

Part III - Administrative, Procedural, and Miscellaneous

Section 45R – Tax Credit for Employee Health Insurance Expenses of Small Employers

Notice 2010-82

I. PURPOSE AND BACKGROUND

Section 45R of the Internal Revenue Code (Code) offers a tax credit to certain small employers that provide health insurance coverage to their employees. The credit is available for taxable years beginning after December 31, 2009. Both taxable employers and employers that are organizations described in § 501(c) and exempt from tax under § 501(a) (tax-exempt employers) may be eligible for the § 45R credit. Employers that satisfy the requirements for the credit are referred to in this notice as “eligible small employers.”

Notice 2010-44, 2010-22 I.R.B. 717, provides guidance on § 45R as in effect for taxable years beginning before January 1, 2014, including transition relief for taxable years beginning in 2010 with respect to the requirements for a qualifying arrangement under § 45R. This notice expands on the guidance provided in Notice 2010-44 and provides guidance on additional issues relating to the small employer tax credit.

II. ISSUES RELATING TO EMPLOYER’S ELIGIBILITY FOR THE CREDIT

To be an eligible small employer: (1) the employer must have fewer than 25 full-time equivalent employees (FTEs) for the taxable year; (2) the average annual wages of its employees for the year must be less than \$50,000 per FTE; and (3) the employer must maintain a “qualifying arrangement.” In general, a qualifying arrangement is an arrangement under which the employer pays premiums for each employee enrolled in

health insurance coverage offered by the employer in an amount equal to a uniform percentage (not less than 50 percent) of the premium cost of the coverage.

A. Tax-Exempt Employers Not Described in § 501(c) and Exempt Under § 501(a)

Section 45R(f)(1) provides that the credit is available to a tax-exempt eligible small employer, defined in § 45R(f)(2) as "any organization described in § 501(c) which is exempt from taxation under § 501(a)." Tax-exempt organizations that are not both described in § 501(c) and exempt from taxation under § 501(a) are not eligible to claim the credit. However, a § 521 farmers cooperative that is subject to tax under § 1381 is eligible to claim the credit as a taxable employer, if it otherwise meets the definition of an eligible small employer.

B. Employers Not Engaged in a Trade or Business

The statute does not require that, in order for an employer to be an eligible small employer, the employees of the employer must be performing services in a trade or business. Thus, an employer that otherwise meets the requirements for the credit under § 45R for a taxable year beginning before January 1, 2014 does not fail to be an eligible small employer merely because the employees of the employer are not performing services in a trade or business. For example, a household employer that otherwise satisfies the requirements of § 45R is eligible for the credit.

C. Employers Located Outside the United States

For taxable years 2010 through 2013, an eligible small employer's credit is based on premiums paid for health insurance coverage offered by a health insurance issuer, as described in § 9832(b)(1). Section 9832(b)(2) requires that an insurer be licensed to engage in the business of insurance in a State and that the insurer is subject to State

law regulating insurance. For purposes of § 9832(b)(2) and § 45R, "State" is defined in § 7701(a)(10), and means the 50 States plus the District of Columbia. Therefore, an eligible small employer located outside the United States (including an employer located in a U.S. territory), which has income effectively connected with the conduct of a trade or business in the United States, may claim the § 45R credit only if it pays premiums for an employee's health insurance coverage that is issued in and regulated by one of the 50 States or the District of Columbia. Similarly, a tax-exempt eligible small employer located outside the United States (including an employer located in a U.S. territory) would also be required to pay premiums for an employee's health insurance coverage that is issued in and regulated by one of the 50 States or the District of Columbia in order to obtain the refundable credit described in § 45R(f).

III. OTHER ISSUES RELATING TO ELIGIBILITY FOR THE CREDIT

A. Determining Employees Taken Into Account - Spouses

Employees who perform services for the employer during the taxable year are taken into account in determining the employer's FTEs, average wages, and premiums paid, with certain individuals excluded and with employees of certain related employers included. See section II.B of Notice 2010-44. Sole proprietors, partners in a partnership, shareholders owning more than two percent of the stock in an S corporation, and any owners of more than five percent of other businesses are not taken into account as employees for purposes of the credit. Family members of these owners and partners are also not taken into account as employees.

The definition of "family members" for purposes of § 45R does not specifically refer to spouses. However, spouses of certain business owners are excluded from

being taken into account as employees by operation of the ownership attribution rules in the Code. Therefore, the following individuals also are not taken into account as employees for purposes of § 45R: (1) the employee-spouse of a shareholder owning more than two percent of the stock of an S corporation; (2) the employee-spouse of an owner of more than five percent of a business; (3) the employee-spouse of a partner owning more than a five percent interest in a partnership; and (4) the employee-spouse of a sole proprietor. See §§ 45R(e)(1)(A); 1372(b), 318, 416(i)(1)(B)(i).

B. Determining Employees Taken Into Account – Leased Employees and Others

Leased employees (as defined in § 414(n)) are counted in computing an employer's FTEs and average annual wages. See § 45R(e)(1)(B). However, no provision of § 45R supports attributing to the service recipient the leasing organization's payment of premiums. Therefore, premiums for health insurance coverage paid by a leasing organization for a leased employee are not taken into account by the service recipient in computing the service recipient's § 45R credit.

Unless specifically excluded, all employees of the employer during the year for which the credit is being claimed are taken into account in computing an employer's FTEs and annual average wages under § 45R, including, for example, former employees who terminated employment during the year for which the credit is being claimed, employees covered under a collective bargaining agreement, and employees who do not enroll in their employer's health insurance plan (whether or not they are covered under another health insurance plan).

A minister performing services in the exercise of his or her ministry is treated as self-employed for Social Security and Medicare tax purposes. See §§ 1402(c)(2)(D)

and 3121(b)(8)(A). However, for other tax purposes, including § 45R, whether a minister is an employee or self-employed is determined under the common law test for determining worker status. If, under the common law test, a minister is self-employed, the minister is not taken into account in determining an employer's FTEs and premiums paid because § 45R(e)(A)(i) excludes a self-employed individual from the term "employee" for purposes of the credit. If, under the common law test, the minister is an employee, the minister is taken into account in determining an employer's FTEs and premiums paid by the employer for the minister's health insurance coverage can be taken into account in computing the credit, subject to limitations on the credit. (Note that, under § 45R(f)(1)(B), a tax-exempt employer's § 45R credit cannot exceed the total of the tax-exempt eligible small employer's income tax and Medicare tax withholding and its Medicare tax liability for the year). Because compensation of a minister performing services in the exercise of his or her ministry is not subject to Social Security or Medicare tax under the Federal Insurance Contributions Act (FICA), a minister has no wages as defined under § 3121(a) for purposes of computing an employer's average annual wages.

C. Determining Average Annual Wages, Number of Hours Worked, and Number of FTEs

All wages (as defined under § 3121(a) but without regard to the wage base limitation under § 3121(a)) paid (including overtime pay) are taken into account in computing an employer's average annual wages. Thus, for example, if an employee works more than 2,080 hours in a year, all wages paid to the employee, including

wages for the hours in excess of 2,080, are taken into account in computing the employer's average annual wages.

Notice 2010-44 provides three methods that employers are permitted to use for calculating employees' hours of service for the taxable year: (1) counting actual hours worked; (2) using a days-worked equivalency; or (3) using a weeks-worked equivalency. Employers need not use the same method for all employees, but may apply different methods for different classifications of employees, if the classifications are reasonable and consistently applied. For example, an employer may use the actual hours worked method for all hourly employees and the weeks-worked equivalency method for all salaried employees. In addition, employers may change the method for calculating employees' hours of service for each taxable year.

As explained in Notice 2010-44, the number of an employer's FTEs is determined by dividing the total hours of service (but not more than 2,080 hours of service for any employee) by 2,080 hours. See § 45R(d)(2). The result, if not a whole number, is then rounded to the next lowest whole number. However, if, after dividing the total hours of service by 2,080, the resulting number is less than one, the employer rounds up to one FTE.

D. HSAs and Self-Insured Plans, including HRAs and FSAs, are not Qualifying Arrangements

An employer's premium payments are not taken into account for purposes of the § 45R credit unless they are paid for health insurance coverage under a qualifying arrangement. A qualifying arrangement is an arrangement under which the employer pays premiums for each employee enrolled in health insurance coverage offered by the

employer in an amount equal to a uniform percentage (not less than 50 percent) of the premium cost of the coverage. Under § 45R(g)(2)(B), for years prior to 2014, health insurance coverage for purposes of the credit is defined in § 9832(b)(1). Among the requirements of § 9832(b)(1) is that the coverage be offered by a health insurance issuer. A health insurance issuer is defined in § 9832(b)(2) as an entity licensed to engage in the business of insurance in a State and which is subject to State law regulating insurance. See § 9832(b)(1) and section II.G of Notice 2010-44. Thus, an employer's self-insured plan is not health insurance coverage for purposes of the credit and any employer contribution to such coverage is not a qualifying arrangement for purposes of § 45R.

Because Health Reimbursement Arrangements (HRAs) and health Flexible Spending Arrangements (health FSAs) are self-insured plans, these arrangements are not health insurance coverage. Health Savings Accounts (HSAs) (defined in § 223(d)(1)) are also not health insurance coverage. Thus, employer contributions to HRAs, health FSAs, or HSAs are not taken into account for purposes of the § 45R credit.

E. Multiemployer Health and Welfare Plans Providing Health Insurance Coverage

For purposes of the § 45R credit, contributions by an employer to a multiemployer plan that are used to pay premiums for health insurance coverage for employees covered by the multiemployer plan are treated as payment of health insurance premiums by the employer. Moreover, if 100 percent of the cost of coverage under the multiemployer plan is paid from nonelective employer contributions, and not by employees, each employer in the multiemployer plan is considered to be contributing

a uniform percentage of 100 percent of the premium on behalf of each employee covered by the plan. Accordingly, an employer that is otherwise an eligible small employer and that contributes to a multiemployer plan that provides for insured health care coverage does not fail to satisfy the requirements for the § 45R credit merely because the insurance premiums are paid by the plan and not directly paid by the employer. In addition, the employer does not fail to be considered to be contributing a uniform percentage of the premium for each employee if 100 percent of the cost of coverage for all employees covered by the plan is paid through employer nonelective contributions. However, self-insured health coverage provided through a multiemployer plan is not health insurance coverage provided under a qualifying arrangement under § 45R.

Multiemployer plans may provide welfare-type benefits in addition to health insurance, such as life insurance or short- or long-term disability benefits. Only the employer contributions to the multiemployer plan that are used to purchase health insurance for an employee are permitted to be taken into account in determining premium payments by the employer under § 45R. Thus, if amounts are contributed to a multiemployer plan for health insurance coverage and also for other benefits, the employer must allocate contributions among the benefits provided, and only the amount allocable to health insurance premiums applies in calculating the § 45R credit. An employer contributing to a multiemployer plan is permitted to rely on information provided by the plan to determine the amount of its contribution that is used to purchase health insurance.

F. Qualifying Arrangements – Church Welfare Benefit Plans

As noted above, for taxable years beginning prior to 2014, health insurance coverage for purposes of the credit means benefits consisting of medical care offered by a health insurance issuer, which is an entity licensed to engage in the business of insurance in a State, and which is subject to State law regulating insurance. See §§ 9832(b)(1) and 9832(b)(2). The Church Plan Parity and Entanglement Prevention Act of 1999 (CPPEPA), Pub. L. No. 106-244, clarifies the status of church welfare benefit plans providing medical benefits in the context of State insurance laws. Section 2(d) of CPPEPA provides that “[n]otwithstanding any other provision of this section, for purposes of enforcing provisions of State insurance laws that apply to a church plan that is a welfare plan, the church plan shall be subject to State enforcement as if the church plan were an insurer licensed by the State.” Thus, under § 2(d) of CPPEPA, a church welfare benefit plan is subject to State insurance law enforcement as if it were licensed as an insurance company. Section 2(e) of the CPPEPA provides that § 2 generally shall not be construed as recharacterizing the status, or modifying or affecting the rights, of any plan participant or beneficiary.

Pursuant to this notice, because a church welfare benefit plan is subject to State insurance law enforcement as if it were licensed under State law, it will be treated as satisfying the requirements for health insurance coverage for purposes of the § 45R credit. Therefore, for these purposes, an arrangement under which a small church employer pays premiums for employees who receive medical care provided through a church welfare benefit plan may be a qualifying arrangement and a small church employer paying for employees’ medical coverage under such a plan may be a tax-

exempt eligible small employer. This treatment of church plan coverage as health insurance coverage applies solely for purposes of § 45R, which applies to the tax treatment of the employer but does not affect the rights of plan participants and beneficiaries.

G. Uniformity Requirement

To receive the tax credit, an eligible small employer must pay a uniform percentage (not less than 50 percent) of the premium for each employee enrolled in health insurance coverage offered by the employer. See § 45R(d)(4). Section V of Notice 2010-44 provides transition relief in applying the uniformity requirement for taxable years beginning in 2010. This section provides rules for applying the uniformity requirement in taxable years beginning after December 31, 2009 and prior to 2014. For taxable years beginning in 2010, an employer may satisfy the uniformity requirement either by meeting the requirements of this section or by meeting the requirements of Section V of Notice 2010-44.

