

update

Compliance News for Multiemployer Plans

October 5, 2015

Restoration of the Health Coverage Tax Credit

Trade Preferences Extension Act of 2015¹ act restores the Health Coverage Tax Credit (HCTC), which had expired at the end of 2013. Plan sponsors do not need to take action at this time, but the Department of Labor and the Internal Revenue Service will issue guidance in the future that should be monitored.

What Is the HCTC?

The HCTC is a refundable federal tax credit that subsidizes the cost of qualified health insurance coverage for individuals and qualified family members. The HCTC can pay 72.5 percent of the qualified health insurance premium for individuals receiving Trade Adjustment Assistance (TAA)² or Pension Benefit Guaranty Corporation (PBGC) benefits. This credit expired at the end of 2013, but is now extended through the end of 2019.

How Does the HCTC Program Work?

An eligible individual may take the tax credit on his or her individual Federal Tax return for the year. In addition, the “advance payment” program will be restored. Under this program, the Federal Government pays the credit out month by month during the year, directly to the health coverage plan or insurer. The insured individual pays the remaining 27.5 percent of the premium.

The Internal Revenue Service (IRS) must have the advance payment program operating by June 2016, although the program could be set up sooner. In the meantime, the credit can be taken on the individual’s federal tax return retroactively for 2014, and for 2015. Guidance on how to do this is likely.

Most of the eligibility rules are unchanged from the time the HCTC was previously available.

COBRA Coverage

Under the previous version of HCTC, individuals who had dropped or not elected continued health coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA) would, under limited circumstances, have a 60-day special enrollment right triggered by becoming eligible for TAA. The Department of Labor (DOL) has not yet issued guidance as to the application of COBRA to the new extension of HCTC. Moreover, the DOL has not yet provided guidance on whether COBRA notices should include information about the HCTC extension.



Health Compliance News:

- What Is the HCTC?
- How Does the HCTC Program Work?
- COBRA Coverage
- IRS Guidance Forthcoming
- Implications for Plan Sponsors

NEW! On December 22, 2015, the IRS released [Notice 2016-02](#), which reiterates information on who may claim the HCTC, the amount of HCTC and procedures to claim the HCTC. This notice focuses on guidance for taxpayers eligible to claim the HCTC who are enrolled in individual coverage offered through the Marketplace and taxpayers who claimed or are eligible to claim the premium tax credit. The Notice did not address the advance payment program or changes to COBRA notices.

¹ The Trade Preferences Extension Act of 2015 was enacted on June 29, 2015 (Public Law 114-27).

² The TAA is a federal program that assists workers who have lost their jobs as a result of foreign trade. To receive TAA benefits, workers must receive a Department of Labor certification that they meet the TAA eligibility criteria. For more information, see the Department’s [TAA reauthorization webpage](#).

IRS Guidance Forthcoming

The IRS is working on implementing the new HCTC extension. Consequently, it advises taxpayers to not discontinue or change their current health care coverage, including COBRA or health insurance Marketplace coverage, until it provides additional information and can confirm taxpayer eligibility for HCTC.

News about HCTC will be posted on the [IRS website](#).

Implications for Plan Sponsors

Plans that have participants who used the previous advance payments system for HCTC credits should monitor IRS guidance to determine when the program will be reinstated. Those plan sponsors that did not participate in the advance payments program may need to modify COBRA notices if the DOL requires that they include information about the HCTC. Guidance on the HCTC should be available from both agencies in the next few months.

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