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Information Every Business Needs to Know

HR & Benefits Advisor

April 2010

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The New HIRE Act - Tax Advantages for Your Business



The [HIRE Act](#) exempts employers from social security taxes in 2010 for qualified employees who are hired after February 3, 2010, and before January 1, 2011. The hired individual must certify by signed affidavit, under penalties of perjury, that he or she has not been employed for more than 40 hours during the 60-day

Sweeping Health Care Reform *The Impact on Individuals and Businesses*

On March 23, 2010, the President signed into law H.R. 3590, the [Patient Protection and Affordable Care Act](#). The Act, as amended by the [Health Care and Education Reconciliation Act of 2010](#) on March 30, 2010, implements sweeping health care changes that will affect individual and employer-sponsored health plans. While many of the provisions will not take effect until 2014, a number of reforms will take place this year.



The following are some of the key highlights of the legislation:

For Individuals

Employer Coverage

Generally, individuals would not be required to give up their employer-provided health coverage.

Risk Pool: 2010

Within 90 days of the bill becoming law, certain individuals without employer coverage may be able to purchase coverage through a temporary national high-risk pool. The temporary high-risk pool will offer coverage to U.S. citizens and legal immigrants who have not been insured for at least 6 months, at reduced premiums.

Annual and Lifetime Caps: 2010

Beginning six months after passage of the Act, plans will not be permitted to impose lifetime limits on coverage. The law also restricts the use of annual limits. Beginning in 2014, plans may not impose annual limits on coverage.

Extended Child Coverage: 2010

Beginning six months from passage of the law, dependent adult children will be eligible for coverage under their parents' health plan up to age 26.

Rescission of Coverage: 2010

period ending on the date the individual begins employment. For the employer to qualify for the social security tax exemption, the hired employee also may not be employed to replace another employee unless the other employee separated from employment voluntarily.

If You're Hiring, You May Be Eligible for a Business Tax Credit

Under the HIRE Act, employers generally can take a tax credit of up to \$1,000 for each qualified employee hired, or 6.2% of wages paid to the qualifying worker over the 52-week period, whichever is less. The qualified employee must be employed for at least 52 consecutive weeks. Employee wages for the last 26 weeks of this period must equal at least 80 percent of wages for the first 26 weeks of such period.

Expensing

The HIRE Act also extends a provision in the American Recovery and Reinvestment Act that allows small businesses to deduct up to \$250,000 of the cost of qualifying property in the year it is purchased, rather than waiting to recover their costs through depreciation deductions over a number of years.

Highways and Infrastructure

School Construction, Energy Conservation and Renewable Energy. The HIRE Act allows qualified school construction bonds, qualified zone academy bonds, clean renewable energy bonds, and qualified energy

Beginning six months from passage, insurers will not be permitted to rescind coverage except in cases of fraud.

Grandfathering

Grandfathering may relate to existing individual and group plans with respect to new benefit standards. However, these grandfathered plans must extend dependent coverage to certain adult children up to age 26 and prohibit rescission of coverage. In addition, grandfathered group plans are required to eliminate lifetime limits on coverage, and beginning in 2014, eliminate annual limits on coverage. Grandfathered group plans must eliminate pre-existing condition exclusions for children within six months and by 2014 for adults.

Medicare Tax Increase for High Earners: 2013

Beginning 2013, individuals making \$200,000 and joint filers making \$250,000 must pay an increase of 0.9% in the Medicare tax. A 3.8% tax on unearned income for high-income individuals will also take effect.

Individual Mandate: 2014

Starting in 2014, the law will require most U.S. citizens and legal residents to obtain health insurance. Increasing levels of penalties will be assessed on certain individuals who do not obtain coverage.

Pre-existing Conditions: 2014

Starting in 2014, plans will not be permitted to exclude individuals from coverage on the basis of pre-existing medical conditions. The prohibition on exclusions of children on the basis of pre-existing conditions would begin 6 months from the date the law was enacted.

Establishment of State Exchanges to Obtain Health Insurance: 2014

Starting in 2014, people without employer-sponsored coverage will be able to buy insurance on state-administered "exchanges." State-based American Health Benefit Exchanges and Small Business Health Options Program (SHOP) Exchanges will be administered by a government agency or non-profit organization, and allow individuals and small businesses with up to 100 employees to buy certain coverage.

Premium Subsidies: 2014

In 2014, the law will provide tax credits to individuals and families with incomes above Medicaid eligibility and below 400% of the Federal Poverty Level to buy coverage through state-based Exchanges. These individuals and families would be entitled to the credits if they are not eligible for or offered other "acceptable coverage".

