



## North Carolina Law Life

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### [IRS FAQs on the Small Business Health Care Tax Credit](#)

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The Patient Protection and Affordable Care [Act](#) (i.e., the Health Care Reform Law or the Health Insurance Reform Law) was passed March 23, 2010. It included a number of tax credits to small employers to defray the costs of providing additional insurance coverage. The [Internal Revenue Service](#) issued [rules](#) Monday regarding these tax credits.

The [White House](#) claims the tax credits are the first steps in making health insurance affordable for small businesses to provide for their employees. [Critics](#) claim these tax credits will cause small business owners not to hire additional workers or increase salaries, so they can take advantage of the highest tax credits.

For most small businesses, the devil remains in the details, as they struggle to determine first if they are making money and secondarily if they can qualify for the credits. The FAQs addressed in the IRS rules are:

1. Which employers are eligible for the small employer health care tax credit?
2. Can a tax-exempt organization be a qualified employer?
3. What expenses are counted in calculating the credit?
4. What is the average premium for the small group market in a state (or an area within the state)?
5. What is the maximum credit for a qualified employer (other than a tax-exempt employer)?
6. What is the maximum credit for a tax-exempt qualified employer?
7. How is the credit reduced if the number of FTEs exceeds 10 or average annual wages exceed \$25,000?
8. Can premiums paid by the employer in 2010, but before the new health reform legislation was enacted, be counted in calculating the credit?
9. How is the number of FTEs determined for purposes of the credit?
10. How is the amount of average annual wages determined?
11. Can an employer with 25 or more employees qualify for the credit if some of its employees are part-time?
12. Are seasonal workers counted in determining the number of FTEs and the amount of average annual wages?

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13. If an owner of a business also provides services to it, does the owner count as an employee?
14. Do family members of a business owner who work for the business count as employees?
15. How is eligibility for the credit determined if the employer is a member of a controlled group or an affiliated service group?
16. How does an employer claim the credit?
17. Can an employer (other than a tax-exempt employer) claim the credit if it has no taxable income for the year?
18. Can a tax-exempt employer claim the credit if it has no taxable income for the year?
19. Can the credit be reflected in determining estimated tax payments for a year?
20. Does taking the credit affect an employer's deduction for health insurance premiums?
21. May an employer reduce employment tax payments (i.e., withheld income tax, social security tax, and Medicare tax) during the year in anticipation of the credit?
22. Is it expected that any transition relief will be provided for tax years beginning in 2010 to make it easier for taxpayers to meet the requirements for a qualifying arrangement?

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