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HEALTH CARE REFORM WORKING GROUP

ALERT

2010 Small Business Tax Credit

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On March 23, 2010, the Patient Protection and Affordable Care Act (generally referred to as the Health Care Reform Act) was signed into law. Together with the Health Care Reconciliation Act, signed on March 30, the two acts constitute what we refer to as Health Care Reform. Many key provisions of Health Care Reform are not effective until 2014 and beyond. However, some important requirements and benefits of Health Care Reform are effective immediately.

One of the most overlooked benefits is a 2010 small business tax credit available to eligible small employers, including tax-exempt employers, that pay at least 50 percent of the cost of health insurance for employees. This tax credit is intended to incentivize small employers to adopt or continue to offer and pay for all or part of their employees' health insurance.

A tax credit is a dollar-for-dollar reduction in the tax a business pays or, for tax-exempt organizations, a refund based on employment taxes. While the credit is taken on an employer's 2010 tax return, the tax savings can be reflected in determining current estimated tax payments. It can also be used to offset an employer's alternative minimum tax (AMT) liability for the year (subject to certain limitations).

An eligible small employer has 25 or fewer full-time equivalent employees (FTEs) and pays average annual full-time equivalent wages (FTEWs) of $50,000 or less. The credit for tax years after 2009 and before 2014 is 35 percent of premium (25 percent for tax-exempt organizations) and, for tax years after 2013, 50 percent (35 percent for tax-exempts). The maximum credit is available to employers with no more than 10 FTEs and average annual FTEWs of less than $25,000, and is gradually phased out at the point an employer has exactly 25 FTEs with average annual FTEWs of $50,000.

Most family businesses and small professional groups will benefit from the credit because compensation for sole proprietors, partners and more than 2 percent owners of S-corporations and more than 5 percent owners of all other businesses and their family members who are not considered employees, is not counted in the $25,000 and $50,000 limits. However, all commonly owned businesses are treated as employed by a single employer.

Determining eligibility for and calculation of the small employer tax credit is complicated and additional factors apply, such as whether an employer receives state tax credits or subsidies for health insurance. However, the Health Care Reform Working Group at Fox Rothschild has developed a program to efficiently and economically determine whether your business is eligible for the credit and the amount of that credit.

Computation of the credit before you pay your estimated taxes will enable your business to reduce estimated taxes and improved its cash flow.

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Please visit Fox Rothschild's web site for more information on our multidisciplinary Health Care Reform Working Group.