

# Health Care Reform Essentials for Businesses

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Important details for navigating the Affordable Care Act



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## Preparing to implement health care reform

On March 23, 2010, the Patient Protection and Affordable Care Act (ACA), commonly known as health care reform, was officially signed into law. Since that time, health care reform and its impact on businesses and individuals continues to evolve. With the clock ticking down to the implementation date of January 2014, it is imperative businesses understand how they will be affected and are prepared to make strategic health care decisions.

Health care concerns are not new. In fact, health care spending has exceeded U.S. economic growth in every recent decade.<sup>1</sup> Rising costs, along with an increasingly complex health care system, make it even more important for businesses and individuals to have a clear understanding of their health care benefits, to make smart benefits choices, and to wisely manage their health care dollars.

Aflac's Health Care Essentials will help you understand the:

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**Essential Questions  
Every Business Must  
Ask in 2013**

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**Important Facts About  
Health Care Exchanges**

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**Key Health Care Reform  
Dates**

As details of the new health care reform legislation are established, you can rely on Aflac to provide you with ongoing updates at [aflac.com/insights](http://aflac.com/insights).

*This material is intended to be informational and does not constitute legal advice regarding any specific situation.*

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## Essential Questions Every Business Must Ask in 2013

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**Health care costs continue to rise, and the Affordable Care Act (ACA) has begun to fuel changes that are difficult for businesses to ignore. As the time for certain employer requirements draws near, businesses face important decisions about workforce health care coverage and employer-sponsored benefits. Consider three essential questions to help make more informed decisions for your workforce and your business.**

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**1:**

Should I offer employer provided coverage or not?

**2:**

How much can my business afford to spend?

**3:**

Which strategy will I choose?

► **Essential Question 1:**  
**Should I  
offer employer  
provided  
coverage  
or not?**

Most business leaders agree health benefits offer employees peace of mind and protection. Businesses large and small rely on health benefits to provide a unique competitive-edge in the battle to attract and retain talented workers.

Whether your business is a long-time employee benefits provider, or you are considering employer-sponsored benefits for the first time, with deadlines looming for health care reform now is the time to look at the size of your business, employee demographics, and the cost advantages and disadvantages of providing health coverage.

**Tip for small businesses:**

Employer-sponsored benefits may offer you a cost-effective way to boost employee compensation. Although employers with less than 50 full-time equivalents (FTEs) will not be penalized for not providing a health plan, still many small businesses realize health benefits are an important part of an employee's total compensation package.

If you currently offer health insurance to employees, some individuals may be eligible for a tax-subsidy to purchase individual coverage through a health care exchange (employees with a household income between 100%-400% of the federal poverty level [FPL]). In which case, it may be cheaper for them to purchase coverage through the exchange. On the other hand, employees not eligible for a tax-subsidy could benefit from employer-provided coverage as opposed to purchasing individual coverage through the health care exchange. The 2012 Aflac WorkForces Report revealed 73% of employees say their benefits package affects their job satisfaction, and 68% say it affects their loyalty to their employer.

**73%**  
**of employees say their  
benefits package affects  
their job satisfaction,  
and 68% say it affects  
their loyalty to their  
employer.<sup>2</sup>**

**Tip for mid-to-large sized businesses:**

Employers with more than 50 FTEs may be subject to penalties if they do not provide affordable and minimum value employer-sponsored health insurance. Employees with household incomes between 100% and 400% of the FPL could benefit from buying health insurance from the exchange, because they will receive a premium tax credit to help offset the cost of coverage. On the other hand, employees who do not qualify for these subsidies will not receive a tax credit. The majority of employers (88 percent) say they will continue to offer health benefits to active employees in 2014.<sup>3</sup> As you consider whether to provide coverage, keep in mind that an employer's contribution to a health benefits plan is tax-deductible, whereas the \$2,000 - \$3,000 penalty for not providing affordable coverage is not. For more information about penalties, see **Appendix Chart 1**.

**88%**  
**of employers say they  
will continue to offer  
health benefits to active  
employees in 2014.<sup>3</sup>**

► **Essential Question 2:**  
**How much can my business afford to spend?**

As you consider offering employer-sponsored health insurance, it is important to assess the amount your business can invest in workforce benefits.

