

810-3-15.3-.01 Deductions for Small Business Health Insurance Premiums.

(1) Definitions:

(a) Qualifying Employers. Employers with less than 25 employees.

1. An employee is any person defined as “employee” under the definition provided in the Internal Revenue Code, as amended from time to time.

2. “Less than 25 employees” means not more than 24 employees to whom wages were being paid simultaneously as determined on the last day of the tax year.

3. Only full-time employees will be included in the number of employees to meet the “less than 25 employees” threshold. No part-time employees will be taken into consideration to meet the “less than 25” employee quota.

4. Both qualifying and non-qualifying employees are counted in determining the number to be considered for the total number of employees.

5. The spouse and children of a sole proprietor are not counted in the number of employees for qualification purposes.

(b) Qualifying Employees. Alabama residents who are employees of a qualifying employer. A “qualifying employee” can earn no more than \$50,000 of wages and report no more than \$75,000 (\$150,000 if married filing a joint return) of adjusted gross income on the Alabama individual income tax return for the applicable tax year. It shall be the responsibility of the Alabama Department of Revenue to verify the eligibility of a “qualifying employee” for the deduction.

(c) Non-qualifying Employees. An employee who does not meet the requirements of this section to be classified as a “qualifying employee.”

(d) Wages. For purposes of this section, wages means the dollar amount reported as paid to the Alabama resident employee as “State Wages” in Box 16, on the Form W-2, Wage and Tax Statement.

(2) Procedures – for tax years beginning after December 31, 2008:

(a) In addition to all other previously allowed deductions, a qualifying employee may deduct, as an adjustment to income on the employee’s Alabama individual income tax return, an amount equal to 50% of the amount paid during the tax year as health insurance premiums.

1. The deduction allowable is in addition to the currently allowed itemized deduction with respect to the payment of the health insurance premiums.

(i) The deduction for the 50% may be claimed as an adjustment to income regardless of whether the employee itemizes deductions or claims the standard deduction on the Alabama income tax return.

(ii) Premiums paid with pre-tax dollars by a qualifying employee as part of a cafeteria plan will qualify for the 50% deduction as an adjustment to income on the employee's return.

(iii) There is no specific deductible amount which must be paid by the qualifying employee in order for the 50% deduction to be allowed on the employee's return.

(iv) Contributions to a Health Savings Account (HSA) by the qualifying employee do not prohibit the employee from claiming the 50% deduction for insurance premiums if all other requirements pursuant to this section are met.

2. The health insurance premiums paid by the qualifying employee must be part of an employer provided health insurance plan which is provided by an employer meeting the definition of "qualifying employer" for purposes of this section.

(i) Employees may rely on the employer's statement that the employer meets the requirements under this section to be classified as a "qualifying employer" unless the employee knows or should know, based on the employee's knowledge at the end of the tax year, that the employer's statement is false.

(ii) If medical coverage for specific items (such as dental or vision coverage) are included as part of the employer provided health insurance plan, premiums paid by the qualifying employee for such coverage will qualify for the 50% deduction.

(iii) Premiums paid by a qualifying employee to specific types of health insurance plans will qualify for the 50% deduction to adjusted gross income on the employee's return if the premiums are paid as part of an employer provided health insurance plan.

(b) A qualifying employer may deduct as a business expense on the Alabama income tax return, to compute Alabama taxable income, an amount equal to 50% of the amount paid during the tax year as health insurance premiums paid on behalf of a qualifying employee.

1. The deduction allowable is in addition to any other Alabama income tax deduction that the qualifying employer is entitled to deduct with respect to the payment of the health insurance premiums paid on behalf of qualifying employees.

2. The health insurance premiums paid by the qualifying employer must be paid on behalf of qualifying employees in connection with an employer provided health insurance plan.

(i) A qualifying employer may rely on the employee's statement that the employee meets the requirements under this section to be classified as a "qualifying employee" unless the employer knows or should know, based on the employer's knowledge at the end of the tax year, that the employee's statement is false.

(ii) If medical coverage for specific items (such as dental or vision coverage) are included as part of the employer provided health insurance plan, premiums paid by the qualifying employer on behalf of a qualifying employee for such coverage will qualify for the 50% deduction.

(iii) Premiums paid by a qualifying employer on behalf of a qualifying employee to specific types of health insurance plans will qualify for the 50% deduction to calculate taxable income on the employer's income tax return if the premiums are paid as part of an employer provided health insurance plan.

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Authority: §§ 40-2A-7(a)(5) and 40-18-15.3, Code of Alabama 1975

History: New rule: Filed December 12, 2008, effective January 16, 2009.