Age Differences: 2014

Starting in 2014, the law would prohibit premiums of older individuals from being more than 3 times the cost of younger peoples' premiums.

For Businesses

Tax Credits for Some Small Businesses: 2010-2013

For tax years 2010-2013, employers of 25 or fewer employees with average annual wages of less than \$50,000 may be able to receive a tax credit if they contribute at least 50% of total premium costs, or 50% of a "benchmark" premium. Employers of 10 or fewer employees with average annual wages of less than \$25,000 may be able to receive a full tax credit for their contributions.

Temporary Reinsurance Program: 2010-2013

Within 90 days of enactment of the law and until Jan.1, 2014, a

conservation bonds to take advantage of the Build America bonds direct payment program.

Transportation Extension.

The HIRE Act extends surface transportation programs through December 31, 2010, for states and localities to make decisions on capital-intensive projects, and provides billions more to be invested in infrastructure throughout the United States.

For more information on H.R. 2847, the Hiring Incentives to Restore Employment Act, please [click here](#).

Special Tax Notes



Negotiating Taxes

The IRS has announced new flexibility for its Offer in Compromise program that allows taxpayers to settle their debt. This tax season, IRS employees will be permitted to consider a taxpayer's current income and potential for future income when negotiating an offer in compromise. Normally, the standard practice is to judge an offer amount on a taxpayer's earnings in prior years. For more information on Offers in Compromise from the IRS, please [click here](#).

Tax Center to Assist Unemployed Taxpayers

The IRS has created a new web page called the [Tax Center to Assist Unemployed Taxpayers](#). The page includes a

temporary reinsurance program will provide coverage for retirees who are over age 55 but not eligible for Medicare. The reinsurance program will reimburse employers or insurers 80% of retirees' claims that are between \$15,000 and \$90,000.

Preventive Coverage: 2010

Six months from enactment, group health plans and issuers that offer health insurance coverage will be required to provide preventive coverage. Plans and insurance providers will also be prohibited from imposing any cost sharing requirements for preventive coverage. Some of the preventive coverage includes certain immunizations and preventive care for children, adolescents and women.

Salary Nondiscrimination for Eligibility: 2010-2011

Six months from passage (Jan. 1, 2011, for calendar year plans), plan sponsors of group health plans, except self-insured plans, will not be permitted to establish rules relating to coverage eligibility for full-time employees that are based on the total hourly or annual salary of the employee, or otherwise have the effect of discriminating in favor of higher wage employees.

Appeals Process: 2010-2011

Six months from passage (Jan. 1, 2011, for calendar year plans), group health plans and health insurance issuers will be required to have effective appeals processes for challenges to coverage and claims determinations.

Tax Increase on Nonqualified Medical Expense Distributions from HSAs: 2011

Starting in 2011, the law would increase the tax on distributions from a Health Savings Account or Archer MSA if the distributions are not for a qualified medical expense. The tax on these distributions would increase to 20%, from 10% for HSAs and 15% for Archer MSAs. The threshold to itemize unreimbursed medical expenses as a deduction on tax returns would increase from 7.5% to 10% of adjusted gross income. The law also prohibits reimbursement of costs for over-the-counter drugs if they are not prescribed by a doctor, in relation to HSAs, Archer MSAs, FSAs and HRAs.

FSA Contribution Limits: 2013

Starting in 2013, the law also limits the amount of contributions to a flexible spending account (FSA) to \$2,500 annually.

Small Business Tax Credit: 2014

For 2 years starting in 2014, eligible small businesses that buy health coverage on new state insurance exchanges may receive a tax credit of up to 50% of the contribution if the employer contributes at least 50% of the total premium cost.

State Exchanges to Obtain Health Coverage: 2014

Starting in 2014, small businesses with up to 100 employees will be able to buy insurance on state-administered "exchanges." State-based American Health Benefit Exchanges and Small Business Health Options Program (SHOP) Exchanges will be administered by a government agency or non-profit organization. A qualified health plan, to be offered through the new American Health Benefit Exchange, must provide essential health benefits which include cost sharing limits. No out-of-pocket requirements can exceed those in Health Savings Accounts, and deductibles in the small group market cannot exceed \$2,000 for an individual and \$4,000 for a family. Plans participating in the Exchanges will be accredited for quality, will present their benefit options in a standardized manner for comparison, and will use one enrollment form. Individuals qualified to receive tax credits for Exchange coverage must be ineligible for affordable, employer-

variety of materials related to taxes and the unemployed, including "The 'What Ifs' of an Economic Downturn," publications to assist unemployed taxpayers, and assistance with filing and paying taxes. To visit the Tax Center to Assist Unemployed Taxpayers, please [click here](#).

sponsored insurance or any form of public insurance coverage.

