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**Department of Labor Issues Model Notices for Employers to Inform  
Employees of Coverage Options under the Affordable Care Act**

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By Joe G. Conley

On May 8, 2013, the Department of Labor issued model notices that employers may use to comply with the Affordable Care Act's ("ACA") new employee notice requirements. The ACA requires all employers covered by the Fair Labor Standards Act (generally those with \$500,000 or more in annual business volume) to provide current employees and new hires with notice of coverage options under either an employer-sponsored plan or a new health insurance exchange. This requirement was originally supposed to take effect March 1, 2013, but it will now take effect October 1, 2013.

Generally, the written notice must do the following:

1. Inform the employee of the existence of a state health insurance exchange (referred to as a Marketplace) and provide contact information for the exchange.
2. If the employer offers coverage but the coverage does not provide "minimum value" under the ACA (i.e., plan's share of the total allowed costs of benefits under the plan is less than 60%), the notice must state that

the employee may be eligible for a premium tax credit if the employee purchases coverage through an exchange.

3. Inform the employee that if he purchases coverage through an exchange, he may lose the employer contribution to any employer-sponsored plan and that such contribution may be excludable from income taxes.

The Department of Labor's model notices are available online as follows:

- Model notice for employers who offer a health plan to some or all employees, available at <http://www.dol.gov/ebsa/pdf/FLSAwithplans.pdf>
- Model notice for employers who do not offer a health plan, available at <http://www.dol.gov/ebsa/pdf/FLSAwithoutplans.pdf>
- COBRA model election notice, available at <http://www.dol.gov/ebsa/modelectionnotice.doc>

Employers may use these model notices or modified versions that otherwise comply. The Department of Labor has indicated that its current guidance and model notices are temporary, so we likely will see further guidance and revised model notices in the coming months.

For further information, see DOL's Technical Release No. 2013-12 at <http://www.dol.gov/ebsa/newsroom/tr13-02.html>.

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