1. Terminology Used in this Notice

For purposes of this notice:

(a) Each benefits package is considered a separate health insurance plan. For example, an employer offers a single health insurance plan if the employer makes only one benefits package available to its employees.

(b) A health insurer that charges a uniform premium for each of the employer's employees or that charges a single aggregate premium for the group of covered employees that the employer may then divide by the number of covered employees to determine the uniform premium is referred to as using "composite billing."

(c) A health insurer that lists a separate premium for each employee based on the age of the employee or other factors is referred to as using “list billing.”

(d) A “tier” of coverage is coverage under a benefits package that varies only by the number of individuals covered. For example, self-only coverage, self plus one coverage, and family coverage would constitute three separate tiers of coverage.

(e) The “employer-computed composite rate” for a tier of coverage is the average rate determined by adding the premiums for that tier of coverage for all employees eligible to participate in the employer’s health insurance plan (whether or not they actually receive coverage under the plan or under that tier of coverage) and dividing by the total number of such eligible employees.

2. Employers Offering One Plan. An employer that offers a single health insurance plan will satisfy the uniformity requirement of section 45R if it satisfies the requirements of this subsection G.2. An employer whose health insurer uses composite billing must satisfy the requirements of paragraph (a) of this subsection G.2 with respect to self-only coverage under the plan. An employer whose health insurer uses list billing must satisfy the requirements of paragraph (c) of this subsection G.2 with respect to self-only coverage under the plan. If an employer offers a more expensive tier of coverage than single coverage, it must also satisfy paragraph (b) of this subsection G.2 with respect to each such more expensive tier if its insurer uses composite billing and paragraph (d) of this subsection G.2 if its insurer uses list billing.

(a).Employers offering one plan - Self-only coverage – composite billing. An employer satisfies the requirements of this paragraph (a) if it pays the same amount

toward the premium for each employee receiving self-only coverage under the plan, so long as that amount is equal to at least 50 percent of the self-only premium.

(b) Employers offering one plan -other tiers of coverage – composite billing. If an employer offers a tier of coverage that is more expensive than self-only coverage, the employer satisfies the requirements of this paragraph (b) if it pays an amount for each employee enrolled in that more expensive tier of coverage that is the same for all employees and that is no less than the amount that the employer would have contributed toward self-only coverage for that employee. Alternatively, an employer that offers a tier of coverage that is more expensive than self-only coverage may satisfy the requirements of this paragraph (b) by meeting the requirements of paragraph (a) of this subsection G.2 for each tier of coverage that it offers.

(c) Employers offering one plan -self-only coverage – list billing. An employer satisfies the requirements of this paragraph (c) if the employer either: (i) pays toward the premium an amount equal to a uniform percentage (not less than 50 percent) of the premium charged for each employee or (ii) converts the individual premiums for self-only coverage into an employer-computed composite rate for self-only coverage, and, if an employee contribution is required, each employee who receives coverage under the plan pays a uniform amount toward the self-only premium that is no more than 50 percent of the employer-computed composite rate for self-only coverage.

(d) Employers offering one plan -other tiers of coverage – list billing. If an employer offers a tier of coverage that is more expensive than self-only coverage, the employer satisfies the requirements of this paragraph (d) by paying toward the premium for each employee covered under that tier of coverage an amount equal to the

amount that the employer would have contributed with respect to that employee for self-only coverage, calculated either based upon the actual premium that would have been charged by the insurer for that employee for self-only coverage or based upon the employer-computed composite rate for self-only coverage. Alternatively, an employer that offers a tier of coverage that is more expensive than self-only coverage may satisfy the requirements of this paragraph (d) by meeting the requirements of paragraph (b) of this subsection G.2 for each tier of coverage that it offers and substituting the employer-computed composite rate for that tier of coverage for the employer-computed composite rate for self-only coverage.

3. Employers Offering More than One Plan. If an employer offers more than one health insurance plan (i.e., more than one benefit package), the employer may satisfy the uniformity requirement in either of two ways:

(a) The employer's payments toward the premium with respect to each plan for which the employer is claiming the credit satisfy subsection G.2 on a plan-by-plan basis. The amounts or percentages of premium paid by the employer for each plan need not be identical, so long as the payments with respect to each plan satisfy subsection G.2, or

(b) If the requirements of subsection G.4 are satisfied, the employer may designate a "reference plan" and make employer contributions in accordance with the following requirements:

(i) The employer determines a level of employer contributions for each employee such that, if all eligible employees enrolled in the reference plan, the contributions would satisfy subsection G.2.

(ii) The employer allows each employee to apply the amount determined under (i) of this paragraph (b) either toward the reference plan or toward the cost of coverage under any of the other available plans.

4. Anti-abuse rule for employers offering more than one plan and using reference plan. The requirements of this subsection G.4 are satisfied if the self-only composite rate for the reference plan is at least 66 percent of the self-only composite rate for each non-reference plan with respect to which the employer claims the credit. For purposes of this paragraph, the self-only composite rate is, in the case of a plan with composite billing, the rate actually charged by the health insurance issuer for self-only coverage, and, in the case of a plan with list billing, the employer-computed composite rate for self-only coverage.

Example 1. (i) In 2011, Employer offers one health insurance plan, Plan A. The premiums for Plan A are \$5,000 per year for self-only coverage, and \$10,000 for family coverage. Employees can elect self-only or family coverage under Plan A.

(ii) Employer pays \$3,000 (60% of the premium) toward self-only coverage under Plan A and \$6,000 (60% of the premium) toward family coverage under Plan A.

(iii) Employer's contributions of 60% of the premium for each tier of coverage satisfy the uniformity requirement in § 45R(d)(4).

Example 2. (i) Same facts as Example 1, except that Employer pays \$3,000 (60% of the premium) for each employee electing self-only coverage under Plan A and pays \$3,000 (30% of the premium) for each employee electing family coverage under Plan A.

(ii) Employer's contributions of 60% of the premium toward self-only coverage and the same dollar amount toward the premium for family coverage satisfy the uniformity requirement in § 45R(d)(4).

Example 3. (i) In 2011, Employer offers two health insurance plans, Plan A and Plan B, both of which use composite billing. The premiums for Plan A are \$5,000 per year for self-only coverage and \$10,000 for family coverage. The premiums for Plan B are \$7,000 per year for self-only coverage and \$13,000 for family coverage. Employees can elect self-only or family coverage under either Plan A or Plan B.

(ii) Employer pays \$3,000 (60% of the premium) for each employee electing self-only coverage under Plan A, \$3,000 (30% of the premium) for each employee electing family coverage under Plan A, \$3,500 (50% of the premium) for each employee electing self-only coverage under Plan B, and \$3,500 (27% of the premium) for each employee electing family coverage under Plan B.

(ii) Employer's contributions of 60% of the premiums for self-only coverage and the same dollar amounts toward the premium for family coverage under Plan A, and of 50% of the premium for self-only of coverage and the same dollar amount toward the premium for family coverage under Plan B, satisfy the uniformity rule on a plan-by-plan basis; therefore the employer's contributions to both plans satisfy the uniformity requirement in § 45R(d)(4).

Example 4. (i) Same facts as Example 3, except that Employer designates Plan A as the reference plan. Employer pays \$2,500 (50% of the premium) for each employee electing self-only coverage under Plan A and pays \$2,500 of the premium for each employee electing family coverage under Plan A or either self-only or family coverage under Plan B.

(iii) The self-only composite rate for Plan A (\$5,000) is greater than 66% of the self-only composite rate for Plan B (\$7,000). ($\$5,000 \div \$7,000 = 71\%$).

(iv) Employer's contribution of \$2,500 toward the premium of each employee enrolled under Plan A or Plan B satisfies the uniformity requirement in § 45R(d)(4).

Example 5. (i) Same facts as Example 4, except that the self-only composite rate for Plan B is \$8,000.

(ii) The self-only composite rate for Plan A (\$5,000) is less than 66% of the self-only composite rate for Plan B (\$8,000). ($\$5,000 \div \$8,000 = 63\%$). Accordingly, Employer may not designate Plan A as the reference plan. The Employer's contribution of \$2,500 toward the premium of each employee enrolled under Plan B fails to satisfy the uniformity requirement in § 45R(d)(4) and the Employer is not eligible for a credit with respect to the premiums paid for Plan B. However, the Employer's contribution of \$2,500 toward the premium of each employee enrolled under Plan A satisfies the uniformity requirement in § 45R(d)(4) and, accordingly, if the other requirements of section 45R are satisfied, the Employer may receive a credit with respect to its contributions to Plan A.

Example 6. (i) For the 2011 taxable year, Employer receives a list billing premium quote from Health Insurance Issuer W for health insurance coverage for each of Employer's four employees.

(ii) For Employee L, age 20, the self-only premium is \$3,000 per year, and the family premium is \$8,000. For Employees M, N and O, each age, 40, the self-only premium is \$5,000 per year and the family premium is \$10,000.

(iii) The total self-only premium for the four employees is \$18,000 ($\$3,000 + (3 \times 5,000)$). Employer calculates a employer-computed composite self-only rate of \$4,500 ($\$18,000 \div 4$).

(iii) Employer offers to make contributions such that each employee would need to pay \$2,000 of the premium for self-only coverage. Under this arrangement, Employer would contribute \$1,000 toward self-only coverage for L and \$3,000 toward self-only coverage for M, N, and O. In the event an employee elects family coverage, Employer would make the same contribution (\$1,000 for L or \$3,000 for M, N, or O) toward the family premium.

(v) Employer satisfies the uniformity requirement in § 45R(d)(4), because it offers and makes contributions based on an employer-calculated composite self-only rate such that, to receive self-only coverage, each employee must pay a uniform amount which is not more than 50 percent of the composite rate, and it allows employees to use the same employer contributions toward family coverage.

Example 7. (i) Same facts as Example 6, except that Employer calculates a employer-computed composite family rate of \$9,500 ($(\$8,000 + (3 \times 10,000)) \div 4$) and requires each employee to pay \$4,000 of the premium for family coverage.

(ii) Employer satisfies the uniformity requirement in § 45R(d)(4), because it offers and makes contributions based on a calculated self-only and family rate such that, to receive either self-only or family coverage, each employee must pay a uniform amount which is not more than 50 percent of the composite rate for coverage of that tier.

Example 8. (i) Same facts as Example 6, except that Employer also receives a list billing premium quote from Health Insurance Issuer X for health insurance coverage for each of Employer's four employees, in addition to the list billing premium quote from Health Insurance Issuer W.

(ii) Health Insurance Issuer X's quote for Employee L, age 20, is \$4,000 per year for self-only coverage or \$12,000 per year for family coverage. For Employees M, N and O, each age 40, the premium is \$7,000 per year for self-only coverage or \$15,000 per year for family coverage.

(iii) The total self-only premium under Plan X is \$25,000 ($\$4,000 + (3 \times 7,000)$). The employer-computed composite self-only rate is \$6,250 ($\$25,000 \div 4$).

(iv) Employer designates Health Insurance Issuer W's health care coverage as the reference plan.

(v) Employer offers to make contributions based on the employer-calculated composite premium for the reference plan (Plan W) such that each employee has to contribute \$2,000 to receive self-only coverage through Plan W. Under this arrangement, Employer would contribute \$1,000 toward self-only coverage for L and \$3,000 toward self-only coverage for M, N, and O. In the event an employee elects family coverage through Plan W or either self-only or family coverage through Plan X, Employer would make the same contribution (\$1,000 for L or \$3,000 for M, N, or O) toward that coverage.

(vi) The self-only composite rate for Plan W (\$5,000) is at least 66% of the self-only composite rate for Plan X (\$6,250). ($\$5,000 \div \$6,250 = 80\%$).

(vii) Employer satisfies the uniformity requirement in § 45R(d)(4), because it offers and makes contributions based on the employer-calculated composite self-only premium for the Plan W reference plan such that, in order to receive self-only coverage, each employee must pay a uniform amount which is not more than 50 percent of the self-only composite premium of the reference plan; it allows employees to use the same employer contributions toward family coverage in the reference plan or coverage through another plans; and the self-only composite rate for the reference plan is at least 66% of the self-only composite rate for the non-reference plan.

Section 45R does not impose a coverage requirement (although, other provisions of the Code, such as § 105(h), may impose coverage requirements on the health plan).

IV. ISSUES RELATING TO CALCULATING THE CREDIT

A. Small Group Market - Employees in Multiple States

Under § 45R(b)(2), the credit is limited by the average premium for the small group market in the State (or area within the State) in which the employee enrolls for coverage. See Rev. Rul. 2010-13, 2010-13 I.R.B. 691, for average State premiums for the taxable year beginning after December 31, 2009. If an employer has employees in multiple States, the employer applies the average premium for the small group market in the State (or area within the State) separately for each employee using the average State premium for the State in which the employee works.

