

AN ALERT FROM THE BDO COMPENSATION & BENEFITS TAX PRACTICE

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► SUBJECT

IRS PROVIDES GUIDANCE ON FORM W-2 REPORTING OF EMPLOYER-PROVIDED HEALTH CARE COSTS

► SUMMARY

The Internal Revenue Service recently issued Notice 2011-28 in order to provide interim guidance on Form W-2 reporting of the cost of employer-provided group healthcare coverage. *This reporting requirement will take effect beginning with Forms W-2 generated for the calendar year 2012 and required to be issued to employees in 2013.*

Notice 2011-28:

On March 29, 2011, the Service issued Notice 2011-28 addressing the reporting requirements for employer-sponsored health coverage under the 2010 Patient Protection and Affordable Care Act. Under this legislation, beginning with the calendar year 2011, employers were required to report the aggregate cost of employer-sponsored health coverage on employees' Forms W-2. However, previous IRS guidance made this new reporting requirement optional for all employers for 2011 Forms W-2 (which would generally be given to employees in January 2012).

In the Notice, the Service emphasized that the new reporting requirements are only intended to inform employees of the cost of their healthcare coverage and not to impose additional taxation. Employer-provided health insurance continues to be excluded from an employee's income.

► Read more

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The Notice is presented in a question-and-answer format and addresses a variety of topics, including:

- General reporting requirements,
- Employers subject to the reporting requirements,
- Methods for reporting the cost of coverage,
- Types of coverage included, and
- Calculation methods.

The Notice states that all employers providing employer-sponsored health coverage during a calendar year will be subject to the reporting requirements, including federal, state and local governmental entities, churches, and other religious organizations. However, for small employers, *i.e.*, employers required to file fewer than 250 Forms W-2, the reporting requirements will remain voluntary until further guidance is issued. For these employers, in no event will this requirement apply before the calendar year 2013 (for Forms W-2 furnished in January 2014).

Certain types of employer-sponsored health coverage are exempt from the reporting requirements, such as coverage for long-term care, and amounts contributed to a health savings account. In addition, the Notice states that group health plan coverage provided under a self-insured group health plan that is not subject to any federal continuation coverage requirements (*e.g.*, COBRA) is not subject to the new reporting requirements. For instance, coverage provided under a self-insured church plan is not required to be reported on employees' Forms W-2.

The Notice provides additional guidance regarding how employers should calculate the aggregate cost of employer-sponsored health coverage. For instance, the Notice clarifies that the aggregate reportable cost includes the portions paid by both the employer and the employee, regardless of whether the employee's contributions were made on a pre-tax or after-tax basis, or whether the cost of coverage is includible in the employee's gross income.

The Notice also provides alternative calculation methods for reporting the amount of employer-sponsored health coverage in addition to using the COBRA applicable premium method.

▶ ACTION ITEMS

Although reporting is not required until January 2013, employers should review Notice 2011-28 in a timely manner to ensure that appropriate systems and procedures are in place. In addition, employers that voluntarily choose to report the cost of coverage on 2011 Forms W-2 should review the Notice, inasmuch as they may rely on the guidance in the Notice during any period of voluntary reporting.

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