

IRS Issues Rules for 2012 W-2 Reporting of Group Health Coverage Employers should immediately begin to examine whether system changes are required to comply

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April 07, 2011

Last year the Internal Revenue Service delayed W-2 reporting of the value of health care coverage, making 2011 an optional reporting year. Now in [Notice 2011-28](#), the IRS has given further relief to small employers, granted additional exemptions, and provided guidance on what to report.

Beginning with the 2012 Form W-2, generally issued to employees in 2013, most large employers must report the cost of group health care coverage provided to employees. There are several exceptions to this rule:

- Small employers, who file fewer than 250 Forms W-2 need not comply, at least until 2013 (with respect to W-2s issued in January of 2014), and will have further transitional relief if no further guidance is issued.
- An employer that contributes to a multi-employer plan is not required to report any coverage costs for such plan.
- Indian tribal governments are not required to report.
- A self-insured church plan that is exempt from federal health continuation requirements is also not required to report the amount of such coverage on IRS Form W-2.
- The cost of coverage provided by a governmental entity for the benefit of military members and their families is not subject to reporting.

An employer that does not meet these exceptions should immediately examine its system requirements for reporting, as the penalty for failure to report is \$200 per return, to a maximum of \$3 million per year.

What coverage must be reported?

Internal Revenue Code Section 6051(a)(14) provides that the “aggregate cost” of all “applicable employer-sponsored” coverage must be reported on the W-2. The cost that must be reported is the amount paid by the employer (including, in most cases, any amounts paid by employer-provided flex credits), or amounts paid on either a pre-tax or after-tax basis by the employee (including imputed after-tax costs, such as domestic partner costs). Amounts paid on a pre-tax basis by the employee through a flexible spending account (FSA), however, do not need to be reported.

The IRS Notice indicates that the cost of group health coverage must be reported, but provides that the costs of the following plans are not subject to reporting: stand-alone dental or vision coverage; long-term care coverage; salary reduction contributions to an FSA account; contributions to an HSA, Archer MSA, or HRA; and HIPAA “excepted” benefits, such as accident, accidental death and dismemberment, disability, workers’ compensation, liability insurance, and automobile medical payment insurance.

What costs must be reported?

The costs reported are the employer costs (including flex credits granted) for the covered employee plus the employer cost for any covered dependent plus any amount paid by the employee on a pre-tax or an after-tax basis for such coverage (except for amounts paid through an FSA account). The IRS Notice states that the COBRA premium rate, less the administrative charge, may be used as the basis for the costs reported.

The Notice also contains helpful guidance for employers that use composite or blended rates. If the employer charges the same rate to all employees, regardless of the scope of coverage, it can report that same cost for all employees. Similarly, if the employer charges rates based on a coverage category, i.e., employee, employee plus one, employee plus family, the employer can report the same cost for each coverage category.

Finally, the IRS Notice indicates that the cost of the coverage must be determined on a calendar year basis.

Therefore, some COBRA rates will need to be converted to a calendar year amount for purposes of W-2 reporting. If a former employee requests a W-2 before the end of a calendar year, the employer does not need to include the cost of coverage on the midyear W-2 issued pursuant to such request.

Where reported

The aggregate employer cost is reported in Box 12, using Code DD, on the 2012 IRS Form W-2 (no reporting required in 2011). The reporting is for "information only" and does not make such amounts taxable.

Questions?

If you have any questions, please contact any member of the DWT employee benefits department.

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