B. Application of Average Premium Cap

Under § 45R(b)(2) and 45R(g)(2)(c), the amount of an employer's premium payments that are taken into account in calculating the credit is limited to the premium payments the employer would have made under the same arrangement if the average premium for the small group market in the State (or an area within the State) in which the employer offers coverage were substituted for the actual premium. See Notice 2010-44 for additional detail. Rev. Rul. 2010-13, 2010-21 IRB 691 lists the applicable average premium for self-only and family plans in the small group market in each State for the 2010 taxable year. For purposes of this calculation, the cap that is used for each employee (be it self-only or family) depends on the coverage the employee takes. This is not affected by whether the employer's contribution for that employee is determined with reference to the self-only plan, or whether an employer satisfies the uniformity requirement in § 45R(d)(4) by paying an amount equal to at least 50 percent of the premium for self-only coverage.

Example 9. (i) In 2011, Employer offers one health insurance plan, Plan X. The premiums for Plan X are \$4,000 per year for self-only coverage, and \$6,000 for family coverage.

(ii) Employer pays 50% of the premiums (\$2,000) for each employee electing self-only coverage and pays \$2,000 for each employee electing family coverage.

(iii) \$2,000 is 50% of the premium for self-only coverage and 33% of the premium for family coverage.

(iv) For employees electing self-only coverage, the limitation to the average State premium for the small group market is 50% of the premium for self-only coverage, and for employees electing family coverage, the limitation to the average State premium for the small group market is 33% of the premium for family coverage.

C. Taxpayers With Fiscal Taxable Years

Section 45R is effective for taxable years beginning after December 31, 2009. If a taxpayer is a calendar year taxpayer, the § 45R credit first applies for the taxable year beginning on January 1, 2010 and ending on December 31, 2010. If the taxpayer is a fiscal year taxpayer with a taxable year beginning, for example, on July 1, 2010, the § 45R credit first applies for the taxable year beginning on July 1, 2010 and ending on June 30, 2011.

EFFECT ON OTHER DOCUMENTS

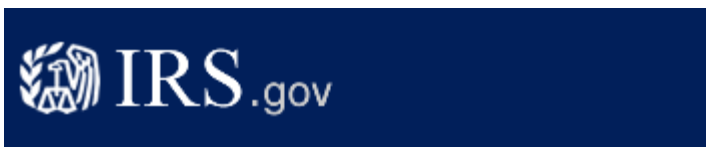
Notice 2010-44, 2010-22 I.R.B. 717, is amplified.

EFFECTIVE DATE

Section 45R is effective for taxable years beginning after December 31, 2009.

DRAFTING INFORMATION

The principal author of this notice is Mireille Khoury of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding this notice contact Stephanie Caden at (202) 622-6080 (not a toll-free call).



Small Business Health Care Tax Credit: Frequently Asked Questions

The new health reform law gives a tax credit to certain small employers that provide health care coverage to their employees, effective with tax years beginning in 2010. The following questions and answers provide information on the credit as it applies for 2010-2013, including information on transition relief for 2010. Additional guidance on the credit is available in Notices [2010-44](#) and [2010-82](#).

An enhanced version of the credit will be effective beginning in 2014. The new law, the Patient Protection and Affordable Care Act, was passed by Congress and was signed by President Obama on March 23, 2010.

Employers Eligible for the Credit

1. Which employers are eligible for the small business health care tax credit?

A. Small employers that provide health care coverage to their employees and that meet certain requirements ("qualified employers") generally are eligible for a federal income tax credit for health insurance premiums they pay for certain employees. In order to be a qualified employer, (1) the employer must have fewer than 25 full-time equivalent employees ("FTEs") for the tax year, (2) the average annual wages of its employees for the year must be less than \$50,000 per FTE, and (3) the employer must pay the premiums under a "qualifying arrangement" described in Q/A-7. See Q/A-16 through 25 for further information on calculating FTEs and average annual wages and see Q/A-35 for information on transition relief for tax years beginning in 2010 with respect to the requirements for a qualifying arrangement.

2. Can a tax-exempt organization be a qualified employer?

A. Yes. The same definition of qualified employer applies to an organization described in Code section 501(c) that is exempt from tax under Code section 501(a). However, see Q/A-11 for special rules that apply in calculating the credit for a tax-exempt qualified employer. An employer that is an agency or instrumentality of the federal government, or of a state, local or Indian tribal government, is not a qualified employer unless it is an organization described in Code section 501(c) that is exempt from tax under Code section 501(a).

3. Can organizations, such as farmers cooperatives, not described in section 501(c) and exempt from taxation under section 501(a) be eligible to claim the small business health care tax credit?

A. Tax-exempt organizations that are not described in section 501(c) and exempt from taxation under section 501(a) are not eligible to claim the small business health care tax credit. However, a section 521 farmers cooperative that is subject to tax under section 1381 is eligible to claim the small business health care tax credit as a taxable employer, if it otherwise meets the definition of an eligible small employer.

4. Can a household employer be a qualified employer, even if not directly engaged in a trade or business?

A. Yes. For tax years beginning in 2010 through 2013, an employer may still be a qualified employer even though the employees of the employer are not performing services in a trade or business.

5. Can a small employer outside the U.S. be a qualified employer?

A. For tax years beginning in 2010 through 2013, a qualified employer located outside the United States (including an employer located in a U.S. territory), which has income effectively connected with the conduct of a trade or business in the United States, may claim the small business health care tax credit only if it pays premiums for an employee's health insurance coverage that is issued in and regulated by one of the 50 states or the District of Columbia.

6. How are employer contributions to a multiemployer plan treated for purposes of the credit?

A. Contributions by an employer to a multiemployer plan that are used to pay premiums for health insurance coverage for employees covered by the multiemployer plan are treated as payment of health insurance premiums by the employer for purposes of the credit. However, in order to be eligible for the credit, 100 percent of the cost of coverage for all employees covered by the multiemployer plan must be paid from employer contributions, and not by employees. See [Notice 2010-82](#) for further guidance.

Calculation of the Credit

7. What expenses are counted in calculating the credit?

A. Only premiums paid by the employer under an arrangement meeting certain requirements (a “qualifying arrangement”) are counted in calculating the credit. Under a qualifying arrangement, the employer pays premiums for each employee enrolled in health care coverage offered by the employer in an amount equal to a uniform percentage (not less than 50 percent) of the premium cost of the coverage. However, a qualifying arrangement also includes an arrangement under which the employer pays at least 50 percent of the premium cost for single (employee-only) coverage for each employee enrolled in any health insurance coverage offered by the employer. Also, if the employer provides employees with more than one type of health insurance coverage or if the employer’s health insurance provider does not charge the same premium for all employees enrolled in single (employee-only) coverage, the employer may meet the qualifying arrangement requirement even though the employer paid less than 50 percent of the premium cost for some employees enrolled in single (employee-only) coverage. See section III.G of [Notice 2010-82](#) for detailed guidance on meeting the qualifying arrangement requirement.

For tax years beginning in 2010 through 2013, only premiums paid to a health insurance issuer, such as an insurance company or HMO, for health care coverage are counted for purposes of the credit. Premiums for health care coverage that covers a wide variety of conditions, such as a major medical plan, are counted and premiums for certain coverage that is more limited in scope, such as limited scope dental or vision coverage, are also counted. However, if an employer offers more than one type of coverage, such as a major medical plan and a separate limited scope dental or vision plan, the employer must separately satisfy the requirements for a qualifying arrangement with respect to each type of coverage the employer offers (meaning the employer cannot aggregate these different plans for purposes of meeting the qualifying arrangement requirement). In addition, employer contributions to health reimbursement arrangements (HRAs), health flexible spending arrangements (FSAs), and health savings accounts (HSAs) are not taken into account for purposes of the small business health care tax credit. For a detailed description of the types of coverage that are counted for the credit, see section II.G of [Notice 2010-44](#).

If an employer pays only a portion of the premiums for the coverage provided to employees under the arrangement, with employees paying the rest, the amount of premiums counted in calculating the credit is only the portion paid by the employer. For purposes of the credit, including the requirement to make a uniform contribution of not less than 50% of the premium, any premium paid pursuant to a salary reduction arrangement under a section 125 cafeteria plan is not treated as paid by the employer. For example, if an employer pays 80 percent of the premiums for employees’ coverage, with employees paying the other 20 percent pursuant to a salary reduction arrangement under a cafeteria plan, only the 80 percent premium amount paid by the employer counts in calculating the credit.

In addition, the amount of an employer’s premium payments that counts for purposes of the credit is capped by the premium payments the employer would have made under the same arrangement if the average premium for the small group market in the state in which the employer offers coverage were substituted for the actual premium. For example, if an employer pays 80 percent of the premiums for coverage provided to employees and the employees pay the other 20 percent, the premium amount that counts for purposes of the credit is the lesser of 80 percent of the total actual premiums paid or 80 percent of the premiums that would have been paid for the coverage if the average premium for the small group market in the state were substituted for the actual premium. The average premium for the small group market does not apply separately to each type of coverage the employer offers, but rather provides an overall cap for all health insurance coverage provided by a qualified employer. See Q/A-8 for information on the average premium for the small group market in a state.

Example 1: For the 2010 tax year, a qualified employer has 9 FTEs with average annual wages of \$23,000 per FTE. Six employees are enrolled in single coverage and 3 employees are enrolled in family coverage. The premiums are \$8,000 for single coverage for the year and \$14,000 for family coverage for the year (which do not exceed the average premiums for the small group market in the employer’s state). The employer pays 50% of the premium for single coverage for each employee enrolled in single or family coverage (50% x \$8,000 = \$4,000 for each employee). Thus, the employer pays \$4,000 of the premium for each of the 6 employees enrolled in single coverage and \$4,000 of the premium for each of the 3 employees enrolled in family coverage. The employer satisfies the uniformity requirement for a qualifying arrangement

Example 2: Same facts as in Example 1, except that the employer pays 50% of the premium for employees enrolled in single coverage (\$4,000 for each of those 6 employees) but pays none of the premium for employees enrolled in family coverage. The employer does not satisfy the uniformity requirement for a qualifying arrangement.

Example 3. (i) For the 2010 tax year, a qualified employer offers a health insurance plan with single and family coverage. Employer has 9 FTEs with average annual wages of \$23,000 per FTE. Four employees are enrolled in single coverage and 5 are enrolled in family coverage.

(ii) The employer pays 50% of the premiums for all employees enrolled in single coverage and 50% of the premiums for all employees enrolled in family coverage and the employee is responsible for the remainder in each case. The premiums are \$4,000 a year for single coverage and \$10,000 a year for family coverage. The average premium for the small group market in the employer's state is \$5,000 for single coverage and \$12,000 for family coverage.

(iii) The employer's premium payments for each FTE (\$2,000 for single coverage and \$5,000 for family coverage) do not exceed 50% of the average premium for the small group market in the employer's state (\$2,500 for single coverage and \$6,000 for family coverage).

(iv) Thus, the amount of premiums paid by the employer for purposes of computing the credit equals \$33,000 ((4 x \$2,000) plus (5 x \$5,000)).

Example 4: (i) Same facts as in Example 3, except that the premiums are \$6,000 for single coverage and \$14,000 for family coverage and the employer pays 50% of these amounts.

(ii) The employer's premium payments for each employee (\$3,000 for single coverage and \$7,000 for family coverage) exceed 50% of the average premium for the small group market in the employer's state (\$2,500 for single coverage and \$6,000 for family coverage).

(iii) Thus, the amount of premiums paid by the employer for purposes of computing the credit equals \$40,000 ((4 x \$2,500) plus (5 x \$6,000)).

Example 5: (i) For the 2010 tax year, a qualified employer offers a major medical plan and a dental plan. The employer pays 50% of the premium cost for single coverage for all employees enrolled in the major medical plan and 50% of the premium cost for single coverage for all employees enrolled in the dental plan.

(ii) For purposes of calculating the credit, the employer can take into consideration the premiums paid by the employer for both the major medical plan and the dental plan, but only up to 50% of the amount of the average premium for single coverage for the small group market in the employer's state.

Example 6: (i) Same facts as in Example 5, except that the employer pays 40% of the premium cost for single coverage for all employees enrolled in the dental plan.

(ii) For purposes of calculating the credit, the employer can take into consideration only the premiums paid by the employer for the major medical plan, and only up to 50% of the amount of the average premium for single coverage for the small group market in the employer's state. The employer cannot take into consideration premiums paid for the dental plan because the employer did not pay at least 50% of the premium cost for employees enrolled in the dental plan.

8. What is the average premium for the small group market in a state?

A. The average premium is determined by the Department of Health and Human Services (HHS). [Revenue Ruling 2010-13](#) sets forth the average premium for the small group market in each state for the 2010 tax year.

9. How does the average premium for the small group market apply in the case of an employer who has employees in multiple states?

A. If an employer has employees in multiple states, the employer applies the average state premium for the small group market separately for each employee using the average state premium for the state in which the employee works.

10. What is the maximum credit for a qualified employer (other than a tax-exempt employer)?

A. For tax years beginning in 2010 through 2013, the maximum credit is 35 percent of the employer's premium expenses that count towards the credit, as described in Q/A-7.

11. What is the maximum credit for a tax-exempt qualified employer?

A. For tax years beginning in 2010 through 2013, the maximum credit for a tax-exempt qualified employer is 25 percent of the employer's premium expenses that count towards the credit, as described in Q/A-7. However, the amount of the credit cannot exceed the total amount of income and Medicare (i.e., hospital insurance) tax the employer is required to withhold from employees' wages for the year and the employer share of Medicare tax on employees' wages for the year.