**If your business already offers employer-sponsored benefits:**

You most likely have a good idea of how much your business can afford to pay. Take into consideration projected increases in health care costs, and your potential eligibility to take advantage of exchanges in 2014. If your business is mid-to-large sized and rising costs are a concern, consider a private exchange that offers fixed contribution options to help control costs.

**If you are considering offering these benefits for the first time:**

Discuss your options with your benefits consultant or broker to help weigh the costs. For instance, in 2013, health care costs are expected to increase per employee by 5.3 percent (0.6 percent lower than in 2012).<sup>3</sup> You can use cost estimates to determine approximately how much it will cost per-employee, as well as potential penalties for not providing employee health coverage. Additionally, you can estimate your eligibility for small business tax credits to help defray the costs associated with health care coverage through a public exchange.

► **Essential Question 3:**  
**Which strategy will I choose?**

Employee benefits are a key indicator of employee satisfaction, retention and productivity. In fact, the 2012 Aflac WorkForces Report revealed that workers who are extremely or very satisfied with their benefits program are six times more likely to stay with their employer than those workers who are dissatisfied with their benefits program.<sup>2</sup> With many options to choose from, including traditional insurance, self-insurance, HMO, PPO, affordable coverage, or a combination of options, take time to determine your business strategy. A few strategies to consider include:

**In 2013,**  
**health care costs are expected to increase per employee by 5.3% (0.6% lower than in 2012).<sup>3</sup>**

**Adjust current health plan:**

Talk with your broker or benefits consultant to understand how your current benefits work within new ACA standards. You may find that your benefits already meet or exceed federal standards, and can actually capitalize on going above and beyond to help protect workforce health and wellbeing. As you assess your current plan, keep in mind that employees may be eligible for tax subsidies through the public exchange if their required contribution to employer-sponsored health insurance exceeds 9.5 percent of the employee's annual gross income or the plan pays less than 60 percent of covered health expenses.<sup>4</sup>

**Public Exchange:**

Exchanges are expected to offer competitive benefits options to small businesses and individuals. Additionally, small businesses participating in public exchange may be eligible for a tax credit of up to 50 percent of their premium payments if they have 25 or fewer full-time employees whose average annual wages are no more than \$50,000.<sup>5</sup>

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While it is still too early to tell exactly how competitive the exchanges will be, tax credits coupled with group rates in the exchanges may help your business to provide cost-effective workplace benefits. If you are considering shifting employees to the public exchange, you may save on health care costs that could be allocated to supplemental benefits or employee salaries to provide increased value to your employees.

**Self-funded model:**

Self-funded health care insurance plans offer an alternative to traditional health care models. In a self-funding model, the company is responsible for covering all claims in the health care plan, but because these plans are excluded from some requirements of the ACA, employers can save costs related to premium taxes and state insurance regulations.

Self-funded plans tend to shift additional costs to employees, especially when an employer has a workforce with significant health care needs. Still, these plans are becoming increasingly popular with small businesses and can help to reduce and manage employee health care costs, while still delivering the health coverage that their workforce demands.

**Defined contribution model:**

In a defined contribution model, employers give their employees a fixed amount of money and a list of health insurance options for employees to pick and choose. This helps employers to keep costs predictable, while also offering employees the option to “buy-up” to more robust insurance coverage. Since these programs require employees to make more informed decisions about health care, it will be increasingly important they understand how an employer contribution works, and how to choose supplemental options to augment out-of-pocket costs.

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## Important Facts About Health Care Exchanges

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**Health care exchanges are a key provision of the Affordable Care Act (ACA). Our experts have compiled a list of key details business leaders need to understand about health care exchanges and the impact they will have on employer-sponsored benefits in 2014.**

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**1:**

An exchange is a web portal to buy and sell benefits.

**2:**

Public exchanges will be open for small businesses and individuals to enroll on October 1, 2013.

**3:**

Private exchanges generally provide cost-controlling options for businesses of all sizes.

**4:**

Tax subsidies are only available through a public exchange.

