

Employee Benefits E-news

October 21, 2010

IRS Announces Delay in Effective Date of W-2 Reporting Requirement

The Internal Revenue Service ("IRS") has announced that it will defer until 2011 the new requirement for employers implemented by the Patient Protection and Affordable Care Act (a/k/a "Health Care Reform") to report the cost of coverage under an employer-sponsored group health plan.

Background

As originally enacted, Health Care Reform generally provided that the aggregate cost of applicable employer-sponsored coverage must be reported on Form W-2. Applicable employer-sponsored coverage includes any group health plan made available to the employee by the employer (regardless of whether the coverage was paid by the employee or employer), but does not include coverage only for a specified disease, coverage only for long-term care, coverage only for accident insurance, and hospital indemnity/other fixed indemnity insurance.

For reporting purposes, the aggregate cost is to be determined under rules similar to calculating the applicable premium for COBRA continuation coverage, less the 2% administrative charge. Aggregate cost includes both the employee's and the employer's share towards the coverage, excluding contributions to health savings accounts or Archer medical savings accounts, employee contributions through salary reductions to flexible spending accounts, and the value of stand-alone dental or vision plans.

The new reporting requirement was originally scheduled to take effect for tax years beginning after December 31, 2010. Employers normally would not issue Forms W-2 for the 2011 tax year until January 2012. However, if an employee severs employment during the 2011 tax year, the employer would be obligated to provide a Form W-2 to the former employee upon request. Thus, pursuant to the Health Care Reform rule as originally enacted, employers needed to be prepared for the new reporting requirement beginning January 1, 2011.

Effect of Delay on Reporting Requirement

Due to numerous requests by employers for additional time, the IRS opted to permit employers to elect whether to report the aggregate cost of applicable employer-sponsored coverage for 2011. As a result, the IRS will not treat an employer as failing to meet its W-2 reporting obligations for 2011 merely because the employer does not report the aggregate cost of employer-sponsored coverage on any Forms W-2 issued for 2011.

The IRS also indicated that it anticipates issuing additional guidance on the reporting requirement by the end of 2010. We will update you with any new information at that time.

In the meantime, for more information about the new W-2 reporting requirement or Health Care Reform, or for questions regarding any employee benefits issue, contact your regular Butzel Long attorney, a member of the Butzel Long Employee Benefits Practice Group, or the authors of this e-news bulletin.

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