

# Legislative Brief

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Briefing Number 2010-20

## Health Care Reform: Small Business Credit Calculator

On April 22, 2010, we prepared and distributed a summary of the rules providing a tax credit for small employers for part of the cost of providing group health insurance to the small employer's employees. The Internal Revenue Services (IRS) continues to provide additional guidance and clarification of the rules. The purpose of this Memorandum is to discuss the additional IRS guidance along with details not discussed on our original Memorandum on the topic, and to provide you with a sample Credit Calculator for use in 2010. Please refer to our Memorandum of April 22, 2010 for the basic information on the tax credit.

### Importance of the Credit

According to recent published survey as reported by California Healthline, California for example, has about 456,500 small businesses with less than 25 employees. The survey also says that 46% of these businesses having between three (3) and ten (10) employees offer group health coverage. Additionally, 72% of employers with more than ten (10) but less than twenty five (25) employees offered health coverage in 2009. The 2010 tax credit is significant for not only California employers but also for employers in other states. The Health Care Reform Law has made these tax credits available for 2010, and may be taken for the entire year including the period prior to March 23, 2010 and is available in the 2011, 2012, and 2013 tax years. The credit expires on January 1, 2014.

### Additional IRS Guidance and Further Details

1. State Average Premiums. The small employer credit of up to 35% of the employer's annual contribution cannot exceed 35% of the state's

average premium as determined by Health and Human Services, based on that state's small group market. In IRS Revenue Ruling 2010-13, the IRS published a chart showing the HHS calculation of the average premium in each state. It also acknowledged that there may be some adjustment in the maximum for high-cost areas in each state where the premiums exceed the state's average premium. Here is a representative list of state averages for use in 2010 calculations:

State	Employee Only	Employee and Family
California	\$4,628	\$10,957
Arizona	\$4,495	\$10,239
Colorado	\$4,972	\$11,437
Nevada	\$4,553	\$10,297
Oregon	\$4,681	\$10,890
Utah	\$4,238	\$10,935

*For a full listing, please click the [IRS Revenue Ruling 2010-13](#) link above.*

2. *2010 Transitional Relief.* Employers who pay at least 50% of the premium for each enrollee are deemed to satisfy the Rule's requirement, even if the employer does not pay a uniform percentage for each enrollee. Furthermore, if an employer pays at least 50% of the employee-only premium and the employee elects employee plus spouse or employee plus family coverage, effectively reducing the overall contribution amount to something less than 50% for those electing spouse or family coverage, the employer will still satisfy the Rule's 50% requirement.

3. *Employment Taxes.* Although the employer may take the tax credit upon reporting and paying estimated organizational income taxes, he or she cannot reduce employment tax amounts (FICA, FUTA, FIT withholding, etc.).

4. *Countable Expenses.* The IRS FAQs (Q/A-3) contain an interesting discussion. Employers can count premiums for medical coverage as well as for separate dental or vision plans. However, the employer must pay at least 50% for each line of coverage (e.g. 50% HMO single coverage and 50% of dental plan single coverage) even though they are bundled at open enrollment.

As a reminder, the employer cannot take credits for FSA health care spending accounts or for HSA contributions.

5. *Limitations on the Credit.* The Health Care Reform (HCR) law contains credit reductions for average wages over \$25,000 (zeroed out at \$50,000) and for the number of employees (Full Time (FT) including Full Time Equivalents (FTE) between 10 and 25).

6. *Medicaid (other state credits or premium subsidies).* If the employer receives a premium subsidy directly or receives payments under state administered programs such as Medicaid, the employer may still claim the full amount of employer contributions without regard to the subsidies or state payments or credits. In other words, the employer may ignore these payments made directly to the employer in calculating gross contributions to the cost of benefits so long as the gross amount results in a uniform percentage of 50% or more of single coverage premiums.