**5:**

“Silver” or 70/30 coverage will be the public exchange benchmark.

**6:**

Exchanges affirm the importance of employee education.

**7:**

Voluntary products work with major medical coverage to provide an essential safety net.

► **Important Fact 1:**  
**An exchange is a web portal to buy and sell benefits.**

A health insurance exchange is a web portal where individuals and businesses can shop for and buy health insurance. There will be two types of exchanges throughout the U.S. that will impact employee benefits:

- 1 | Public exchanges facilitated by the state and/or federal government
- 2 | Private exchanges facilitated by private industry stakeholders (insurance providers, brokers or benefits consultants).

► **Important Fact 2:**  
**Public exchanges will be open for small businesses and individuals to enroll on October 1, 2013 for coverage to go into effect January 1, 2014.**

Exchanges facilitated by the state and/or federal government are expected to provide an online marketplace for individuals and small employers.<sup>6</sup>

These exchanges will be open for:

- Individuals without access to **affordable**\* employer-provided health insurance coverage
- Small businesses with fewer than 100 full-time employees

In 2017, state-based exchanges may make provision for businesses with more than 100 full-time employees to purchase employee benefits plans through public health care exchanges.

*\* Employer-provided coverage in which the employee's required contribution does not exceed 9.5% of their annual income.<sup>4</sup>*

► **Important Fact 3:**  
**Private exchanges generally provide cost-controlling options for businesses of all sizes.**

Unlike the public exchange, private exchanges have more flexibility, because they are not associated with federal guidelines from the ACA and the Department of Health and Human Services (HHS). Private exchanges will offer health coverage options to multiple workforce segments and sizes. Additionally, private exchanges can sell all products and services, including voluntary insurance, unlike public exchanges, which can only offer medical and dental insurance. Many of these exchanges help employers to move toward a defined contribution model that can help better control health care costs, while still offering employees robust benefits options through defined contribution.<sup>7</sup>

**88%**  
**of employers say they will continue to offer health benefits to active employees in 2014.<sup>4</sup>**

► **Important Fact 4:**  
**Tax subsidies are only available through public exchange.**

Only public exchanges assess and determine an individual or small business's eligibility for a premium tax credit to help off-set the cost of coverage and defray some costs associated with using health care services.<sup>5</sup> Therefore, subsidies and credits may not be available to individuals and employers purchasing coverage through a private exchange.

**Tax Credits and Penalties**

**Individual credits:** Individuals with household incomes between 100% and 400% of the federal poverty level are eligible for tax subsidies if they are not eligible for affordable employer-provided coverage.<sup>8</sup>



**Small business credits:** Small businesses may be eligible for a tax credit of up to 50% of their premium payments if they have 25 or fewer full-time equivalents whose average annual wages are no more than \$50,000. While it is still too early to tell exactly how competitive the exchanges will be, tax credits coupled with the options in the exchanges may help your business to provide cost-effective workplace benefits.<sup>5</sup> For more information about small business tax credit eligibility see **Appendix Chart 2.**

**Penalties:** Employers with at least 50 full-time equivalents must offer minimum essential health coverage to their full-time employees or face a penalty.<sup>4</sup> In some cases, it may be cost-effective for employees to purchase coverage through the exchange, despite the employer's responsibility to pay a penalty. Discuss the strategy that is right for your business with your broker or benefits advisor. For more information about penalties by business size and coverage, see Appendix Chart 1.

► **Important Fact 5:**  
**“Silver” or 70/30 coverage will be the public exchange benchmark.**

State exchanges will have many unique characteristics, but each will offer four levels of coverage, which vary depending on the proportion of medical expenses the insurance plan is expected to cover. Of these plans, a “silver” plan (one that pays 70 percent of medical expenses or actuarial value) will be the benchmark for calculating subsidies. Individuals can “buy-up” to other plan levels, as well as dental coverage. Additionally, they can purchase voluntary insurance outside of the public exchange.<sup>8</sup>

**Plan Tiers:<sup>8</sup>**

- **Bronze:** plan pays 60 percent of medical expenses (actuarial value)
- **Silver:** plan pays 70 percent of medical expenses
- **Gold:** plan pays 80 percent of medical expenses
- **Platinum:** plan pays 90 percent of medical expenses

► **Important Fact 6:**  
**Exchanges affirm the importance of employee education.**

Health insurance reforms and exchanges will provide employees with the option to purchase insurance directly from the individual market, so individuals will need to better understand both their options and health risks. While the ACA requires businesses to communicate to employees about exchanges and potential eligibility for tax subsidies, employees will be responsible for deciding how they spend their health care dollars. As some employers move toward defined contribution plans, employees will be in control of how they use and add to their employer's contribution.