12. How is the credit reduced if the number of FTEs exceeds 10 or average annual wages exceed \$25,000?

A. If the number of FTEs exceeds 10 or if average annual wages exceed \$25,000, the amount of the credit is reduced as follows. If the number of FTEs exceeds 10, the reduction is determined by multiplying the otherwise applicable credit amount by a fraction, the numerator of which is the number of FTEs in excess of 10 and the denominator of which is 15. If average annual wages exceed \$25,000, the reduction is determined by multiplying the otherwise applicable credit amount by a fraction, the numerator of which is the amount by which average annual wages exceed \$25,000 and the denominator of which is \$25,000. In both cases, the result of the calculation is subtracted from the otherwise applicable credit to determine the credit to which the employer is entitled. For an employer with both more than 10 FTEs and average annual wages exceeding \$25,000, the reduction in the credit amount is equal to the sum of the amount of the two reductions. This sum may reduce the credit to zero for some employers with fewer than 25 FTEs and average annual wages of less than \$50,000.

Example 7: For the 2010 tax year, a qualified taxable employer has 9 FTEs with average annual wages of \$23,000 per FTE. The employer pays \$72,000 in health care premiums for those employees, which does not exceed the average premium for the small group market in the employer's state, and otherwise meets the requirements for the credit. The credit for 2010 equals \$25,200 (35% x \$72,000).

Example 8: For the 2010 tax year, a qualified tax-exempt employer has 10 FTEs with average annual wages of \$21,000 per FTE. The employer pays \$80,000 in health care premiums for those employees, which does not exceed the average premium for the small group market in the employer's state, and otherwise meets the requirements for the credit. The total amount of the employer's income tax and Medicare tax withholding plus the employer's share of the Medicare tax equals \$30,000 in 2010.

The credit is calculated as follows:

- (1) Initial amount of credit determined before any reduction: $(25\% \times \$80,000) = \$20,000$
- (2) Employer's withholding and Medicare taxes: \$30,000
- (3) Total 2010 tax credit is \$20,000 (the lesser of \$20,000 and \$30,000).

Example 9: For the 2010 tax year, a qualified employer has 12 FTEs and average annual wages of \$30,000. The employer pays \$96,000 in health care premiums for those employees, which does not exceed the average premium for the small group market in the employer's state, and otherwise meets the requirements for the credit.

The credit is calculated as follows:

- (1) Initial amount of credit determined before any reduction: $(35\% \times \$96,000) = \$33,600$
- (2) Credit reduction for FTEs in excess of 10: $(\$33,600 \times 2/15) = \$4,480$
- (3) Credit reduction for average annual wages in excess of \$25,000: $(\$33,600 \times \$5,000/\$25,000) = \$6,720$
- (4) Total credit reduction: $(\$4,480 + \$6,720) = \$11,200$
- (5) Total 2010 tax credit: $(\$33,600 - \$11,200) = \$22,400$.

13. Can premiums paid by the employer in 2010 before the new health reform legislation was enacted be counted in calculating the credit?

A. Yes. In computing the credit for a tax year beginning in 2010, employers may count all premiums described in Q/A-7

for that tax year.

14. What effect do state credits and state subsidies for health insurance have on the amount of the federal health care tax credit?

A. Some states offer tax credits or a premium subsidy to certain small employers that provide health insurance to their employees. Generally, the premium subsidy is provided in the form of payments made either directly to the employer or to the employer's insurance company. The effect these credits and subsidies have on the amount of an employer's federal health care tax credit depends on whether the direct recipient of the state payment is the employer or the employer's insurance company.

If an employer is entitled to a state tax credit (whether refundable or nonrefundable) or a premium subsidy that is paid directly to the employer, the premium payment made by the employer is not reduced by the state credit or subsidy for purposes of determining whether the employer has satisfied the qualifying arrangement requirement to pay an amount equal to a uniform percentage (not less than 50 percent) of the premium cost. Also, except as described below, the maximum amount of the federal health care tax credit is not reduced by reason of a state tax credit (whether refundable or nonrefundable) or by reason of payments by a state directly to an employer.

Generally, if a state makes payments directly to an insurance company to pay a portion of the premium for coverage of an employee under employer-provided health insurance (state direct payments), the state is treated as making these payments on behalf of the employer for purposes of determining whether the employer has satisfied the qualifying arrangement requirement to pay an amount equal to a uniform percentage (not less than 50 percent) of the premium cost of coverage. Also, except as described below, these premium payments by the state are treated as an employer contribution for purposes of calculating the federal health care tax credit.

Although state tax credits and payments made directly to an employer generally do not reduce an employer's otherwise applicable federal health care tax credit, and although state direct payments are generally treated as paid on behalf of an employer, the federal health care tax credit cannot exceed the amount of the employer's net premium payments. In the case of a state tax credit for an employer or a state subsidy paid directly to an employer, the employer's net premium payments are calculated by subtracting the state tax credit or subsidy from the employer's actual premium payments. In the case of a state direct payment, the employer's net premium payments are the employer's actual premium payments.

If a state-administered program (such as Medicaid or another program that makes payments directly to a health care provider or insurance company on behalf of individuals and their families who meet certain eligibility guidelines) makes payments that are not contingent on the maintenance of an employer-provided group health plan, those payments are not taken into account in determining the federal health care tax credit.

Example 10: (i) Employer's state provides a health insurance premium subsidy of up to 40% of the health insurance premiums for each eligible employee. The state pays the subsidy directly to the employer.

(ii) Employer has one employee, Employee D. Employee D's health insurance premiums are \$100 per month and are paid as follows: \$80 by the employer and \$20 by Employee D through salary reductions under a cafeteria plan. The state pays employer \$40 per month as a subsidy for employer's payment of insurance premiums on behalf of Employee D. Employer is otherwise a qualified employer that meets the requirements for the federal health care tax credit.

(iii) For purposes of the requirements for a qualifying arrangement, and for purposes of calculating the amount of the federal health care tax credit, the amount of premiums paid by the employer is \$80 per month (the premium payment by the employer without regard to the subsidy from the state).

Example 11: (i) Employer's state provides a health insurance premium subsidy of up to 50% for each eligible employee. The state pays the premium directly to the employer's health insurance provider.

(ii) The employer has one employee. The employee is enrolled in single coverage under the employer's health insurance plan.

(iii) The employee's health insurance premiums are \$100 per month and are paid as follows: \$30 by the employer; \$50 by the state and \$20 by the employee. The state pays the \$50 per month directly to the insurance company and the

insurance company bills the employer for \$50 per month (the sum of the employer and employee's share). The employer is otherwise a qualified employer that meets the requirements for the federal health care tax credit.

(iv) For purposes of determining whether the employer meets the requirements for a qualifying arrangement, and for purposes of calculating the amount of the federal health care tax credit, the amount of premiums paid by the employer is \$80 per month (the sum of the employer's payment and the state's payment, which is treated as having been made on behalf of the employer).

Example 12: (i) Employer's state provides a health insurance premium subsidy of up to 50% for each eligible employee. The state pays the premium directly to the employer's health insurance provider.

(ii) The employer has one employee. The employee is enrolled in single coverage under employer's health insurance plan.

(iii) The employee's health insurance premiums are \$100 per month and are paid as follows: \$20 by the employer; \$50 by the state and \$30 by the employee. The state pays the \$50 per month directly to the insurance company and the insurance company bills the employer for \$50 per month (the sum of the employer's and employee's shares). The employer is otherwise a qualified employer that meets the requirements for the federal health care tax credit.

(iv) For purposes of determining whether the employer meets the requirements for a qualifying arrangement, the amount of premiums paid by the employer is \$70 per month (the sum of the employer's payment and the state's payment, which is treated as having been made on behalf of the employer), which is more than 50% of the \$100 monthly premium payment. The amount of the premium for calculating the maximum federal health care tax credit is also \$70 per month. The maximum credit is \$24.50 ($\$70 \times 35\%$).

(v) The employer's net premium payment is \$20 (the amount actually paid by the employer excluding the state subsidy). After applying the limit for the employer's net premium payment, the federal health care tax credit is \$20 per month (the lesser of \$24.50 or \$20).

15. Are church welfare benefit plans considered qualifying health care arrangements for purposes of the small business health care tax credit?

A. An arrangement under which an otherwise qualifying small church employer pays premiums for employees who receive medical care coverage under a church welfare benefit plan may be a qualifying arrangement for purposes of the small business health care tax credit.

Determining FTEs and Average Annual Wages

16. How is the number of FTEs determined for purposes of the credit?

A. The number of an employer's FTEs is determined by dividing (1) the total hours of service for which the employer pays wages to employees during the year (but not more than 2,080 hours for any employee) by (2) 2,080. The result, if not a whole number, is then rounded to the next lowest whole number (unless the result is less than one, in which case, the employer rounds up to one FTE). See Q/A-19 through 25 for information on which employees are or are not counted for purposes of determining FTEs.

An employee's hours of service for a year include each hour for which an employee is paid, or entitled to payment, for the performance of duties for the employer during the employer's tax year and each hour of paid leave (except that no more than 160 hours of service are required to be counted for an employee on account of any single continuous period of paid leave). To calculate the total number of hours of service which must be taken into account for an employee for the year, the employer may use any of the following methods: (1) determine actual hours of service from records of hours worked and hours for which payment is made or due, including hours for paid leave; (2) use a days-worked equivalency whereby the employee is credited with 8 hours of service for each day for which the employee would be required to be credited with at least one hour of service under Method 1; or (3) use a weeks-worked equivalency whereby the employee is credited with 40 hours of service for each week for which the employee would be required to be credited with at least one hour of service under Method 1. Employers do not have to use the same method for all employees, but may apply different methods for different classifications of employees, if the classifications are reasonable and consistently applied. For example, it is permissible for an employer to use Method 1 for all hourly employees and the Method 3 for all salaried employees. Employers may change the method for calculating

employees' hours of service for each taxable year.

Example 13: (i) For the 2010 tax year, an employer's payroll records indicate that an employee worked 2,000 hours and was paid for an additional 80 hours on account of vacation, holiday and illness. In calculating hours of service, the employer uses a method that counts hours actually worked.

(ii) Under this method of counting hours, Employee A must be credited with 2,080 hours of service (2,000 hours worked and 80 hours for which payment was made or due).

Example 14: (i) For the 2010 tax year, an employee worked 49 weeks, took 2 weeks of vacation with pay, and took 1 week of leave without pay. In calculating hours of service, the employer uses the weeks-worked equivalency method.

(ii) Under this method of counting hours, Employee B must be credited with 2,040 hours of service (51 weeks multiplied by 40 hours per week).

Example 15: (i) For the 2010 tax year, an employer pays 5 employees wages for 2,080 hours each, 3 employees wages for 1,040 hours each, and 1 employee wages for 2,300 hours. In calculating hours of service, the employer uses a method that counts hours actually worked.

(ii) The employer's FTEs would be calculated as follows:

(1) Total hours not exceeding 2,080 per employee is 15,600 hours, calculated as the sum of:

- a. 10,400 hours for the 5 employees paid for 2,080 hours each (5 x 2,080)
 - b. 3,120 hours for the 3 employees paid for 1,040 hours each (3 x 1,040)
 - c. 2,080 hours for the 1 employee paid for 2,300 hours (lesser of 2,300 and 2,080)
- (2) Based on 15,600 hours of service, the employer has 7 FTEs (15,600 divided by 2,080 = 7.5, rounded to the next lowest whole number).

Example 16: (i) For the 2010 tax year, an employer has 26 FTEs with average annual wages of \$23,000 per FTE. Only 20 of the employer's employees are enrolled in the employer's health insurance plan.

(ii) The hours of service and wages of all employees are taken into consideration in determining whether the employer is a qualified employer for purposes of the credit. Because the employer does not have fewer than 25 FTEs for the tax year, the employer is not a qualified employer for purposes of the credit.

17. How is the amount of average annual wages determined?

A. The amount of average annual wages is determined by first dividing (1) the total wages paid by the employer during the employer's tax year to employees who perform services for the employer during the tax year by (2) the number of the employer's FTEs for the year, as calculated under Q/A-16. The result is then rounded down to the nearest \$1,000 (if not otherwise a multiple of \$1,000). Only wages that are paid for hours of service determined in accordance with Q/A-16 are taken into account. Wages for this purpose means wages as defined for purposes of the Federal Insurance Contributions Act (FICA) (without regard to the wage base limitation). See Q/A-19 through 25 for information on which employees who perform services for the employer during the tax year are counted as employees for purposes of determining the amount of average annual wages.

Example 17: (i) For the 2010 tax year, an employer pays a total of \$224,000 in wages to employees who perform services for the employer during the tax year and has 10 FTEs.

(ii) The employer's average annual wages are \$22,400 (\$224,000 divided by 10 = \$22,400, rounded down to the nearest \$1,000).

18. Can an employer with 25 or more employees qualify for the credit if some of its employees are part-time?

A. Yes. Because the limitation on the number of employees is based on FTEs, an employer with 25 or more employees could qualify for the credit if some of its employees work part-time. For example, an employer with 46 half-time employees (meaning each employee is paid wages for 1,040 hours) has 23 FTEs and therefore may qualify for the credit.