**Step One**

Find the total number of employees of the employer:

		Enter total number of full time employees (working 40 or more hours per week not counting owners or family members).
+		ADD: Full Time Equivalent of part-time employees (estimated aggregate hours worked in 2010 for all PT employees [excluding seasonal employees working less than 120 days/year, owners or family] DIVIDED BY 2,080
=		TOTAL EMPLOYEES FOR 2010 TAX YEAR

*If 25 or under continue to Step Two*

**Step Two**

Find the average annualized wages paid for the 2010 tax year

	\$	Enter the estimated aggregate regular annual wages paid or will be paid for the 2010 Tax Year
+		Divide By: TOTAL EMPLOYEES FOR 2010 TAX YEAR (from Step One above)
=	\$	AVERAGE 2010 ANNUAL WAGE

*If under \$50,000 continue to Step Three*

**Step Three**

If the employer pays a minimum of 50% of each employee's premium based on employee-only coverage (2010 transitional relief), they are eligible for the credit. To calculate the initial Credit

	\$	Enter the lesser of the (1) of the aggregate premium contributions by the employer during the tax year, or (2) the aggregate amount of contributions the employer would make if using the HHS's estimated state averages
X	0.35	MULTIPLY BY: 35% (use 25% for tax-exempt employers)
=		TOTAL EMPLOYEES FOR 2010 TAX YEAR

*If the TOTAL EMPLOYEES entered in Step One is over 10, or the AVERAGE ANNUAL WAGE in Step Two is over \$25,000 continue to Step Four*

\*For tax-exempt eligible small employers, the amount of the initial credit cannot exceed their aggregate payroll taxes for the same year (income tax withholding plus Medicare tax, including the employer’s share of the Medicare Tax).

For tax-exempt employers, enter the lesser of the two amounts in Step Three

**Step Four**

**Calculate Net Tax Credit (Refer to the Charts on the following pages):**

		Enter ESTIMATED INITIAL CREDIT* (from Step Three above)
-		If the TOTAL EMPLOYEES FOR 2010 TAX YEAR IN Step One is more than 10, please refer to Chart One and calculate the reduction. Then subtract that amount from the ESTIMATED INITIAL CREDIT
-		If the AVERAGE ANNUAL 2010 WAGE in Step Two is over \$25,000, please refer to Chart Two and calculate the reduction. Then subtract that amount from the ESTIMATED INITIAL CREDIT
=	\$	ESTIMATED NET TAX CREDIT To be taken on annual organizational tax return (or on Form 941 for tax-exempt organizations)

*The tax credit program expires in 2013. If you have any further questions not addressed in this memo or in our memo originally dated April 22, 2010, please let us know.*

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# HCR Small Employer Health Insurance Credit: Credit Reduction Charts

Multiply the ESTIMATED INITIAL CREDIT from Step Three by the appropriate percentages below to calculate any credit reductions.

**Chart 1**  
Credit Amount Reduction for Employers with more than 10 FT + FTE Employees:

Number of FT + FTE Employees	Credit Amount Reduction Percentage
1-10	0.00%
11	6.667%
12	13.334%
13	20.00%
14	26.668%
15	33.335%
16	40.002%
17	46.669%
18	53.336%
19	60.003%
20	66.670%
21	73.337%
22	80.004%
23	86.671%
24	93.338%
25 or more	100%

**Chart 2**  
Credit Amount Reduction for Employers with Average Annual Full-time Employee Compensation in Excess of \$25,000:

Average Annual Compensation	Credit Amount Reduction Percentage
\$25,000 or less	0.00%
\$26,000	4%
\$27,000	8%
\$28,000	12%
\$29,000	16%
\$30,000	20%
\$31,000	24%
\$32,000	28%
\$33,000	32%
\$34,000	36%
\$35,000	40%
\$36,000	44%
\$37,000	48%
\$38,000	52%
\$39,000	56%
\$40,000	60%
\$41,000	64%
\$42,000	68%
\$43,000	72%
\$44,000	76%
\$45,000	80%
\$46,000	84%
\$47,000	88%
\$48,000	92%
\$49,000	96%
\$50,000 or more	100%