

BENEFITS & COMPENSATION

>>ALERT

IRS UPDATES GUIDANCE FOR W-2 REPORTING OF EMPLOYER-SPONSORED HEALTH COVERAGE

As we previously reported ([click here](#) to view Alert), the new Patient Protection and Affordable Care Act (PPACA) requires employers to report the cost of employer-sponsored health coverage on an employee's W-2 generally beginning with W-2s issued in January 2013 for the 2012 tax year. IRS Notice 2011-28, which was issued early last year, provided initial guidance on the new reporting requirement. However, the IRS recently issued Notice 2012-9, which updates and supersedes the initial guidance.

Like its predecessor, Notice 2012-9 explains the rules pertaining to the requirement that employers must report the "aggregate cost" of "applicable employer-sponsored coverage" on an employee's W-2. It also provides helpful new guidance on a variety of issues, including:

TREATMENT OF WELLNESS PROGRAMS, EAPs AND SIMILAR COVERAGE

The cost of coverage under a wellness program, on-site medical clinic or employee assistance program (EAP) is required to be reported on Form W-2, but only if the coverage is subject to COBRA and the employer charges a COBRA premium with respect to that type of coverage.

VOLUNTARY REPORTING OF EXEMPT COVERAGE

An employer is always able to voluntarily report the cost of any employer-sponsored group health coverage, even if that coverage is not required to be reported (for example, the cost of coverage under a health reimbursement account, wellness program, on-site clinic or EAP).

REPORTING NON-REPORTABLE AND INCIDENTAL COVERAGE

For a plan that provides some coverage that is reportable on Form W-2 and some coverage that is not reportable, an employer may use any reasonable method to divide the plan into its reportable and non-reportable components. In addition, the employer does not need to report the cost of any coverage under the plan if the

THE BOTTOM LINE

W-2s issued in 2013 for the 2012 tax year will need to reflect the cost of employer-sponsored group health coverage. Employers should immediately begin determining which of their group health coverages (including EAPs, wellness programs, and hospital and fixed indemnity plans) must be reported in accordance with the updated guidance.

reportable portion is incidental compared to the non-reportable portion. Conversely, the employer may voluntarily report the cost of all coverage under the plan if the non-reportable portion is incidental compared to the reportable portion.

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TREATMENT OF POST-YEAR END COVERAGE CHANGES

An employer may calculate the cost of coverage for a calendar year based on the information that is available as of December 31 of that year, without regard to any elections made or notifications provided in the following year. This is the case even if elections or notifications in the following year have a retroactive effect on coverage provided in the earlier year.

COVERAGE SPANNING TWO CALENDAR YEARS

Where a coverage period includes December 31 but extends into the following calendar year (as might be the case with the last payroll period of the year), the employer can choose to treat that coverage as having been provided entirely in either the earlier or later year. Another option is for the employer to treat the coverage as provided partially in the earlier year and partially in the later year (using a reasonable method of allocation, i.e., one that relates to the number of days in the coverage period that fall within the earlier and later years).

REPORTING HOSPITAL INDEMNITY AND SIMILAR INSURANCE

The cost of hospital indemnity insurance or other fixed indemnity insurance (e.g., policies that cover specified expenses for certain diseases or that pay a set amount for each day of hospital stay) must be reported in certain instances. If the employer provides the coverage on a tax-free basis or if employees purchase the insurance using pre-tax contributions, the cost of this coverage must be reported. However, the employer is not required to report the cost of coverage if:

- >> an employer only provides employees with the opportunity to purchase the policy,
- >> the policy is not coordinated with other health coverage sponsored by the employer, and
- >> the policy is paid for by the employee with after-tax dollars.

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