19. Are seasonal workers counted in determining the number of FTEs and the amount of average annual wages?

A. Generally, no. Seasonal workers are disregarded in determining FTEs and average annual wages, unless the seasonal worker works for the employer on more than 120 days during the tax year. However, premiums paid by the employer on behalf of seasonal employees may be counted in determining the amount of the employer's credit.

20. Are leased employees counted in determining the number of FTEs and the amount of average annual wages?

A. Leased employees (as defined in section 414(n)) are counted in computing an employer's FTEs and average annual wages. However, premiums for health insurance coverage paid by a leasing organization for a leased employee are not taken into account by the service-recipient in computing the service-recipient's section 45R credit.

21. If an owner of a business also provides services to the business, does the owner count as an employee for purposes of the credit?

A. Generally, no. A sole proprietor, a partner in a partnership, a shareholder owning more than two percent of an S corporation, and any owner of more than five percent of other businesses are not considered employees for purposes of the credit. Thus, the wages or hours of these business owners and partners are not counted in determining either the number of FTEs or the amount of average annual wages, and premiums paid on their behalf are not counted in determining the amount of the credit.

22. Do family members of a business owner who work for the business count as employees for purposes of the credit?

A. Generally, no. A family member of any of the business owners or partners listed in Q/A-21, or a member of such a business owner's or partner's household, is not considered an employee for purposes of the credit. Thus, neither their wages nor their hours are counted in determining the number of FTEs or the amount of average annual wages, and premiums paid on their behalf are not counted in determining the amount of the credit. For this purpose, a family member is defined as a child (or descendant of a child); a sibling or step-sibling; a parent (or ancestor of a parent); a step-parent; a niece or nephew; an aunt or uncle; or a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law or sister-in-law. In addition, spouses of certain business owners are not considered employees for purposes of the credit. Specifically, the following spouses are not taken into account for purposes of the credit: the employee-spouse of a shareholder owning more two percent of the stock of an S corporation; the employee-spouse of an owner of more than five percent of a business; the employee-spouse of a partner owning more than a five percent interest in a partnership; and the employee-spouse of a sole proprietor.

23. How is eligibility for the credit determined if the employer is a member of a controlled group or an affiliated service group?

A. Members of a controlled group (e.g., businesses with the same owners) or an affiliated service group (e.g., related businesses of which one performs services for the other) are treated as a single employer for purposes of the credit. Thus, for example, all employees of the controlled group or affiliated service group, and all wages paid to employees by the controlled group or affiliated service group, are counted in determining whether any member of the controlled group or affiliated service group is a qualified employer. Rules for determining whether an employer is a member of a controlled group or an affiliated service group are provided under sections 414(b), (c), (m), and (o).

24. Can a tax-exempt organization described in section 501(c) include a minister in its calculation when determining eligibility for the small business health care tax credit?

A. The answer depends on whether, under the common law test for determining worker status, the minister is considered an employee of the tax-exempt organization or self-employed. If the minister is an employee, he or she is taken into account in determining an employer's FTEs for purposes of the health care tax credit. Also, premiums paid by the employer for the health insurance coverage of a minister who is an employee can be taken into account in computing the credit, subject to limitations on the credit. If the minister is self-employed, he or she is not taken into account in determining an employer's FTEs or premiums paid.

25. Are the wages of a minister taken into account when computing average annual wages for purposes of

determining eligibility for the credit?

A. No. Compensation paid to ministers who are common law employees for duties performed in the exercise of their ministry is not subject to FICA taxes and is not wages as defined in section 3121(a). Thus, the wages of a minister that is a common law employee are not be taken into account for purposes of computing average annual wages.

How to Claim the Credit

26. How does an employer (other than a tax-exempt employer) claim the small business health care tax credit?

A. An employer (other than a tax-exempt employer) claims the credit on the employer's annual income tax return, with an attached [Form 8941](#) showing the calculation of the credit.

27. How does a tax-exempt employer claim the small business health care tax credit?

A. A tax-exempt employer described in section 501(c) that is exempt from tax under section 501(a) claims the refundable credit by filing a Form 990-T with an attached Form 8941 showing the calculation of the claimed credit. See Q/A-2 for further information on which tax-exempt employers are eligible or the small business health care tax credit.

28. May an employer use the small business health care tax credit to offset its alternative minimum tax (AMT) liability?

A. Yes. The credit can be used to offset an employer's AMT liability for the year, subject to certain limitations based on the amount of an employer's regular tax liability, AMT liability and other allowable credits. See section 38(c)(1), as modified by section 38(c)(4)(B)(vi).

29. Can an employer (other than a tax-exempt employer) claim the credit if it has no taxable income and no AMT liability for the year?

A. Generally, no. Except in the case of a tax-exempt employer, the credit for a year offsets only an employer's actual income tax liability or AMT liability, subject to certain limitations, for the year. However, as a general business credit, an unused credit amount can generally be carried back one year and carried forward 20 years. Because an unused credit amount cannot be carried back to a year before the effective date of the credit, though, an unused credit amount for 2010 can only be carried forward.

30. Can a tax-exempt employer claim the credit if it has no taxable income for the year?

A. Yes. For a tax-exempt employer, the credit is a refundable credit, so that even if the employer has no taxable income, the employer may receive a refund (so long as it does not exceed the employer's income tax withholding and Medicare tax liability, as discussed in Q/A-11).

31. Can the credit be reflected in determining estimated tax payments for a year?

A. Yes.

32. Does taking the credit affect an employer's deduction for health insurance premiums?

A. Yes. In determining the employer's allowable deduction for health insurance premiums, the amount of premiums that can be deducted is reduced by the amount of the credit.

33. May an employer reduce employment tax payments — withheld income tax, social security tax and Medicare tax — during the year in anticipation of the credit?

A. No. The credit applies against income tax, not employment taxes.

34 How is the credit applied for an employer with a fiscal tax year?

A. If the employer is a fiscal year taxpayer with a tax year beginning, for example, on July 1, 2010, the credit first applies for the taxable year beginning on July 1, 2010 and ending on June 30, 2011.

Transition Relief for Tax Years Beginning in 2010

35. Is there any transition relief available for tax years beginning in 2010 to make it easier for small employers to meet the requirements for a qualifying arrangement?

A. Yes. In [Notice 2010-44](#), the IRS and Treasury issued guidance providing that, for tax years beginning in 2010, certain transition relief applies with respect to the requirements for a qualifying arrangement described in Q/A-7. Specifically, an employer that pays at least 50% of the premium for each employee enrolled in coverage offered to employees by the employer is deemed to satisfy the qualifying arrangement requirement even though the employer does not pay a uniform percentage of the premium for each such employee. Accordingly, if the employer otherwise satisfies the requirements for the credit described above, it will qualify for the credit.

[Notice 2010-82](#) provides additional ways for a small employer to meet the requirements for a qualifying arrangement. For tax years beginning in 2010, an employer can satisfy the requirements for a qualifying arrangement by using the transition rule above or the rules in Notice 2010-82.

36. Can employers who do not satisfy the 2010 transition rule still meet the qualifying arrangement requirement for the tax year beginning in 2010?

A. Yes. Certain employers who do not satisfy the 2010 transition rule described in Q/A-35 (because they contribute less than 50% of the employee-only premium for some enrolled employees) may still qualify for the credit for the tax year beginning in 2010 under other rules for qualifying arrangements set forth in [Notice 2010-82](#). Employers who may be able to take advantage of these rules include, for example, employers who offer more than one type of health insurance coverage or whose insurance provider does not charge the same premium for all employees enrolled in single (employee-only) coverage. For details on these additional rules, see Notice 2010-82.

Page Last Reviewed or Updated: December 03, 2010



Instructions for Form 8941

Credit for Small Employer Health Insurance Premiums

Section references are to the Internal Revenue Code unless otherwise noted.

General Instructions

Purpose of Form

Eligible small employers (defined below) use Form 8941 to figure the credit for small employer health insurance premiums for tax years beginning after 2009. The maximum credit is a percentage of premiums the employer paid during the tax year for certain health insurance coverage the employer provided to certain employees. But the credit may be reduced by limitations based on the employer's full-time equivalent employees, average annual wages, state average premiums, and state premium subsidies and tax credits.

For **tax-exempt small employers**, the credit is generally 25% of premiums paid, is also limited to the amount of certain payroll taxes paid, and is claimed as a refundable credit on Form 990-T, Exempt Organization Business Income Tax Return. A tax-exempt small employer is an eligible small employer described in section 501(c) that is exempt from taxation under section 501(a). A tax-exempt employer not described in section 501(c) is generally not eligible to claim this credit. However, a tax-exempt farmers' cooperative subject to tax under section 1381 may be able to claim the credit as a general business credit as discussed next.

For **all other small employers**, the credit is generally 35% of premiums paid, can be taken against both regular and alternative minimum tax, and is claimed as part of the general business credit on Form 3800, General Business Credit.

TIP *If your only source for this credit is a partnership, S corporation, cooperative, estate, or trust, see the Tip under Specific Instructions on page 5.*

Eligible Small Employers

You are an eligible small employer for the tax year if you meet the following three requirements.

1. You paid premiums for employee health insurance coverage under a qualifying arrangement. A qualifying arrangement is generally an arrangement that requires you to pay a uniform percentage (not less than 50%) of the premium cost for each enrolled employee's health insurance coverage (defined on page 3). However, for a tax year beginning in 2010 only, a qualifying arrangement includes any arrangement that requires you to pay at least 50% of the premium cost for single (employee-only) coverage for each employee enrolled in any health insurance coverage you provide to employees, whether or not you pay a uniform percentage of the health care premium cost for each enrolled employee.

In addition, certain employers who do not satisfy the 2010 transition rule discussed above (because they contribute less than 50% of the employee-only premium for some enrolled employees) may still qualify for the

credit under other rules for qualifying arrangements. This may include, for example, employers who offer more than one type of health insurance coverage or whose insurance provider does not charge the same premium for all employees enrolled in single (employee-only) coverage. For details, see Notice 2010-82 as discussed under *More Information* on page 5.

For more details, see *Employer Premiums Paid, Health Insurance Coverage, and Qualifying Arrangement*, later.

2. You had fewer than 25 full-time equivalent employees (FTEs) for the tax year. You may be able to meet this requirement even if you had 25 or more employees. For details, see *Individuals Considered Employees and FTE Limitation*, later.

3. You paid average annual wages for the tax year of less than \$50,000 per FTE. For details, see *Individuals Considered Employees and Average Annual Wage Limitation*, later.



If you had more than 10 FTEs and average annual wages of more than \$25,000, the FTE and average annual wage limitations (discussed later) will separately reduce your credit. This may reduce your credit to zero even if you had fewer than 25 FTEs and average annual wages of less than \$50,000.

Employers treated as a single employer. Treat the following employers as a single employer to figure the credit.

- Employers who are corporations in a controlled group of corporations.
- Employers who are members of an affiliated service group.
- Employers who are partnerships, proprietorships, etc., under common control. See Regulations sections 1.414(c)-2, 1.414(c)-3, and 1.414(c)-4 for details.
- Tax-exempt employers under common control. See Regulations section 1.414(c)-5.

For details, see section 45R(e)(5)(A).



No more than one Form 8941 can be filed with a tax return, unless the exception described in Example 2 below applies.

Example 1. You are a sole proprietor with two separate businesses and you file a separate Schedule C (Form 1040) for each business. You must treat both businesses as a single employer to figure the credit. You will file one Form 8941 for both businesses.

Example 2. You and your spouse are both sole proprietors and file a separate Schedule C (Form 1040) for each of your separate businesses. Neither spouse was an employee of the other spouse or participated in the management of the other spouse's business at any time during the tax year. No more than 50% of the gross income of either business was derived from royalties, rents, dividends, interest, and annuities and you otherwise meet the requirements listed in Regulations section 1.414(c)-4(b)(5)(ii). Do not treat both businesses as a single employer to figure the credit. If you and your

spouse are both eligible small employers, you can file two Forms 8941 with a jointly filed Form 1040.

Individuals Considered Employees

In general, all employees who perform services for you during the tax year are taken into account in determining your FTEs, average annual wages, and premiums paid. Rules that apply to certain types of employees are discussed below.

Excluded employees. The following individuals are not considered employees when you figure this credit. Hours and wages of these employees and premiums paid for them are not counted when you figure your credit.

- The owner of a sole proprietorship.
- A partner in a partnership.
- A shareholder who owns (after applying the section 318 constructive ownership rules) more than 2% of an S corporation.
- A shareholder who owns (after applying the section 318 constructive ownership rules) more than 5% of the outstanding stock or stock possessing more than 5% of the total combined voting power of all stock of a corporation that is not an S corporation.
- A person who owns more than 5% of the capital or profits interest in any other business that is not a corporation.
- Family members or a member of the household who is not a family member but qualifies as a dependent on the individual income tax return of a person listed above. Family members include a child (or descendant of a child), a sibling or step sibling, a parent (or ancestor of a parent), a step-parent, a niece or nephew, an aunt or uncle, or a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law. A spouse is also considered a family member for this purpose.