Vouchers: 2014

Starting in 2014, employers who offer coverage to their employees will be required to provide a voucher for purchasing health care to employees with incomes less than 400% of Federal Poverty Level whose share of the premium exceeds 8% but is less than 9.8% of the employee's income. These vouchers are for enrolling in a plan in the Exchange. The voucher amount is equal to the premium amount for coverage of the employee under the employer's plan and will be used to offset the premium costs for the plan in which the employee is enrolled.

Penalties for Large Businesses: 2014

Starting in 2014, employers of 50 or more employees that have employees receiving premium subsidies created by the legislation will be assessed fees. Such employers could face fines of \$2,000 per full-time employee, with some exceptions.

Excise Tax on High Cost Employer-Provided Health Coverage: 2018

In 2018, insurers and plan administrators will pay a 40% tax for any health insurance plan that is above the threshold of \$10,200 for singles and \$27,500 for families. This excise tax would apply to the amount of the premium that is above these thresholds.

Other Key Areas

Medical Loss Ratio: 2010-2011

Effective for plan year 2010, health plans are required to report the percentage of premium dollars spent on medical services. As of Jan. 1, 2011, enrollees will receive rebates for the amount of the premium spent on medical services that is less than 85% for large group plans, and 80% for individual and small group plans.

Medicare Part D: 2010

In 2010, the law closes the Medicare prescription drug coverage gap by \$500, and provides a 50% discount on brand name drugs for beneficiaries who fall into the coverage gap. There is a current gap in coverage for total drug costs between \$2,700 and \$6,154. After being amended, the law authorizes a \$250 rebate to all Medicare Part D enrollees who enter the "donut hole" in 2010.

Expanded Medicaid and CHIP: 2014

By 2014, states would be required to extend Medicaid coverage to all individuals under 65 who have incomes up to 133% of the federal poverty level. The law would also fund the Children's Health Insurance Program through 2015, and require states to maintain the current eligibility levels for children in the Medicaid and CHIP programs.

Community Living Assistance Services and Supports

The law creates a voluntary long-term care insurance program called the CLASS Independence Benefit Plan. The program will permit individuals to purchase community living assistance services and supports. The coverage would have a 5-year vesting period for eligibility of benefits and provide an average cash benefit of at least \$50 per day.

Federal Loan Program

The Health Care and Education Reconciliation Act of 2010 also overhauls the federal student loan program and expands access to Pell Grants. For more information on this bill, please [click here](#).

For additional information:

- [Kaiser Foundation Summary](#)

Sources: H.R. 3590; H.R. 4872; Kaiser Family Foundation; *NY Times*; Democratic Policy Committee.

Premium Assistance Available for Workers Terminated Through March 31, 2010

The American Recovery and Reinvestment Act of 2009 (ARRA), as amended on March 2, 2010, by the Temporary Extension Act of 2010, provides for premium reductions for health benefits under the Consolidated Omnibus Budget Reconciliation Act of 1985, commonly called COBRA.



Under the law, as amended, workers who were terminated between September 1, 2008, and **March 31, 2010**, may be eligible for a subsidy of their COBRA premiums for up to 15 months. Eligible individuals pay only 35 percent of their COBRA premiums and the remaining 65 percent is reimbursed to the coverage provider through a tax credit. The premium reduction applies to periods of health coverage that began on or after February 17, 2009.

Legislation to extend the March 31, 2010 deadline is being considered by Congress but has not yet been passed.

Updated COBRA Model Notices Reflecting Deadline of March 31, 2010

The following are the updated COBRA Model Notices from the DOL:

- [Model Updated General Notice](#)
- [Model Notice of New Election Period](#)
- [Model Supplemental Information Notice](#)
- [Model Notice of Extended Election Period](#)
- [Model Updated Alternative Notice](#)

For further information, please see the DOL The Fact Sheet [available here](#).

CHIP Model Notice Available for Spanish-Speaking Employees

The U.S. Department of Labor has posted on its website the Spanish version of the [Model Notice for Employers](#) to Use to inform employees of their potential eligibility for premium assistance under state Medicaid or the Children's Health Insurance Program (CHIP). The Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) requires that an employer maintaining a group health plan in a state that provides premium



assistance for the purchase of coverage under Medicaid or a state CHIP notify each employee of the opportunity for the assistance of employees and dependents. The model notices include information on how employees can contact their state for additional information and how to apply for premium assistance.

- To view the [Spanish version Model Notice](#).
- The [English version](#) was posted on February 4, 2010.

To visit the HR & Benefits Essentials CHIPRA page, please [click here](#).

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