

Tax and Benefits Provisions of the 2010 Health Care Act as Amended by the 2010 Health Care Reconciliation Act

Tax Changes Relating to Universal Health Coverage Mandate

Employer responsibilities. For months beginning after Dec. 31, 2013, an “applicable large employer” (generally, one that employed an average of at least 50 full-time employees during the preceding calendar year) not offering coverage for all its full-time employees, offering minimum essential coverage that is unaffordable, or offering minimum essential coverage that consists of a plan under which the plan's share of the total allowed cost of benefits is less than 60%, will have to pay a penalty if any full-time employee is certified to the employer as having purchased health insurance through a state exchange with respect to which a tax credit or cost-sharing reduction is allowed or paid to the employee. The penalty for any month will be an excise tax equal to the number of full-time employees over a 30-employee threshold during the applicable month (regardless of how many employees are receiving a premium tax credit or cost-sharing reduction) multiplied by one-twelfth of \$2,000.

Also, an applicable large employer that offers, for any month, its full-time employees and their dependents the opportunity to enroll in minimum essential coverage under an employer sponsored plan will be subject to a penalty if any full-time employee is certified to the employer as having enrolled in health insurance coverage purchased through a State exchange with respect to which a premium tax credit or cost-sharing reduction is allowed or paid to such employee or employees (Code Sec. 4980H , as added by 2010 Health Care Act Sec. 1513, as amended by 2010 Health Care Act Sec. 10106, and as further amended by 2010 Reconciliation Act Sec. 1003). For analysis, see ¶604 .

Free choice vouchers. After Dec. 31, 2013, employers offering minimum essential coverage through an eligible employer-sponsored plan and paying a portion of that coverage will have to provide qualified employees with a voucher whose value can be applied to purchase of a health plan through the Insurance Exchange. Qualified employees are those employees:

- Who do not participate in the employer's health plan;
- Whose required contribution for employer sponsored minimum essential coverage (if they did participate in the plan) exceeds 8%, but does not exceed 9.5% of household income; and
- Whose total household income does not exceed 400% of the poverty line for the family.

After 2014, the 8% and 9.5% will be indexed to the excess of premium growth for the preceding calendar year. The value of the voucher is equal to the dollar value of the employer contribution to the employer offered health plan and is not includable in income to the extent it is used for the purchase of health plan coverage. If the value of the voucher exceeds the premium of the health plan chosen by the employee, the employee is paid the excess value of the voucher. The excess amount received by the employee is includable in gross income. If an individual receives a voucher, he is disqualified from receiving any tax credit or cost sharing credit for the purchase of a plan in the Insurance Exchange. Similarly, if any employee receives a free choice voucher, the employer is not assessed a shared responsibility payment on behalf of that employee (Code Sec. 139D , as added by 2010 Health Care Act Sec. 10108). For analysis, see ¶404 .