

INFORMATION BULLETIN #101

INCOME TAX

JULY 2007

DISCLAIMER: Information Bulletins are intended to provide non-technical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules and court decisions. Any information that is inconsistent with the law, regulations and court decisions is not binding on either the Department or the taxpayer. Therefore, information provided in this bulletin should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

SUBJECT: Employer Health Benefit Plan Tax Credit

REFERENCE: IC 6-3.1-31

INTRODUCTION

HEA 1678-2007 created a new tax credit retroactive to January 1, 2007 for employers offering health benefit plans. The credit applies to an employer that does not offer coverage for health care services under a self-funded health benefit plan that complies with the federal Employee Retirement Income Security Act of 1974.

DEFINITIONS

- A. "Eligible taxpayer" means a taxpayer that did not provide health insurance to the taxpayer's employees in the taxable year immediately preceding the first taxable year for which the taxpayer claims a credit.
- B. "Full-time employee" means an employee who is normally scheduled to work at least 30 hours per week.
- C. "Health benefit plan" means coverage for health care services provided under an insurance policy or a contract with a health maintenance organization where each plan satisfies the requirements of a cafeteria plan under Section 125 of the Internal Revenue Code. The term does not include: accident only, credit, dental, vision, Medicare supplement, long term care or disability income insurance;

coverage issued as a supplement to liability insurance; automobile medical payment insurance; a specified disease policy; a limited benefit health insurance policy; a short term insurance plan that may not be renewed and has a duration of 6 months or less; a policy that provides a stipulated payment to an insured during a stay in a hospital; workmen's compensation insurance; or a student health insurance policy.

- D. "Pass through entity" means an S corporation, a partnership, a limited liability company or a limited liability partnership.
- E. "State tax liability" means the adjusted gross income tax, financial institutions tax or the insurance premium tax.

ENTITLEMENT TO THE TAX CREDIT

A taxpayer that makes health insurance available to the taxpayer's employees through a health benefit plan is entitled to a credit against the taxpayer's state tax liability for the first 2 years in which the taxpayer provides the health benefit plan if the employee's participation in the plan is voluntary, and the employee may pay the employee's share of the cost of the plan using employee withholding.

An employer may pay or provide reimbursement for all or part of the cost of the plan made available to employees. An employer that does pay or provide reimbursement shall do so on an equal basis for all employees who elect to participate in the plan.

CALCULATION OF THE TAX CREDIT

The credit allowed in each of the first 2 years equals the lesser of \$2,500 or \$50 multiplied by the number of employees enrolled in the health benefit plan during the taxable year.

If the amount of the credit exceeds the taxpayer's tax liability for the taxable year, the taxpayer may carry forward the excess to the following taxable years. A taxpayer is not entitled to a carry back or refund of any unused credit.

A taxpayer claiming the credit shall continue to make health insurance available to the taxpayer's employees for at least 24 months after the last day of the taxable year in which the taxpayer first offers the health benefit plan. If a taxpayer terminates the plan before the 24 month period expires, the taxpayer shall repay the Department the amount of the credit received.

CLAIMING THE CREDIT

If a pass through entity does not have state tax liability against which the credit may be applied, a shareholder or partner of the pass through entity is entitled to a tax credit equal to the tax credit determined for the pass through entity multiplied by the percentage of the partner's or shareholder's distributive share.

To receive the credit, a taxpayer must claim the credit on the taxpayer's state tax return in the manner prescribed by the Department along with any other information that the Department may require.

A handwritten signature in black ink that reads "John Eckart". The signature is written in a cursive style with a large, looping initial "J".

John Eckart
Commissioner