Currently, many employees are in the dark when it comes to their employer's investment. In fact, 43 percent of employees say they do not truly understand their employer's contribution to their insurance benefits.<sup>2</sup> As health care costs continue to be a concern for many Americans, it is increasingly important for employees to understand their benefits options, make smart benefits decision, and wisely manage their health care dollars.

**43%**  
**of employees say they do not truly understand their employer's contribution to their insurance benefits.<sup>2</sup>**

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► **Important Fact 7:**  
**Voluntary products work with major medical coverage to provide an essential safety net.**

Whether purchased at work or through a private exchange, supplemental policies, like the ones offered by Aflac, work together with major medical insurance to help provide protection to policyholders. As health care costs continue to rise, these policies help provide an extra layer of financial protection for your employees without adding to your overall cost of benefits. Unlike major medical insurance, these policies pay cash benefits directly to the policyholder (unless assigned otherwise) if they get sick or injured, and are a way to offer a broader benefits package to your workforce without adding to your benefits costs. Additionally, employees who are offered voluntary benefits by their employer are 15 percent more likely to say their current benefits package meets their family's needs extremely or very well.<sup>2</sup>

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## Health Care Reform Dates Every Business Needs to Know

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**While several provisions of the Affordable Care Act (ACA) have already gone into effect, there are several key dates business owners need to be aware of in the coming months and years. We've compiled a list, as well as several useful resources, to help you navigate important health care reform milestones.**

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### **January 2013:**

- ▶ Health Flexible Spending Arrangement Contribution Limit
- ▶ W-2 Reporting Requirement
- ▶ Medicare Retiree Drug Subsidy Tax Deduction Eliminated

### **March 2013:**

- ▶ Notice About State Health Insurance Exchanges

### **January 2014:**

- ▶ Play or Pay
- ▶ Required Contribution to the Temporary Reinsurance Program
- ▶ Small Business Tax Credit Changes
- ▶ Second Wave of Health Care Reforms

### **January 2015:**

- ▶ IRS Reporting Requirements for Employees

### **January 2018:**

- ▶ Cadillac Plan Tax

► **Important Date 1:**  
**January 1, 2013**

**Health flexible spending arrangement contribution limit**

The ACA will limit the amount of participant pre-tax dollars that can be used to cover health expenses through flexible spending accounts (FSAs). FSA participants will have a salary reduction limit of \$2,500 for plan years beginning on or after January 1, 2013.<sup>9</sup>

**W-2 reporting requirement**

All employers that issued at least 250 Form W-2s in 2011 will need to report the value of health care coverage that employees participated in during the 2012 plan year on the employee's Form W-2. Some items, such as stand-alone dental, vision, and health savings account contributions, are excluded from this reporting requirement. Although the value must be reported, it is not taxable for the business or employee.<sup>10</sup> Future regulatory guidance could require small businesses with fewer than 250 employees to meet the W-2 requirement.<sup>10</sup>

**Medicare retiree drug subsidy tax deduction eliminated**

Employers will no longer be able to deduct retiree drug expenses for which they receive a Medicare Part D retiree drug subsidy payment.<sup>11</sup>

► **Important Date 2:**  
**March 1, 2013**

**Notice about state health insurance exchanges**

Employers subject to the Fair Labor Standards Act are required to notify employees of state health insurance exchanges and potential eligibility for premium credits. Each U.S. state must establish a health insurance exchange by January 1, 2014, that provides a marketplace for individuals and small employers. The U.S. Department of Health and Human Services (HHS) will operate a federally-facilitated exchange (FFE) for states that do not establish an exchange, and premium tax credits will be available for those who buy individual coverage in an exchange.<sup>11</sup> The Kaiser Family Foundation offers additional information about exchanges at [kff.org](http://kff.org); however, no guidance has yet been provided by DOL for this requirement.

