

# NAVIGATING HEALTH CARE REFORM



October 20, 2011

## **W-2 Reporting: Employers Should Start Gearing Up to Report the Cost of Employer-Sponsored Group Health Coverage**

by Nancy K. Campbell

### **Background and Effective Date**

Under health care reform, employers are required to report to employees the cost of their employer-sponsored group health plan coverage. This reporting is for informational purposes only and is intended to inform employees of the cost of their health care coverage. The Internal Revenue Service (IRS) continues to stress that this new reporting requirement does not cause excludable employer-provided health care coverage to become taxable.

To comply with this new requirement, employers will need to:

- Assess the applicable employer-sponsored coverage that is provided to each employee;
- Calculate the aggregate cost of such coverage for each employee; and
- Report that cost on each employee's Form W-2, in box 12, using code DD, beginning with the W-2 issued in January 2013 (i.e., the Form W-2 issued for the 2012 calendar year).

To comply with this new requirement, employers should start gearing up to make sure systems are in place to track employee coverage and coordinate with their finance, payroll and human resources staff and vendors to ensure accurate reporting.

Even though the new requirement is for informational purposes and does not trigger tax liability, it appears that typical information reporting penalties will apply for noncompliance.

## Transitional Relief for Small Employers

Under a special transitional rule, an employer is not subject to the reporting requirement for any calendar year if the employer was required to file fewer than 250 Forms W-2 for the preceding calendar year. Therefore, if an employer files fewer than 250 Forms W-2 for the 2011 calendar year (typically furnished in January 2012), the employer would not have to report the cost of health coverage on any Form W-2 issued for the 2012 calendar year (typically furnished in January 2013). This transitional relief is expected to remain in place until at least 2013.

**Notice 2011-28** (view [here](#))

The IRS issued Notice 2011-28 (the "Notice"), which provides interim guidance on this new reporting requirement. Below is a brief overview of the guidance provided in the Notice.

### What Employers Must Comply?

As a general rule, all employers that provide applicable employer-sponsored coverage during the calendar year must comply. This includes federal, state and local government entities, churches and other religious organizations. The new requirement does not apply to Indian tribal governments and, as noted above, small employers may not have to comply until 2014.

### Coverage that Must be Reported

Employers are required to report the aggregate cost of applicable employer-sponsored coverage which generally means, with respect to any employee, coverage under any group health plan made available to the employee by an employer which is excludable from the employee's gross income, with a number of exceptions, noted below.

The types of coverage that must be reported include, *for example*:

- Medical plan coverage
- Medicare supplemental coverage
- On-site medical clinics
- Retiree medical coverage, but only for individuals for whom the employer is otherwise required to issue a Form W-2 for the calendar year.

Some, but not all, employer-provided flex credits contributed to a health flexible spending arrangement (FSA) must be reported. Q&A 19 of the Notice provides detailed rules and helpful examples on the amount, if any, of employer-provided flex credits to a health FSA that must be reported.

The employer may choose whether or not to report the cost of COBRA coverage received by an employee who terminates employment during the calendar year. However, it must do so uniformly for all employees who terminate employment during the calendar year.

## Coverage that Does Not Need to be Reported

The following coverages are not reported:

- Non-integrated dental or vision coverage
- Salary reduction contributions to a flexible spending arrangement, although certain employer contributions, as noted above, may be subject to reporting
- Coverage under a health reimbursement arrangement
- Self-insured group health plan coverage that is not subject to any federal continuation coverage requirements such as COBRA, the Public Health Service Act or the Federal Employees Health Benefits Program
- Archer MSA coverage
- Health savings account coverage
- Coverage under a multiple employer plan
- Long-term care coverage
- Accident or disability income insurance
- Supplemental liability insurance
- Liability insurance, including general liability insurance and automobile liability insurance
- Workers' compensation or similar insurance
- Automobile medical payment insurance
- Credit-only insurance
- Independent, non-coordinated coverage for a specified disease or illness (such as cancer coverage) and hospital indemnity or other fixed income coverage
- Federal, state or local government coverage under a plan maintained primarily for members of the military.

## Calculating the Cost of Coverage

The aggregate reportable cost generally includes:

- Both the portion of the cost paid by the employer and the portion of the cost paid by the employee, regardless of whether the employee paid for that cost on a pre-tax or after-tax basis, although special rules apply to health FSAs; and
- The cost of coverage for the employee and any person covered by the plan because of a relationship to the employee (e.g., spouse, children, domestic partner), including any portion of the cost that is includable in an employee's gross income, such as coverage for a domestic partner who is not a tax dependent.

For insured plans, the cost of the coverage will equal the premium charged by the insurer for that employee and his family members.

For self-funded plans, the cost of the coverage will generally equal the COBRA premium for coverage for that period, assuming the COBRA premium is calculated in good faith compliance with a reasonable interpretation of the statutory requirements under COBRA regulations.

### **IRS Sets Webcast on W-2 Health Insurance Reporting:**

The IRS has scheduled an October 31 webinar on reporting health insurance coverage on IRS Form W-2, at 2:00 p.m. Eastern Standard Time. The webinar, announced October 18, will cover topics such as when employers must begin reporting employee health insurance benefits on W-2s and what valuation methods employers can use to calculate the amounts to report.

Speakers for the webinar will be Joseph Tiberio, program manager for employment tax at IRS and Stephen B. Tackney, special counsel to the associate chief counsel in IRS's Tax Exempt and Government Entities Division.

More information is available [here](#).

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