



## AFFORDABLE CARE ACT: KEY SMALL BUSINESS PROVISIONS

The Affordable Care Act (ACA) will help small businesses by lowering premium cost growth and increasing access to quality, affordable health insurance. If you're a small employer, the following are some of the ACA provisions that may apply.

### Provisions Currently in Effect

#### **Small Business Tax Credits**

The small business tax credit helps small businesses afford the cost of health care coverage for their employees and is specifically targeted for those businesses with low- and moderate-income workers. The credit is designed to encourage small employers to offer health insurance coverage for the first time or maintain coverage they already have. Businesses who have fewer than 25 full-time equivalent employees, pay average annual wages below \$50,000, and contribute 50% or more toward employee health insurance premiums may qualify for a [small business tax credit](#) of up to 35% to help offset the costs of insurance. In 2014, this tax credit goes up to 50% and is available to qualified small businesses who participate in the [Small Business Health Options Program](#) (SHOP), described below. Small employers can claim the credit in 2013 and for two additional years beginning in 2014.

#### **Summary of Benefits and Coverage (SBCs) Disclosure Rules**

Employers are required to provide employees with a standard "Summary of Benefits and Coverage" form explaining what their plan covers and what it costs. The purpose of the SBC form is to help employees better understand and evaluate their health insurance options. Penalties may be imposed for non-compliance. The Department of Labor has provided a [sample completed SBC](#) that employers may reference.

#### **Medical Loss Ratio Rebates**

Under ACA, insurance companies must spend at least 80% of premium dollars on medical care rather than administrative costs. Insurers who do not meet this ratio are required to provide rebates to their policyholders, which is typically an employer who provides a group health plan. Employers who receive these [premium rebates](#) must determine whether the rebates constitute plan assets. If treated as a plan asset, employers have discretion to determine a reasonable and fair allocation of the rebate. For more information on the federal tax treatment of Medical Loss Ratio rebates, refer to [IRS's FAQs](#).

#### **W-2 Reporting of Aggregate Health Care Costs**

Beginning January 2013 (applicable to 2012 reporting), most employers must report the aggregate annual cost of employer-provided coverage for each employee on the Form W-2. The new W-2 reporting requirement is informational only and it does not require taxation on any health plan coverage. Reporting is required for most employer-sponsored health coverage, including group medical coverage. **Small Employer Exception:** For 2012 reporting and beyond until further guidance is issued, the W-2 reporting requirement does not apply to employers required to file fewer than 250 Form W-2s in the prior calendar year. To learn more about the requirements, as well as exclusions, visit [IRS.gov](#).

#### **Limits on Flexible Spending Account Contributions**

Beginning January 2013, the maximum amount an employee may elect to contribute to health care flexible spending arrangements (FSAs) for any year will be capped at \$2500, subject to cost-of-living adjustments. Note that the limit only applies to elective employee contributions and does not extend to employer contributions. To learn more about FSA Contributions, as well as what is excluded from the cap, visit [IRS.gov](#).

### **Additional Medicare Withholding on Wages**

Beginning January 1, 2013, ACA increases the employee portion of the Medicare Part A Hospital Insurance (HI) withholdings by .9% (from 1.45% to 2.35%) on employees with incomes of over \$200,000 for single filers and \$250,000 for married joint filers. It is the employer's obligation to withhold this additional tax, which applies only to wages in excess of these thresholds. The employer portion of the tax will remain unchanged at 1.45%.

### **New Medicare Assessment on Net Investment Income**

Beginning January 1, 2013, a 3.8% tax will be assessed on [net investment income](#) such as taxable capital gains, dividends, rents, royalties, and interest for taxpayers with Modified Adjusted Gross Income (MAGI) over \$200,000 for single filers and \$250,000 for married joint filers. Common types of income that are not investment income are wages, unemployment compensation, operating income from a non-passive business, Social Security Benefits, alimony, tax-exempt interest, and self-employment income.

### **Elimination of Deductions for Medicare Part D Retiree Prescription Drug Subsidy**

As of 2013, employers that currently receive a federal subsidy for providing Medicare Part D retiree prescription drug coverage will no longer be able to take a deduction for those retiree drug expenses with respect to that subsidy. The ACA retains the Medicare Part D subsidy, but eliminates employers' ability to deduct the amount of the subsidy.

