

**62U.071 HEALTH INSURANCE CREDIT.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given them.

(b) "Commissioner" means the commissioner of commerce.

(c) "Employee" means an employee currently on an employer's payroll other than a retiree or disabled former employee.

(d) "Employer" means a person, firm, corporation, partnership, association, business trust, or other entity employing one or more persons, including a political subdivision of the state, filing payroll tax information on such employed person or persons.

(e) "Section 125 Plan" means a cafeteria or premium-only plan under section 125 of the Internal Revenue Code that allows employees to pay for health insurance premiums with pretax dollars.

(f) "Small employer" means an employer with two to 50 employees.

Subd. 2. **Tax credits allowed; generally.** (a) Upon application, the commissioner shall allow tax credits to eligible small employers as incentives for the employers to provide Section 125 Plans or to encourage their employees to participate in existing Section 125 Plans. The applications for the credits must be made in the form and manner and at the times prescribed by the commissioner.

(b) The credits allowed under this section must not exceed the liability for tax paid by the employer. The liability for tax includes tax paid by the employer under chapter 290, ad valorem property tax on property used in the conduct of their trade or business, and the insurance premiums tax under chapter 297I. The commissioner must verify that the amount of the credit paid under this section does not exceed the employer's liability for tax paid in the previous calendar year.

Subd. 3. **Establishment credit.** (a) The commissioner shall pay a tax credit to eligible small employers that establish Section 125 Plans to the extent that credit authority is available under subdivision 5 for the fiscal year. An eligible small employer is eligible for a credit under this subdivision only once.

(b) To be eligible for a credit, a small employer must:

(1) not have offered health insurance to employees through a group health insurance plan, as defined in section 62A.10, or through a self-insured plan, as defined in section 62E.02, in the 12 months before applying for a tax credit under this subdivision;

(2) have established a Section 125 Plan within 90 days before applying for a tax credit under this subdivision, and must not have offered a Section 125 Plan to employees for at least a nine-month period before the establishment of the Section 125 Plan under this subdivision; and

(3) certify to the commissioner that the employer has established a Section 125 Plan and meets the requirements of section 62U.07, subdivisions 2 and 3.

(c) The amount of the credit under this subdivision equals the lesser of:

(1) the employer's actual cost to establish the Section 125 Plan; or

(2) \$350.

Subd. 4. **Participation credit.** (a) The commissioner shall pay a tax credit to eligible small employers with Section 125 Plans. The amount of the credit equals the least of the following amounts:

(1) 50 percent of the amount the employer spends during the calendar year for incentives to encourage participation by the employer's nonparticipating employees in the employer's Section 125 Plan;

(2) \$200 for each nonparticipating employee who begins participating in the employer's Section 125 Plan; or

(3) the amount of credit certificates the employer received for the calendar year.

(b) An eligible employer is a small employer that:

(1) offers a Section 125 Plan to its employees;

(2) has five percent or more of its employees not participating in the Section 125 Plan during the quarter prior to the application for the tax credit; and

(3) pays average compensation to its nonparticipating employees of no more than the maximum annual income of an individual who is eligible to participate in the MinnesotaCare program under chapter 256L.

(c) For purposes of this subdivision, "incentives to encourage participation" includes paying an increased employer share of the premium or other costs of the insurance, contributing to the employee's health savings account, or taking other measures that the commissioner considers likely to foster higher rates of participation; and "nonparticipating employee" means an employee who is not participating in the Section 125 Plan, and who is not otherwise covered by health insurance other than MinnesotaCare.

Subd. 5. **Credits and credit certificates.** (a) The commissioner may transfer all or part of the appropriation provided in section 62U.07, subdivision 4, to provide tax credits under subdivision 3. The commissioner shall allow tax credits under subdivision 3 to applicants on a first-come first-served basis and the maximum amount of credits allowed for each fiscal year is limited to the amount transferred from the appropriation provided in section 62U.07, subdivision 4. If applications for credits exceed the allowance for the fiscal year, the commissioner shall hold the applications and award the credits from the amount appropriated for that purpose in the next fiscal year. If the commissioner does not transfer any of the appropriation provided in section 62U.07, subdivision 4, no tax credits are allowed under subdivision 3.

(b) Upon application, the commissioner shall award credit certificates to eligible employers for credits under subdivision 4. The maximum amount of credit certificates is limited to \$730,000 per fiscal year. The commissioner shall award the certificates to eligible employers on a first-come first-served basis, and certificates will apply to the calendar year in which the employer intends to provide incentives for nonparticipating employees to begin participating in the employer's Section 125 Plan. No employer may be awarded more than \$5,000 in credit certificates. Following the close of the calendar year, employers who have been awarded certificates must report to the commissioner on the amount spent for incentives to encourage participation by nonparticipating employees, and the number of nonparticipating employees who became participating employees, and the commissioner must allow the appropriate credit amount as provided in subdivision 4, paragraph (a).

(c) The commissioner may transfer credit authority between the authorizations in paragraphs (a) and (b) based on the applications for the credits under subdivisions 3 and 4 or on other factors so that in the commissioner's opinion the allocation between the two credits will provide a more effective incentive to expand health care coverage.

Subd. 6. **Appropriation.** The amount necessary to award credits under subdivision 5, paragraph (b), is appropriated from the general fund to the commissioner of commerce in fiscal year 2009.

**History:** 2008 c 366 art 17 s 4