



Mierendorf and Co. P.C.
CERTIFIED PUBLIC ACCOUNTANTS

JOSEPH G. MIERENDORF, JR., C.P.A.

SUSAN C. COBB, CPA, C.V.A.

MARK A. REED, C.P.A., C.F.E.

PHONE: 616/784-4445

FAX: 616/784-4245

EMAIL: cpas@mierendorfcpas.com

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From: Mark Reed, Joe Mierendorf, and Sue Cobb

RE: Health insurance reform for businesses

For owners of small businesses and their workers, the recently enacted health reform legislation has some key provisions. The major ones include: tax credits; excise taxes; and penalties. But whether a business will be affected by them depends on a variety of factors, such as the number of employees the business has. Here is an overview of the provisions in the new law with the biggest impact on small business.

Tax credits to certain small employers that provide insurance. The new law provides small employers with a tax credit (i.e., a dollar-for-dollar reduction in tax) for the employer's contributions to purchase health insurance for their employees. The credit can offset an employer's regular tax or its alternative minimum tax (AMT) liability.

To qualify, a business **must offer health insurance to its employees as part of their compensation and contribute at least half the total premium cost.** The business must have no more than 25 full-time equivalent employees ("FTEs"), and the employees must have annual full-time equivalent wages that average no more than \$50,000. However, the full amount of the credit is available only to an employer with 10 or fewer FTEs and whose employees have average annual full-time equivalent wages from the employer of not more than \$25,000.

The credit is **initially available for any tax year beginning in 2010, 2011, 2012, or 2013.** Qualifying health insurance for claiming the credit for this first phase of the credit is health insurance coverage purchased from an insurance company licensed under state law. For tax years beginning after 2013, the credit is only available to an eligible small employer that purchases health insurance coverage for its employees through a state exchange and is only available for two years. The maximum two-year coverage period does not take into account any tax years beginning in years before 2014. Thus, an eligible small employer could potentially qualify for this credit for six tax years, four years under the first phase and two years under the second phase.

For tax years beginning in 2010, 2011, 2012, or 2013, the credit is generally 35% (50% for tax years beginning after 2013) of the employer's contributions toward the employees' health insurance premiums. The credit phases out as firm-size and average wages increase. The employer's tax deduction for health insurance expense will be the amount paid minus the credit received on the tax return.

Self-employed individuals, including partners and sole proprietors, two percent shareholders of an S corporation, and five percent owners of the employer are not treated as employees for purposes of this credit. There is also a special rule to prevent sole proprietorships from receiving the credit for the owner and their family members. Thus, no credit is available for any contribution to the purchase of health insurance for these individuals and the individual is not taken into account in determining the number of full-time equivalent employees or average full-time equivalent wages.

Small businesses with fewer than 50 employees will be exempt from penalties for not offering coverage to their employees. For businesses with at least 50 employees, the possible penalties vary depending on whether or not the employer offers health insurance to its employees. These provisions take effect January 1, 2014.

The “Cadillac tax” on high-cost health plans. The new law places an excise tax on high-cost employer-sponsored health coverage (often referred to as “Cadillac” health plans). This is a 40% excise tax on insurance companies, based on premiums that exceed certain amounts. The tax is not on employers themselves unless they are self-funded (this typically occurs at larger firms). However, it is expected that employers and workers will ultimately bear this tax in the form of higher premiums passed on by insurers.

Please call our office for details of how the new changes may affect your specific business.

*Other memos include:

Cash Flow Issues
Job Cost Identification
QuickBooks® and Peachtree® Training
Buying and Selling Real Estate
Safeguarding your Cash

Exit Strategies
Business Valuation
Detecting Fraud
Retention Schedules
Energy Credits