

**MAINE BUREAU OF INSURANCE**  
**NEW FEDERAL HEALTH CARE LAW: SMALL BUSINESS TAX CREDIT**  
**UPDATED JUNE 14, 2010**

*This information will be updated when new information is available from U.S. Department of Health and Human Services and/or the Internal Revenue Service (Treasury)*

**WHEN DOES THE TAX CREDIT BEGIN?**

The new federal health reform law provides a Small Business Tax Credit to businesses for contributing toward their workers' health premiums, **beginning with the 2010 Tax Year**. The credit applies to all amounts paid or incurred in taxable years beginning after December 31, 2009.

(The credit is provided under Section 45R of the Internal Revenue Code, which was enacted March 23, 2010 by Section 1421 of the Patient Protection and Affordable Care Act (PPACA).)

**WHO QUALIFIES?**

Businesses with fewer than 25 *full-time equivalent employees* (FTE) and average annual wages less than \$50,000 per employee qualify. According to the IRS, "Because the eligibility formula is based in part on the number of FTEs, not the number of employees, many businesses will qualify even if they employ more than 25 individual workers."

<http://www.irs.gov/newsroom/article/0,,id=220848,00.html?portlet=7>

To receive the tax credit, an employer must have a group health plan and must pay at least 50% of the premium.

**DOES A SELF-EMPLOYED PERSON QUALIFY FOR THE SMALL BUSINESS TAX CREDIT FOR THEIR OWN INSURANCE OR INSURANCE FOR THEIR IMMEDIATE FAMILY? *(please note, this clarification was provided June 14, 2010)***

NO

**CAN A SELF-EMPLOYED PERSON TAKE A TAX CREDIT FOR CONTRIBUTION TOWARD GROUP HEALTH PLAN SHE SPONSORS FOR HER WORKERS? *(please note, this clarification was provided June 14, 2010)***

YES, assuming all other criteria are met. Note that the credit cannot be claimed for the owner's premium when owner participates in group health plan (self employed don't qualify for tax credit for self). Credit is for what owner pays toward employee premium

**DOES IT MATTER IF THE BUSINESS IS UNINCORPORATED? *(please note, this clarification was provided June 14, 2010)***

NO. The business can be unincorporated, S-corp, limited liability, etc. The corporate status of business does not disqualify it from credit.

**HOW MUCH IS THE TAX CREDIT? *(please note this information has been updated based on IRS published information May 5, 2010)***

The tax credit is a percentage of what the employer pays and is based on *either the actual premium or the average premium in the small group market in the State, whichever is less*. The U.S. Department of Health and Human Services has determined that the average premiums for Maine's small group market are **\$5,215** for employee-only coverage and **\$11,887** for family coverage. For more information about the average premium for small group market, visit <http://www.irs.gov/pub/irs-drop/rr-10-13.pdf>.

For Tax Years 2010 through 2013, the maximum credit in each year is 35% of the employer's contributions (25% for nonprofit employers).

Beginning Tax Year 2014, the maximum credit is 50% of the employer's contribution (35% for nonprofit employers). A business may receive two years of up to 50% tax credits. The two years of 50% credit is in addition to any credit the employer might have received for tax years 2010 through 2013.

**WHO IS ELIGIBLE FOR THE MAXIMUM TAX CREDIT? *(the IRS issued new guidance on May 17, 2010, to make it easier for small businesses to determine whether they are eligible for the new health care tax credit and how large a credit they will receive)***

The amount of the tax credit depends on the size and wages of the small business. A full 35% tax credit (50% in future years) is available for a business with 10 or fewer full time equivalent workers and average annual wages of \$25,000 or less. The tax credit phases out completely at 25 workers (FTEs) or average wages of \$50,000.

Guidance from the IRS is available at: <http://www.irs.gov/pub/irs-drop/n-10-44.pdf>

**WHO IS NOT ELIGIBLE?**

The tax credit is not available for coverage for working owners (sole proprietors, partners, 5% shareholders, 2% shareholders of S corporations) and their immediate families. Coverage for seasonal workers who work 120 or fewer days is not eligible for this tax credit.

**HOW DO BUSINESSES CLAIM THE CREDIT?**

The Small Business Health Insurance Tax Credit is part of the “general business credit,” which reduces the income taxes a business owes. If the credit is more than taxes owed, the unused credit can be carried forward or back to other years that a business has a tax liability. Tax-exempt small businesses may apply the credit to their payroll taxes.

***ADDITIONAL INFORMATION***

Helpful information from the IRS:

<http://www.irs.gov/newsroom/article/0,,id=220848,00.html?portlet=7>  
<http://www.irs.gov/pub/irs-drop/rr-10-13.pdf>