any combination of those factors.

Excise Tax on In-Door Tanning Services.

The Health Care Act imposes a new ten percent (10%) excise tax on customers of [in-door tanning salons](#), for services performed after June 30, 2010. The tax is imposed on the full amount of the charge for the service and is imposed regardless of who pays the ultimate cost for this service. It is curious (or maybe entertaining) to note that originally the excise tax was proposed to be applied to services for plastic surgery. However, the imposition of this excise tax was changed to tanning services by the enactment of the final bill.

Please see future posts for information regarding the codification of the economic substance doctrine and for other tax affects of the Health Care Act which take effect in years beginning after 2010.

These changes are substantial and affecting individuals and businesses profoundly. We already know of one business that will be gone due to the new bill. Are you seeing any negative impacts of the reform yet?

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