

## State Legislative Brief

### Adult Dependents: California Issues New Guidance - 2011-2



A few days ago, the California Franchise Tax Board (FTB) and the California Employment Development Department (EDD) published guidance regarding California's nonconformity to the provisions in the Patient Protection and Affordable Care Act (PPACA) that remove the imputed income tax requirements on over-aged dependents up to age 27.

The California legislature has also introduced [AB 36](#) for the purpose conforming with the non-taxability provisions in PPACA for coverage provided to adult dependents through age 26. The California Unemployment Insurance Code Section 931 also will treat the cost of coverage as wages for income for unemployment tax purposes. AB 36, if passed and signed by Governor Brown, would be retroactive to March 30, 2010 but effectively applying on the first day of the first Plan Year in which the adult dependent coverage became available (on or after September 23, 2010).

The purpose of this Memorandum is to provide you with notice of these significant developments. Once we know more about the progress of AB 36, we will prepare a recommended action plan.

#### The FTB Guidance

“California law has not been amended to conform to the 2010 federal income tax rules which exclude the value of the medical coverage provided to nondependent adult children from California gross income and allow a deduction to self-employed individuals for health insurance premiums for nondependent adult children under age 27. For California income tax purposes, the fair market value of employer-provided medical coverage for some adult children in excess of the amount paid by the employee for such coverage may result in taxable income to the employee. Any amount paid by an employee for such additional coverage is excluded from federal, but not California taxable wages.

- The additional income is reportable and taxable to the employee, not to the adult child.
- The amount of income included in taxable wage is equal to the amount by which fair market value of the taxable benefit received by an employee exceeds the amount the employee pays for the benefit.

In addition, self-employed individuals may not deduct the health insurance premium paid for an adult child under age 27 who is not a dependent.”

[\[http://www.ftb.ca.gov/professionals/taxnews/2011/February/Article\\_10.shtml\]](http://www.ftb.ca.gov/professionals/taxnews/2011/February/Article_10.shtml)

#### The EDD Guidance

“Typically, employer-provided health insurance premium payments to an employee or their qualified dependents under an employer’s health plan are not subject wages per California Unemployment Insurance Code (CUIC) Section 931. Although the new federal rules consider a nondependent adult child to be a qualified dependent, California law does not. Therefore, the portion of the insurance premium attributable to the nondependent adult child would be wages and subject to all California state payroll taxes.

Reporting the insurance premium wage amount will be different for California and Federal wages on the 2010 W-2. For California purposes, the income to the employee would be the difference between the insurance premiums paid including the nondependent adult child and the amount that would have been paid without the adult child. This

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difference will be additional California State wages and included in wages reported in Box 16 of the employee's W-2. For example:

Premium including nondependent adult child \$987

Premium excluding nondependent adult child \$683

Additional wages to be included in W2, Box 16 \$304"

[[http://www.edd.ca.gov/payroll\\_taxes/Nondependent\\_Adult\\_Child\\_Health\\_Care\\_Premiums.htm](http://www.edd.ca.gov/payroll_taxes/Nondependent_Adult_Child_Health_Care_Premiums.htm)]

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