Leased employees. Do not use premiums paid by the leasing organization to figure your credit. Also, a leased employee who is not a common law employee is considered an employee for credit purposes if he or she does all the following.

- Provides services to you under an agreement between you and a leasing organization.
- Has performed services for you (or for you and a related person) substantially full time for at least 1 year.
- Performs services under your primary direction or control.

But do not use hours, wages, or premiums paid with respect to the initial year of service on which leased employee status is based.

Seasonal employees. Seasonal employees who work for you 120 or fewer days during the tax year are not considered employees in determining FTEs and average annual wages. But premiums paid on their behalf are counted in determining the amount of the credit. Seasonal workers include retail workers employed exclusively during holiday seasons.

Household and other nonbusiness employees.

Household employees and other employees who are not performing services in your trade or business are considered employees if they otherwise qualify as discussed above. A sole proprietor must include both business and nonbusiness employees to determine FTEs, average annual wages, and premiums paid.

Ministers. A minister performing services in the exercise of his or her ministry is treated as self-employed for social security and Medicare purposes. However, for credit purposes, whether a minister is an employee or self-employed is determined under the common law test

for determining worker status. Self-employed ministers are not considered employees.

FTE Limitation

Your credit is reduced if you had more than 10 FTEs for the tax year. If you had 25 or more FTEs for the tax year, your credit is reduced to zero. However, you can still receive a credit from a partnership, S corporation, cooperative, estate, or trust (see the instructions for line 15 on page 8).

How to figure FTEs. To figure the number of FTEs you had for the tax year, you must do the following.

1. Figure the total hours of service (discussed below) for the tax year of all individuals considered employees.
2. Divide the total hours of service by 2,080.
3. If the result is not a whole number (0, 1, 2, etc.), generally round the result down to the next lowest whole number. For example, 10.99 is rounded down to 10. However, if the result is less than one, round up to 1.

Employee hours of service. An employee's hours of service for a year include the following.

- Each hour for which the employee is paid, or entitled to payment, for the performance of duties for the employer during the employer's tax year.
- Each hour for which an employee is paid, or entitled to payment, by the employer on account of a period of time during which no duties are performed due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty, or leave of absence (except that no more than 160 hours of service are required to be counted for an employee on account of any single continuous period during which the employee performs no duties).

Do not include hours of service of any seasonal employee who worked 120 or fewer days during the tax year. Also, do not include more than 2,080 hours of service from any employee.

To figure the total number of hours of service you must take into account for an employee for the year, you can use any of the following methods.

Actual hours worked method. Determine actual hours of service from records of hours worked and hours for which payment is made or due (payment is made or due for vacation, holiday, illness, incapacity, etc., as described above).

Days-worked equivalency method. Use a days-worked equivalency whereby the employee is credited with 8 hours of service for each day for which the employee would be required to be credited with at least one hour of service under the rules described above.

Weeks-worked equivalency method. Use a weeks-worked equivalency whereby the employee is credited with 40 hours of service for each week for which the employee would be required to be credited with at least one hour of service under the rules described above.

Average Annual Wage Limitation

Your credit is reduced if you paid average annual wages of more than \$25,000 for the tax year. If you paid average annual wages of \$50,000 or more for the tax year, your credit is reduced to zero. However, you can still receive a credit from a partnership, S corporation, cooperative, estate, or trust (see the instructions for line 15 on page 8).

How to figure average annual wages. To figure the average annual wages you paid for the tax year, you must do the following.

1. Figure the total wages paid (discussed below) for the tax year to all individuals considered employees.
2. Divide the total wages paid by the number of FTEs you had for the tax year (discussed earlier).
3. If the result is not a multiple of \$1,000 (\$1,000, \$2,000, \$3,000, etc.), round the result down to the next lowest multiple of \$1,000. For example, \$25,999 is rounded down to \$25,000.

Employee wages paid. Wages, for this purpose, mean wages subject to social security and Medicare tax withholding determined without considering any wage base limit. But do not include wages paid to any seasonal employees who worked 120 or fewer days during the tax year.

Employer Premiums Paid

Only premiums you paid for health insurance coverage under a qualifying arrangement (discussed later) for individuals considered employees are counted when figuring your credit. For this purpose, if you are entitled to a state tax credit or a state premium subsidy paid directly to you for premiums you paid, do not reduce the amount you paid by the credit or subsidy amount. Also, if a state pays a premium subsidy directly to your insurance provider, treat the subsidy amount as an amount you paid for employee health insurance coverage.

If you pay only a portion of the premiums and your employees pay the rest, only the portion you pay is taken into account. For this purpose, any premium paid through a salary reduction arrangement under a section 125 cafeteria plan is not treated as an employer paid premium. For more information on cafeteria plans, see section 1 of Publication 15-B, Employer's Tax Guide to Fringe Benefits.

Example 3. You offer health insurance coverage to employees under a qualifying arrangement that requires you to pay 60% of the premium cost for single (employee-only) coverage for each employee enrolled in any health insurance coverage you provide to employees. The total premium for each employee enrolled in single (employee-only) coverage is \$5,200 per year or \$100 ($\$5,200 \div 52$) for each weekly payday. The total premium for each employee enrolled in family coverage is \$12,376 per year or \$238 ($\$12,376 \div 52$) for each weekly payday.

Each payday you contribute \$60 (60% of \$100) toward the premium cost of each employee enrolled in single (employee-only) coverage and withhold the remaining \$40 from the employee's paycheck to obtain the \$100 total weekly premium. Each payday you contribute \$60 (the same amount you pay toward the premiums of employees enrolled in single coverage) toward the premium cost of each employee enrolled in family coverage and withhold the remaining \$178 from the employee's paycheck to obtain the \$238 total weekly premium.

To determine the premiums you paid during the tax year, multiply the number of pay periods during which the employee was enrolled in the health insurance coverage by \$60. For example, you would have paid \$3,120 ($\60×52) for an employee who was enrolled for the entire tax year. You would have paid \$600 ($\60×10) for an employee who was only enrolled for 10 pay periods. You

will need an additional set of calculations if the premium amounts changed during the tax year.

Health Insurance Coverage

For credit purposes, health insurance coverage means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a health insurance provider.

A health insurance provider is either an insurance company or another entity licensed under state law to provide health insurance coverage.

Health insurance coverage also includes coverage under the following plans.

- Limited scope dental or vision plans.
- Long-term care plans.
- Nursing home care plans.
- Home health care plans.
- Community-based care plans.
- Any combination of the above.

In addition, health insurance coverage includes the following.

- Coverage only for a specified disease or illness.
- Hospital indemnity or other fixed indemnity insurance.
- Medicare supplemental health insurance.
- Certain other supplemental coverage.
- Similar supplemental coverage provided to coverage under a group health plan.



Employer premiums paid for health insurance coverage can be counted in figuring the credit only if the premiums are paid under a qualifying arrangement.

Health insurance coverage **does not** include the following benefits.

- Coverage only for accident, or disability income insurance, or any combination thereof.
- Coverage issued as a supplement to liability insurance.
- Liability insurance, including general liability insurance and automobile liability insurance.
- Workers' compensation or similar insurance.
- Automobile medical payment insurance.
- Credit-only insurance.
- Coverage for on-site medical clinics.
- Other similar insurance coverage, specified in regulations, under which benefits for medical care are secondary or incidental to other insurance benefits.

Also, because the coverage must be offered by a health insurance provider as discussed above, health insurance coverage does not include benefits provided by the following.

- Health reimbursement arrangements (HRAs).
- Flexible spending arrangements (health FSAs).
- Coverage under other self-insured plans.
- Health savings accounts (HSAs).

However, health insurance coverage may include coverage under the following plans.

- Church welfare benefit plans.
- Multiemployer health and welfare plans that provide coverage through a health insurance provider.

For details, see Notice 2010-82 as discussed under *More Information* on page 5.

Qualifying Arrangement

For a tax year beginning in 2010 only, a qualifying arrangement includes any arrangement that requires you

to pay at least 50% of the premium cost for single (employee-only) coverage for each employee enrolled in any health insurance coverage you provide to employees, even if these contributions do not represent the same percentage of the premium for all of these employees. If an employee receives more expensive coverage (such as family coverage), it is still a qualifying arrangement if the employer pays at least 50% of the premium for single coverage even if that is less than 50% of the actual premium for the employee.

In addition, certain employers who do not satisfy the above rule (because they contribute less than 50% of the employee-only premium for some enrolled employees) may still qualify for the credit under other rules for qualifying arrangements. This may include, for example, employers who offer more than one type of health insurance coverage or whose insurance provider does not charge the same premium for all employees enrolled in single (employee-only) coverage. For details, see Notice 2010-82 as discussed under *More Information* on page 5.

Different types of health insurance plans are generally not aggregated for purposes of meeting the qualifying arrangement requirement. For example, if you offer a major medical insurance plan and a stand-alone vision plan, you generally must separately satisfy the requirements for a qualifying arrangement with respect to each type of coverage.

For this purpose, if you are entitled to a state tax credit or a state premium subsidy paid directly to you for premiums you paid, do not reduce the amount you paid by the credit or subsidy amount. Also, if a state pays a premium subsidy directly to your insurance provider, treat the subsidy amount as an amount you paid for employee health insurance coverage.

For a special rule that applies to multiemployer health and welfare plans, see Notice 2010-82 as discussed under *More Information* on page 5.

State Average Premium Limitation

Your credit is reduced if the employer premiums paid are more than the employer premiums that would have been paid if individuals considered employees enrolled in a plan with a premium equal to the average premium for the small group market in the state in which the employee works. The following table lists the average premium for the small group market in each state for tax years beginning in 2010. Family coverage includes any coverage other than single (employee-only) coverage.

Table A. State Average Premiums for Small Group Markets

State	Single (Employee-Only) Coverage	Family Coverage
Alabama	\$4,441	\$11,275
Alaska	6,204	13,723
Arizona	4,495	10,239
Arkansas	4,329	9,677
California	4,628	10,957
Colorado	4,972	11,437
Connecticut	5,419	13,484

State	Single (Employee-Only) Coverage	Family Coverage
Delaware	5,602	12,513
District of Columbia	5,355	12,823
Florida	5,161	12,453
Georgia	4,612	10,598
Hawaii	4,228	10,508
Idaho	4,215	9,365
Illinois	5,198	12,309
Indiana	4,775	11,222
Iowa	4,652	10,503
Kansas	4,603	11,462
Kentucky	4,287	10,434
Louisiana	4,829	11,074
Maine	5,215	11,887
Maryland	4,837	11,939
Massachusetts	5,700	14,138
Michigan	5,098	12,364
Minnesota	4,704	11,938
Mississippi	4,533	10,501
Missouri	4,663	10,681
Montana	4,772	10,212
Nebraska	4,715	11,169
Nevada	4,553	10,297
New Hampshire	5,519	13,624
New Jersey	5,607	13,521
New Mexico	4,754	11,404
New York	5,442	12,867
North Carolina	4,920	11,583
North Dakota	4,469	10,506
Ohio	4,667	11,293
Oklahoma	4,838	11,002
Oregon	4,681	10,890
Pennsylvania	5,039	12,471
Rhode Island	5,887	13,786
South Carolina	4,899	11,780
South Dakota	4,497	11,483
Tennessee	4,611	10,369
Texas	5,140	11,972
Utah	4,238	10,935
Vermont	5,244	11,748
Virginia	4,890	11,338
Washington	4,543	10,725
West Virginia	4,986	11,611
Wisconsin	5,222	12,819
Wyoming	5,266	12,163

Example 4. Assume the same facts that were used in *Example 3*. The \$60 you contribute each payday toward employee health insurance coverage is 60% (\$60 ÷ \$100) of the weekly premium for each employee enrolled in single (employee-only) coverage and 25.21% (\$60 ÷ \$238) of the weekly premium for each employee enrolled in family coverage.

In this situation, the total average premium limitation amounts that apply are 60% of the applicable amounts shown in the single coverage column of Table A for each employee enrolled in single coverage and 25.21% of the applicable amounts shown in the family coverage column of Table A for each employee enrolled in family coverage.

You have an employee enrolled in single (employee-only) coverage who works for you in Maryland. The single coverage amount shown in Table A for Maryland is \$4,837 or \$93 (\$4,837 ÷ 52) for each weekly payday. The amount you are considered to have paid toward this employee's health insurance coverage based on the average premiums in Table A is \$55.80 (60% of \$93) each payday.

To determine the premiums you would have paid for this employee during the tax year if the employee had enrolled in a state-average-premium plan, multiply the number of pay periods during which your employee was enrolled in the health insurance coverage by \$55.80. For example, you would have paid \$2,901.60 (\$55.80 × 52) if the employee was enrolled for the entire tax year. You would have paid \$558 (\$55.80 × 10) if the employee was only enrolled for 10 pay periods. You will need an additional set of calculations if the premium amounts changed during the tax year.

State Premium Subsidy and Tax Credit Limitation

Your credit may be reduced if you are entitled to a state tax credit or a state premium subsidy for the cost of health insurance coverage you provide under a qualifying arrangement to individuals considered employees. The state tax credit may be refundable or nonrefundable and the state premium subsidy may be paid to you or directly to your insurance provider.