### **Upcoming Provisions**

#### **Small Business Health Options Program (SHOP) and Individual Marketplaces**

Coverage through the competitive health insurance marketplaces for individuals and small businesses will be in place January 1, 2014 with open enrollment beginning October 1, 2013. The individual [health insurance marketplaces](#) will offer a choice of four levels of benefit packages that differ by the percentage of costs the health plan covers. Individuals and the self-employed may qualify for individual tax credits and subsidies on a sliding scale, based on income.

Small businesses with generally 50 employees or fewer will have access to marketplaces through the [Small Business Health Options Program \(SHOP\)](#). Currently, small businesses may pay on average 18% more than big businesses for health insurance because of administrative costs. SHOP will offer small businesses increased purchasing power to obtain a better choice of high-quality coverage at a lower cost. Costs are lowered because small businesses can pool their risk, lowering administrative costs. To enroll, eligible employers must have an office within the service area of the SHOP and offer SHOP coverage to all full-time employees. In 2016, employers with up to 100 employees will be able to participate in SHOP. In 2017, states will have the option to make SHOP coverage available to businesses with greater than 100 employees. Businesses can stay connected by going to [signup.healthcare.gov](http://signup.healthcare.gov).

#### **Employer Shared Responsibility Rules**

Employers are not required to provide coverage to their employees under the Affordable Care Act. However, beginning in 2014, employers with 50 or more full-time (or full-time equivalent) employees that do not offer affordable health insurance may be required to pay an assessment if at least one of their full-time employees is certified to receive a premium tax credit in an individual Marketplace. A full-time employee is one who is employed an average of at least 30 hours per week. These assessments, known as the Employer Shared Responsibility payments, will offset part of the cost of the Marketplace tax credits. If a business meets the threshold level of 50 full-time or full-time equivalent employees, or is close to it, it's important to understand how these rules may apply and how the employer shared responsibility payments could be triggered. Guidance is available to help businesses better understand these provisions at [IRS.gov](http://IRS.gov).

Businesses with fewer than 50 full-time (or full-time equivalent) employees are exempt from the new Employer Shared Responsibility rules under ACA. These smaller employers do not have to pay an assessment if their full-time employees receive premium tax credits to purchase coverage in one of the new Marketplaces.

### **Health Insurance Coverage Reporting Requirements**

Beginning with health coverage provided on or after January 1, 2014, employers subject to the Employer Shared Responsibility rules must [provide the IRS with information](#) about full time employees' coverage under the health plans and the cost of benefits provided. Likewise, employers that sponsor self-insured plans must submit [reports](#) detailing information for each covered individual. The first of these reports must be filed in 2015. The IRS is expected to provide more information in the near future clarifying these rules.

### **90-Day Maximum Waiting Period**

Beginning January 1, 2014, individuals who are eligible for health coverage will not have to wait more than 90 days to begin coverage. The IRS has provided [temporary guidance](#) on how employers should apply the 90-day rule and is expected to provide more information in the near future clarifying these rules.

### **Workplace Wellness Programs**

The ACA creates new incentives to [promote employer wellness programs](#) and encourage opportunities to support healthier workplaces. Effective January 1, 2014, the maximum reward under a health-contingent wellness program will increase from 20 percent to 30 percent of the cost of health coverage, and the maximum reward for programs designed to prevent or reduce tobacco use will be as much as 50 percent. The Department of Labor is expected to provide more information in the near future clarifying these rules.

### **ADDITIONAL RESOURCES**

The U.S. Small Business Administration's health care web page, [www.sba.gov/healthcare](http://www.sba.gov/healthcare), is dedicated to educating small business owners about the Affordable Care Act. This site will serve as a gateway for small business owners connecting them with information provided by SBA's federal partners responsible for implementing the law, including the U.S. Department of Health and Human Services.

[Healthcare.gov](http://Healthcare.gov) is a web portal maintained by the U.S. Department of Health and Human Services. The [small business](#) site includes information about the new health insurance Marketplaces, coverage options, and more. Businesses can stay connected to the latest information on the Marketplaces by signing up for text and email alerts at [signup.healthcare.gov](http://signup.healthcare.gov).

For a Glossary of key terms under the Affordable Care Act, [click here](#).

[IRS website](#) includes summaries of tax-related ACA provisions, FAQs, and eligibility worksheets.