► **Important Date 3:**  
**January 1, 2014**

**Play or pay**

Employers with at least 50 full-time employees must offer minimum essential health coverage to their full-time employees or face a penalty.<sup>4</sup> For more information about penalties, see Appendix Chart 1.

**Penalties**

**\$2,000:** If the employer does not offer minimum essential to all full-time (30 hour) employees, and at least one employee obtains a premium subsidy through an exchange, the penalty is \$2,000 per year, per full-time employee, excluding the first 30 employees.<sup>4</sup>

*Note: This calculation is also used as a cap for employers offering coverage that is considered unaffordable or does not meet the minimum value standards (see \$3,000).*

**\$3,000:** If an employer offers coverage that is considered unaffordable or does not meet minimum value standards, the fine is calculated as \$3,000 for each full-time (30 hour) employee purchasing coverage through an exchange and receiving federal

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tax credits, up to a cap of \$2,000 multiplied by the number of full-time employees, excluding the first 30 employees.<sup>4</sup>

### **Required contribution to the temporary reinsurance program**

During the first three years the exchanges are available (2014–2016), a temporary reinsurance program for the individual insurance market will be funded by a required contribution from all group major medical plans. The per capita amount is paid for each enrollee by the insurer or third-party administrators on behalf of self-funded plans.<sup>11</sup>

### **Small business tax credit changes**

Small business tax credits will expand to 50 percent of a small business's premium costs for two consecutive years. These credits are available to businesses with average wages between \$25,000 and \$50,000, and fewer than 25 full-time workers (or 50 half-time workers) that offer health insurance through a health insurance exchange.<sup>5</sup>

### **Second wave of Health Insurance Reforms**

In addition to these milestones, there will be a second wave of Health Insurance Reforms that are effective for group health plans, including: <sup>11</sup>

- Pre-existing condition exclusions will no longer be permitted.
- There will be no annual dollar limits on benefits.
- Small group fully insured plans will be required to offer essential health benefits (does not apply to grandfathered plans).
- Limits will be placed on out-of-pocket expenses (does not apply to grandfathered plans).
- Health insurers will be subject to modified community ratings and guaranteed-issue requirements.
- Waiting periods in excess of 90 days will be prohibited.

More information regarding this wave of reforms is expected as January 1, 2014 approaches.

#### **► Important Date 4: January 1, 2015**

### **IRS reporting requirements for employers**

Your business will be required to report information regarding the health coverage of your employees, including basic employee data, dates and type of coverage; cost-sharing; and any other information required by the IRS. These requirements apply to coverage offered on or after January 1, 2014, but the first report will not be due until 2015. More information on the requirement and its regulations is expected as January 1, 2015 approaches.<sup>12</sup>

#### **► Important Date 5: January 1, 2018**

### **Cadillac plan tax**

A tax will be imposed on insurers and employers with self-funded health plans with annual premiums that exceed \$10,200 for individuals and \$27,500 for families.<sup>13</sup> The Cadillac tax is 40 percent of the excess of the annual value of a health plan's cost above the threshold amounts set forth above.<sup>13</sup>

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## Milestones already in place:

**March 23, 2010**

### **Availability of small business tax credits:**

If you offer your workforce health insurance and employ fewer than 25 full-time workers (or 50 part-time workers), your business may be eligible for the Small Business Health Care Tax Credit.<sup>5</sup> For more information about these credits visit [irs.gov/newsroom/article/0,,id=223666,00.html](https://www.irs.gov/newsroom/article/0,,id=223666,00.html).