Although a state tax credit or premium subsidy paid directly to you does not reduce the amount of your employer premiums paid, and although a state premium subsidy paid directly to an insurance provider is treated as an employer premium you paid, the amount of your credit cannot be more than your net premium payments. Net premium payments are employer premiums paid (discussed earlier) minus the amount of any state tax credits you received or will receive and any state premium subsidies paid either to you or directly to your insurance provider for premiums for health insurance coverage you provide under a qualifying arrangement to individuals considered employees.

Payroll Tax Limitation for Tax-Exempt Small Employers

The credit for tax-exempt small employers cannot exceed the amount of certain payroll taxes. For tax years beginning in 2010, payroll taxes, for this purpose, mean only the following taxes.

- Federal income taxes the tax-exempt employer was required to withhold from employees' wages in calendar year 2010.

- Medicare taxes the tax-exempt employer was required to withhold from employees' wages in calendar year 2010.
- Medicare taxes the tax-exempt employer was required to pay for calendar year 2010.

Premium Deduction Reduced

Your deduction for the cost of providing health insurance coverage to your employees is reduced by the amount of any credit for small employer health insurance premiums allowed with respect to the coverage.

More Information

- For more information about this credit, see the following.
- Section 45R.
 - Notice 2010-44, 2010-22 I.R.B. 717, available at www.irs.gov/irb/2010-22_IRB/ar12.html.
 - Notice 2010-82 available in Internal Revenue Bulletin 2010-51 at www.irs.gov/irb and at <http://www.irs.gov/pub/irs-drop/n-10-82.pdf>.
 - IRS.gov.

Specific Instructions

TIP *If your only source for this credit is a partnership, S corporation, cooperative, estate, or trust, skip lines 1 through 14 of the form and report the credit you received from these sources on line 15.*

Worksheets 1 through 7 can help you figure the amounts to report on various lines of Form 8941.

- Use Worksheets 1, 2, and 3 to figure the amounts to report on lines 1 through 3 of Form 8941.
- Use Worksheet 4 to figure the amounts to report on lines 4 and 5 of Form 8941.
- Use Worksheets 5, 6, and 7 if you need to figure amounts to report on lines 8, 9, and 14 of Form 8941.

Line 1

Enter the total number of individuals considered employees shown in column (a) of Worksheet 1. For details, see *Individuals Considered Employees* on page 2.

Instructions for Worksheet 1

Column (a). Enter the name or other identifying information for all individuals considered employees for purposes of this credit. For details, see *Individuals Considered Employees* on page 2.

Column (b). Enter the total hours of service for the tax year for each employee listed in column (a). Do not enter more than 2,080 hours for any employee. But enter -0- for seasonal employees who worked 120 or fewer days during the tax year. The information in this column is used to figure your number of full-time equivalent employees on Worksheet 2. For details, see *FTE Limitation* on page 2.

CAUTION *Complete Worksheet 2 before you complete column (c). Do not complete column (c) if Worksheet 2, line 3, is 25 or more.*

Column (c). Enter the total wages paid for the tax year for each employee listed in column (a). But enter -0- for seasonal employees who worked 120 or fewer days during the tax year. The information in this column is used to figure your average annual wages on Worksheet 3. For details, see *Average Annual Wage Limitation* on page 2.

Worksheet 1. Information Needed To Complete Line 1 and Worksheets 2 and 3

If you need more rows, use a separate sheet and include the additional amounts in the totals below.

(a) Individuals Considered Employees	(b) Employee Hours of Service	(c) Employee Wages Paid
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		
19.		
20.		
21.		
22.		
23.		
24.		
25.		
Totals:		

Line 2

Enter the number of full-time equivalent employees shown on line 3 of Worksheet 2. For details, see *FTE Limitation* on page 2.

Worksheet 2. Full-Time Equivalent Employees (FTEs)

1. Enter the total employee hours of service from Worksheet 1, column (b)	1.	_____
2. Hours of service per FTE	2.	2,080 _____
3. Full-time equivalent employees. Divide line 1 by line 2. If the result is not a whole number (0, 1, 2, etc.), generally round the result down to the next lowest whole number. However, if the result is less than one, enter 1. Report this amount on Form 8941, line 2		
	3.	_____

Line 3

Enter the average annual wages shown on line 3 of Worksheet 3. For details, see *Average Annual Wage Limitation* on page 2.

Worksheet 3. Average Annual Wages

1. Enter the total employee wages paid from Worksheet 1, column (c)	1.	_____
2. Enter FTEs from Worksheet 2, line 3	2.	_____
3. Average annual wages. Divide line 1 by line 2. If the result is not a multiple of \$1,000 (\$1,000, \$2,000, \$3,000, etc.), round the result down to the next lowest multiple of \$1,000. Report this amount on Form 8941, line 3		
	3.	_____

Line 4

Enter the total employer premiums paid shown in column (b) of Worksheet 4. For details, see *Employer Premiums Paid* on page 3.

Line 5

Enter the total employer-state-average premiums shown in column (c) of Worksheet 4. For details, see *State Average Premium Limitation* on page 4.

Instructions for Worksheet 4

Column (a). Enter the name or other identifying information for each individual listed in column (a) of Worksheet 1 who was enrolled in health insurance coverage you provided to employees during the tax year under a qualifying arrangement. For details, see *Health Insurance Coverage and Qualifying Arrangement* on page 3.

Column (b). Enter the total employer premiums paid for the tax year for each employee listed in column (a). For details, see *Employer Premiums Paid* on page 3.

Column (c). Enter, for each employee listed in column (a), the premiums you would have paid if the employee had enrolled in a plan or plans with a total premium equal to the average premium for the small group market in the state in which the employee works. For details, see *State Average Premium Limitation* on page 4.



Do not complete column (d) if Form 8941, line 12, is zero.

Column (d). Enter the amount from column (b) of Worksheet 1 for each employee listed in column (a) of Worksheet 4.

Worksheet 4. Information Needed To Complete Lines 4 and 5 and Worksheet 7

If you need more rows, use a separate sheet and include the additional amounts in the totals below.

(a) Enrolled Individuals Considered Employees	(b) Employer Premiums Paid	(c) Employer State Average Premiums	(d) Enrolled Employee Hours of Service
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			
15.			
16.			
17.			
18.			
19.			
20.			
21.			
22.			
23.			
24.			
25.			
Totals:			

Line 8

If the number of FTEs reported on line 2 is 10 or less, your credit is not reduced by the FTE limitation. Enter on line 8 the amount from line 7. If line 2 is more than 10, enter on line 8 the reduced credit amount shown on Worksheet 5, line 6.

Worksheet 5. FTE Limitation

1. Enter the amount from Form 8941, line 7 . . . 1. _____
2. Enter the amount from Form 8941, line 2 2. _____
3. Subtract 10 from line 2 3. _____
4. Divide line 3 by 15. Enter the result as a decimal (rounded to at least 3 places) 4. _____
5. Multiply line 1 by line 4 5. _____
6. Subtract line 5 from line 1. Report this amount on Form 8941, line 8 6. _____

Line 9

If the average annual wages reported on line 3 are \$25,000 or less, your credit is not reduced by the average annual wage limitation. Enter on line 9 the amount from line 8. If line 3 is more than \$25,000, enter on line 9 the reduced credit amount shown on Worksheet 6, line 7.

Worksheet 6. Average Annual Wage Limitation

1. Enter the amount from Form 8941, line 8 . . . 1. _____
2. Enter the amount from Form 8941, line 7 2. _____
3. Enter the amount from Form 8941, line 3 3. _____
4. Subtract \$25,000 from line 3 4. _____
5. Divide line 4 by \$25,000. Enter the result as a decimal (rounded to at least 3 places) 5. _____
6. Multiply line 2 by line 5 6. _____
7. Subtract line 6 from line 1. Report this amount on Form 8941, line 9 7. _____

Line 10

Enter the total amount of any state premium subsidies paid and any state tax credits available to you for premiums included on line 4. For details, see *State Premium Subsidy and Tax Credit Limitation* on page 5.

Line 13

Enter the total number of individuals shown in column (a) of Worksheet 4. These are individuals considered employees for whom you paid premiums during the tax year for health insurance coverage under a qualifying arrangement.

Line 14

Enter the number of full-time equivalent employees (FTEs) shown on line 3 of Worksheet 7. These are FTEs for whom you paid premiums for health insurance coverage under a qualifying arrangement during the tax year.

Worksheet 7. FTEs Enrolled in Coverage

1. Enter the total enrolled employee hours of service from Worksheet 4, column (d) . . .	1.	_____
2. Hours of service per FTE	2.	2,080
3. Divide line 1 by line 2. If the result is not a whole number (0, 1, 2, etc.), generally round the result down to the next lowest whole number. However, if the result is less than one, enter 1. Report this amount on Form 8941, line 14	3.	_____

Line 15

Enter any credit for small employer health insurance premiums from:

- Schedule K-1 (Form 1065), box 15 (code P),
- Schedule K-1 (Form 1120S), box 13 (code P),
- Schedule K-1 (Form 1041), box 13 (code G), and
- Any notice of credit allocation you receive from a cooperative.

Line 17

Enter the amount included on line 16 that is from a passive activity. Generally, a passive activity is a trade or business in which you did not materially participate. Rental activities are generally considered passive activities, whether or not you materially participate. For details, see Form 8582-CR, Passive Activity Credit Limitations (for individuals, trusts, and estates), or Form 8810, Corporate Passive Activity Loss and Credit Limitations (for corporations).

Line 19

Enter the passive activity credit for small employer health insurance premiums allowed for 2010 from Form 8582-CR or Form 8810.

Line 20

Use line 20 to show any carryback if you amend your 2010 return to carry back an unused credit for small employer health insurance premiums from 2011.

Line 22

Cooperatives. A cooperative described in section 1381(a) must allocate to its patrons the credit in excess of its tax liability. Therefore, to figure the unused amount of the credit allocated to patrons, the cooperative must first figure its tax liability. While any excess is allocated to patrons, any credit recapture applies as if the cooperative had claimed the entire credit.

Estates and Trusts. Allocate the credit on line 21 between the estate or trust and the beneficiaries in the same proportion as income was allocated and enter the beneficiaries' share on line 22.

Line 24

Enter the total amount of certain payroll taxes. Payroll taxes, for this purpose, means only the following taxes.

- Federal income taxes the tax-exempt employer was required to withhold from employees' wages in calendar year 2010.
- Medicare taxes the tax-exempt employer was required to withhold from employees' wages in calendar year 2010.
- Medicare taxes the tax-exempt employer was required to pay for calendar year 2010.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for individual taxpayers filing this form is approved under OMB control number 1545-0074 and is included in the estimates shown in the instructions for their individual income tax return. The estimated burden for all other taxpayers who file this form is shown below.

Recordkeeping	12 hr., 46 min.
Learning about the law or the form	1 hr., 23 min.
Preparing and sending the form to the IRS	2 hr., 48 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. See the instructions for the tax return with which this form is filed.

Department of the Treasury
Internal Revenue Service

▶ See separate instructions.

▶ Attach to your tax return.

Attachment
Sequence No. **63**

Name(s) shown on return

Identifying number

<p>1 Enter the number of individuals you employed during the tax year who are considered employees for purposes of this credit (see instructions)</p> <p>2 Enter the number of full-time equivalent employees you had for the tax year (see instructions). If you entered 25 or more, skip lines 3 through 11 and enter -0- on line 12</p> <p>3 Average annual wages you paid for the tax year (see instructions). If you entered \$50,000 or more, skip lines 4 through 11 and enter -0- on line 12</p> <p>4 Premiums you paid during the tax year for employees included on line 1 for health insurance coverage under a qualifying arrangement (see instructions)</p> <p>5 Premiums you would have entered on line 4 if the total premium for each employee equaled the average premium for the small group market in which you offered health insurance coverage (see instructions)</p> <p>6 Enter the smaller of line 4 or line 5</p> <p>7 Multiply line 6 by the applicable percentage: <ul style="list-style-type: none"> • Tax-exempt small employers, multiply line 6 by 25% (.25) • All other small employers, multiply line 6 by 35% (.35) </p> <p>8 If line 2 is 10 or less, enter the amount from line 7. Otherwise, see instructions</p> <p>9 If line 3 is \$25,000 or less, enter the amount from line 8. Otherwise, see instructions</p> <p>10 Enter the total amount of any state premium subsidies paid and any state tax credits available to you for premiums included on line 4 (see instructions)</p> <p>11 Subtract line 10 from line 4. If zero or less, enter -0-</p> <p>12 Enter the smaller of line 9 or line 11</p> <p>13 If line 12 is zero, skip lines 13 and 14 and go to line 15. Otherwise, enter the number of employees included on line 1 for whom you paid premiums during the tax year for health insurance coverage under a qualifying arrangement (see instructions)</p> <p>14 Enter the number of full-time equivalent employees you would have entered on line 2 if you only included employees included on line 13</p> <p>15 Credit for small employer health insurance premiums from partnerships, S corporations, cooperatives, estates, and trusts (see instructions)</p> <p>16 Add lines 12 and 15. Partnerships and S corporations, stop here and report this amount on Schedule K; all others, go to line 17</p> <p>17 Credit for small employer health insurance premiums included on line 16 from passive activities (see instructions)</p> <p>18 Subtract line 17 from line 16</p> <p>19 Credit for small employer health insurance premiums allowed for 2010 from a passive activity (see instructions)</p> <p>20 Carryback of the credit for small employer health insurance premiums from 2011</p> <p>21 Add lines 18 through 20. Cooperatives, estates, and trusts, go to line 22. Tax-exempt small employers, skip lines 22 and 23 and go to line 24. All others, stop here and report this amount on Form 3800, line 29h</p> <p>22 Amount allocated to patrons of the cooperative or beneficiaries of the estate or trust (see instructions)</p> <p>23 Cooperatives, estates, and trusts, subtract line 22 from line 21. Stop here and report this amount on Form 3800, line 29h</p> <p>24 Enter the amount you paid in 2010 for taxes considered payroll taxes for purposes of this credit (see instructions)</p> <p>25 Tax-exempt small employers, enter the smaller of line 21 or line 24 here and on Form 990-T, line 44f</p>	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	
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Caution: DRAFT FORM

This is an advance proof copy of an IRS tax form. It is subject to change and OMB approval before it is officially released.

