

IRS Releases Revised Health Care Reporting Guidance

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The Patient Protection and Affordable Care Act of 2010 requires employers to report the cost of employer-sponsored group health plan coverage on Forms W-2. The Internal Revenue Service (the "IRS") issued interim guidance regarding this informational reporting requirement in Notice 2011-28. In response to comments on Notice 2011-28, the IRS, on January 3, 2012, released an advance copy of Notice 2012-9, which supersedes Notice 2011-28.

In general, Notice 2012-9 retains much of the original guidance set forth in Notice 2011-28, but with certain notable changes and additions, including the following:

- Clarifies that the requirement to report the cost of coverage will not apply to an employer that files fewer than 250 Forms W-2 for the preceding calendar year.
- Clarifies that the reporting requirement does not apply to coverage under a health care flexible spending arrangement funded solely through employee salary reductions.
- Provides that the standard for determining whether the cost of dental or vision coverage is reportable, is the same standard that is used for determining whether coverage is subject to the Health Insurance Portability and Accountability Act of 1996 portability rules.
- Provides that employers are not required to report the cost of coverage under an employee assistance program, wellness program, or on-site medical clinic if the employer does not charge COBRA participants a premium to continue the coverage.

Employers will be required to begin including the cost of employer-sponsored health coverage on the 2012 Forms W-2 issued in January 2013. The Treasury Department and the IRS intend to continue accepting comments as they work to develop regulations, so additional clarification and guidance is expected.

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