**January 1, 2011**

### **Availability of SIMPLE cafeteria plans:**

SIMPLE cafeteria plans are a new way for small businesses with 100 or fewer employees to save money. These plans allow employees to pay their portion of health insurance premiums and other eligible benefits, such as contributions to flexible spending accounts, with pre-tax dollars. As an employer, you can take advantage of this option to save on the employer portion of FICA, FUTA and workers' compensation insurance premiums.<sup>9</sup>

**August 1, 2012**

### **Women's preventive care requirements:**

Nongrandfathered group health plans are required to offer preventive coverage to women without cost-sharing for plan years beginning on or after August 1, 2012. Certain religious employers are exempt from the requirement to offer contraceptive coverage, and others may qualify for a one-year delay.<sup>14</sup>

### **Medical Loss Ratio rebate distribution:**

Major medical insurers that did not meet the new medical loss ratio (MLR) requirements were required to issue rebates to policyholders by August 1, 2012. In most cases, it is the employer's responsibility to distribute the participant portion within three months of receiving the rebate. If your plan was due a rebate, you should have received it by now and may need to distribute employee portions. The details on distribution depend on the type of plan offered (e.g., church plan, ERISA, etc.).<sup>15</sup>

For more information, visit these websites:

- Department of Labor website at [dol.gov/ebsa/newsroom/tr11-04.html](https://www.dol.gov/ebsa/newsroom/tr11-04.html).
- Internal Revenue Service website at [irs.gov/uac/Medical-Loss-Ratio-\(MLR\)-FAQs](https://www.irs.gov/uac/Medical-Loss-Ratio-(MLR)-FAQs).

**September 23, 2012**

### **New summary of benefits:**

Major medical insurers began sending all benefits enrollees and applicants a new summary of benefits booklet and coverage notice to explain their benefit plans and coverage. If your business has a self-funded plan, you will be required to provide the new summary for annual enrollment periods on or after September 23, 2012, as well as all other enrollments for plan years beginning on or after January 1, 2013.<sup>16</sup>

Try these helpful sites:

- Department of Labor sample template: [dol.gov/ebsa/pdf/SBCSampleCompleted.pdf](https://www.dol.gov/ebsa/pdf/SBCSampleCompleted.pdf)
- Template FAQ and help: [dol.gov/ebsa/healthreform/](https://www.dol.gov/ebsa/healthreform/)

**October 1, 2012**

### **Patient-Centered Outcomes Research Institute (PCORI) fee:**

Starting with plan years ending on or after October 1, 2012, issuers and plan sponsors will be required to pay a new fee for each covered beneficiary with the fee going to the PCORI fund.

The funds will help contribute to research that evaluates and compares health outcomes and clinical effectiveness, and the risks and benefits of two or more medical treatments and/or services. Since the fee is treated as an excise tax, it is filed through IRS Form 720. The PCORI fee is \$1 per covered beneficiary for the first year, and for the first year is due July 31, 2013.<sup>17</sup>

As you continue to navigate health care reform, you can rely on Aflac to provide updates and helpful information at: [aflac.com/insights](http://aflac.com/insights). To learn more about coverage available in your state, visit: [healthcare.gov](http://healthcare.gov), [cciio.cms.gov](http://cciio.cms.gov) and [irs.gov](http://irs.gov).

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## Appendix:

► **Chart 1:**  
**Penalties by**  
**business size**  
**and coverage**

Business Size based on number of full-time equivalent employees (FTE)	Subject to a penalty of \$2,000 per employee purchasing insurance and receiving a subsidy through a public health care exchange, excluding the first 30 employees.	Subject to a penalty of \$3,000 per employee purchasing insurance and receiving a subsidy through a public health care exchange, up to the cap of \$3,000 times the number of full-time employees, excluding the first 30 employees.
1-25	No	No
26-49	No	No
50+ without employer-provided coverage	Yes	No
50+ with employer-provided coverage deemed unaffordable	No	Yes

► **Chart 2:**  
**Exchange**  
**eligibility by**  
**business size**

Business Size based on number of full-time equivalent employees (FTE)	Eligible for Small Business Tax Credits	Eligible for SHOP Exchange	Eligible to purchase fixed-contribution coverage on a public exchange*
1-24	Yes	Yes	Yes
25-50	No	Yes	Yes
50 -99	No	Yes	Yes
100+	No	No**	Yes

\* Requirements may vary based on individual private exchange requirements, but generally these are more flexible.

\*\* "Yes" in 2016 for most states.



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