If you have any comments on this draft form, you can submit them to us on our web site. Include the word DRAFT in your response. You may make comments anonymously, or you may include your name and e-mail address or phone number. We will be unable to respond to all comments due to the high volume we receive. However, we will carefully consider each suggestion. So that we can properly consider your comments, please send them to us within 30 days from the date the draft was posted.

Exempt Organization Business Income Tax Return
(and proxy tax under section 6033(e))

2010

Open to Public Inspection for 501(c)(3) Organizations Only

Department of the Treasury
Internal Revenue Service

For calendar year 2010 or other tax year beginning _____, 2010, and
ending _____, 20____. ▶ See separate instructions.

A Check box if address changed

B Exempt under section
 501() ()
 408(e) 220(e)
 408A 530(a)
 529(a)

Name of organization (Check box if name changed and see instructions.)
Number, street, and room or suite no. If a P.O. box, see page 8 of instructions.
City or town, state, and ZIP code

D Employer identification number
(Employees' trust, see instructions for Block D on page 9.)

E Unrelated business activity codes
(See instructions for Block E on page 9.)

C Book value of all assets at end of year

F Group exemption number (See instructions for Block F on page 9.) ▶

G Check organization type ▶ 501(c) corporation 501(c) trust 401(a) trust Other trust

H Describe the organization's primary unrelated business activity. ▶

I During the tax year, was the corporation a subsidiary in an affiliated group or a parent-subsidiary controlled group? . . . ▶ Yes No
If "Yes," enter the name and identifying number of the parent corporation. ▶

J The books are in care of ▶ _____ Telephone number ▶ _____

Part I Unrelated Trade or Business Income		(A) Income	(B) Expenses	(C) Net
1a Gross receipts or sales				
b Less returns and allowances				
c Balance ▶	1c			
2 Cost of goods sold (Schedule A, line 7)	2			
3 Gross profit. Subtract line 2 from line 1c	3			
4a Capital gain net income (attach Schedule D)	4a			
b Net gain (loss) (Form 4797, Part II, line 17) (attach Form 4797)	4b			
c Capital loss deduction for trusts	4c			
5 Income (loss) from partnerships and S corporations (attach statement)	5			
6 Rent income (Schedule C)	6			
7 Unrelated debt-financed income (Schedule E)	7			
8 Interest, annuities, royalties, and rents from controlled organizations (Schedule F)	8			
9 Investment income of a section 501(c)(7), (9), or (17) organization (Schedule G)	9			
10 Exploited exempt activity income (Schedule I)	10			
11 Advertising income (Schedule J)	11			
12 Other income (See page 10 of the instructions; attach schedule.)	12			
13 Total. Combine lines 3 through 12	13			

Part II Deductions Not Taken Elsewhere (See page 11 of the instructions for limitations on deductions.) (Except for contributions, deductions must be directly connected with the unrelated business income.)

14 Compensation of officers, directors, and trustees (Schedule K)	14		
15 Salaries and wages	15		
16 Repairs and maintenance	16		
17 Bad debts	17		
18 Interest (attach schedule)	18		
19 Taxes and licenses	19		
20 Charitable contributions (See page 13 of the instructions for limitation rules.)	20		
21 Depreciation (attach Form 4562)	21		
22 Less depreciation claimed on Schedule A and elsewhere on return	22a		
23 Depletion	23		
24 Contributions to deferred compensation plans	24		
25 Employee benefit programs	25		
26 Excess exempt expenses (Schedule I)	26		
27 Excess readership costs (Schedule J)	27		
28 Other deductions (attach schedule)	28		
29 Total deductions. Add lines 14 through 28	29		
30 Unrelated business taxable income before net operating loss deduction. Subtract line 29 from line 13	30		
31 Net operating loss deduction (limited to the amount on line 30)	31		
32 Unrelated business taxable income before specific deduction. Subtract line 31 from line 30	32		
33 Specific deduction (Generally \$1,000, but see line 33 instructions for exceptions.)	33		
34 Unrelated business taxable income. Subtract line 33 from line 32. If line 33 is greater than line 32, enter the smaller of zero or line 32	34		

Part III Tax Computation

35 Organizations Taxable as Corporations. See instructions for tax computation on page 15. Controlled group members (sections 1561 and 1563) check here... 36 Trusts Taxable at Trust Rates. See instructions for tax computation on page 16. Income tax on the amount on line 34 from: 37 Proxy tax. See page 16 of the instructions. 38 Alternative minimum tax. 39 Total. Add lines 37 and 38 to line 35c or 36, whichever applies.

Part IV Tax and Payments

40a Foreign tax credit (corporations attach Form 1118; trusts attach Form 1116). 40b Other credits (see page 16 of the instructions). 40c General business credit. Attach Form 3800. 40d Credit for prior year minimum tax (attach Form 8801 or 8827). 40e Total credits. Add lines 40a through 40d. 41 Subtract line 40e from line 39. 42 Other taxes. Check if from: 43 Total tax. Add lines 41 and 42. 44a Payments: A 2009 overpayment credited to 2010. 44b 2010 estimated tax payments. 44c Tax deposited with Form 8868. 44d Foreign organizations: Tax paid or withheld at source (see instructions). 44e Backup withholding (see instructions). 44f Credit for small employer health insurance premiums (Attach Form 8941). 44g Other credits and payments: 45 Total payments. Add lines 44a through 44g. 46 Estimated tax penalty (see page 4 of the instructions). Check if Form 2220 is attached. 47 Tax due. If line 45 is less than the total of lines 43 and 46, enter amount owed. 48 Overpayment. If line 45 is larger than the total of lines 43 and 46, enter amount overpaid. 49 Enter the amount of line 48 you want: Credited to 2011 estimated tax, Refunded.

Part V Statements Regarding Certain Activities and Other Information (see instructions on page 17)

1 At any time during the 2010 calendar year, did the organization have an interest in or a signature or other authority over a financial account (bank, securities, or other) in a foreign country? 2 During the tax year, did the organization receive a distribution from, or was it the grantor of, or transferor to, a foreign trust? 3 Enter the amount of tax-exempt interest received or accrued during the tax year.

Schedule A—Cost of Goods Sold. Enter method of inventory valuation

1 Inventory at beginning of year. 2 Purchases. 3 Cost of labor. 4a Additional section 263A costs (attach schedule). 4b Other costs (attach schedule). 5 Total. Add lines 1 through 4b. 6 Inventory at end of year. 7 Cost of goods sold. Subtract line 6 from line 5. Enter here and in Part I, line 2. 8 Do the rules of section 263A (with respect to property produced or acquired for resale) apply to the organization?

Sign Here Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge. Signature of officer, Date, Title.

Paid Preparer Use Only Print/Type preparer's name, Preparer's signature, Date, Check if self-employed, PTIN, Firm's name, Firm's EIN, Firm's address, Phone no.

Schedule C—Rent Income (From Real Property and Personal Property Leased With Real Property)

(see instructions on page 18)

1. Description of property		
(1)		
(2)		
(3)		
(4)		
2. Rent received or accrued		
(a) From personal property (if the percentage of rent for personal property is more than 10% but not more than 50%)	(b) From real and personal property (if the percentage of rent for personal property exceeds 50% or if the rent is based on profit or income)	3(a) Deductions directly connected with the income in columns 2(a) and 2(b) (attach schedule)
(1)		
(2)		
(3)		
(4)		
Total	Total	(b) Total deductions. Enter here and on page 1, Part I, line 6, column (B) ▶
(c) Total income. Add totals of columns 2(a) and 2(b). Enter here and on page 1, Part I, line 6, column (A) ▶		

Schedule E—Unrelated Debt-Financed Income (see instructions on page 19)

1. Description of debt-financed property		2. Gross income from or allocable to debt-financed property	3. Deductions directly connected with or allocable to debt-financed property	
			(a) Straight line depreciation (attach schedule)	(b) Other deductions (attach schedule)
(1)				
(2)				
(3)				
(4)				
4. Amount of average acquisition debt on or allocable to debt-financed property (attach schedule)	5. Average adjusted basis of or allocable to debt-financed property (attach schedule)	6. Column 4 divided by column 5	7. Gross income reportable (column 2 × column 6)	8. Allocable deductions (column 6 × total of columns 3(a) and 3(b))
(1)		%		
(2)		%		
(3)		%		
(4)		%		
Totals ▶			Enter here and on page 1, Part I, line 7, column (A).	Enter here and on page 1, Part I, line 7, column (B).
Total dividends-received deductions included in column 8 ▶				

Schedule F—Interest, Annuities, Royalties, and Rents From Controlled Organizations (see instructions on page 20)

1. Name of controlled organization	2. Employer identification number	Exempt Controlled Organizations			
		3. Net unrelated income (loss) (see instructions)	4. Total of specified payments made	5. Part of column 4 that is included in the controlling organization's gross income	6. Deductions directly connected with income in column 5
(1)					
(2)					
(3)					
(4)					

Nonexempt Controlled Organizations

7. Taxable Income	8. Net unrelated income (loss) (see instructions)	9. Total of specified payments made	10. Part of column 9 that is included in the controlling organization's gross income	11. Deductions directly connected with income in column 10
(1)				
(2)				
(3)				
(4)				
Totals ▶			Add columns 5 and 10. Enter here and on page 1, Part I, line 8, column (A).	Add columns 6 and 11. Enter here and on page 1, Part I, line 8, column (B).

Schedule G—Investment Income of a Section 501(c)(7), (9), or (17) Organization (see instructions on page 20)

1. Description of income	2. Amount of income	3. Deductions directly connected (attach schedule)	4. Set-asides (attach schedule)	5. Total deductions and set-asides (col. 3 plus col. 4)
(1)				
(2)				
(3)				
(4)				
Totals	Enter here and on page 1, Part I, line 9, column (A).			Enter here and on page 1, Part I, line 9, column (B).

Schedule I—Exploited Exempt Activity Income, Other Than Advertising Income (see instructions on page 21)

1. Description of exploited activity	2. Gross unrelated business income from trade or business	3. Expenses directly connected with production of unrelated business income	4. Net income (loss) from unrelated trade or business (column 2 minus column 3). If a gain, compute cols. 5 through 7.	5. Gross income from activity that is not unrelated business income	6. Expenses attributable to column 5	7. Excess exempt expenses (column 6 minus column 5, but not more than column 4).
(1)						
(2)						
(3)						
(4)						
Totals	Enter here and on page 1, Part I, line 10, col. (A).	Enter here and on page 1, Part I, line 10, col. (B).				Enter here and on page 1, Part II, line 26.

Schedule J—Advertising Income (see instructions on page 21)

Part I Income From Periodicals Reported on a Consolidated Basis

1. Name of periodical	2. Gross advertising income	3. Direct advertising costs	4. Advertising gain or (loss) (col. 2 minus col. 3). If a gain, compute cols. 5 through 7.	5. Circulation income	6. Readership costs	7. Excess readership costs (column 6 minus column 5, but not more than column 4).
(1)						
(2)						
(3)						
(4)						
Totals (carry to Part II, line (5))						

Part II Income From Periodicals Reported on a Separate Basis (For each periodical listed in Part II, fill in columns 2 through 7 on a line-by-line basis.)

1. Name of periodical	2. Gross advertising income	3. Direct advertising costs	4. Advertising gain or (loss) (col. 2 minus col. 3). If a gain, compute cols. 5 through 7.	5. Circulation income	6. Readership costs	7. Excess readership costs (column 6 minus column 5, but not more than column 4).
(1)						
(2)						
(3)						
(4)						
Totals from Part I						
Totals, Part II (lines 1-5)	Enter here and on page 1, Part I, line 11, col. (A).	Enter here and on page 1, Part I, line 11, col. (B).				Enter here and on page 1, Part II, line 27.

Schedule K—Compensation of Officers, Directors, and Trustees (see instructions on page 21)

1. Name	2. Title	3. Percent of time devoted to business	4. Compensation attributable to unrelated business
(1)		%	
(2)		%	
(3)		%	
(4)		%	
Total. Enter here and on page 1, Part II, line 14			