



Health Care Reform

LEGISLATIVE BRIEF

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IRS Issues Additional Guidance on W-2 Reporting

The Patient Protection and Affordable Care Act (PPACA) requires employers to report the aggregate cost of employer-sponsored group health coverage on employees' Forms W-2. The purpose of the reporting requirement is to inform employees about the cost of their health coverage. The reporting does not cause employees' health coverage to become taxable to them.

This reporting requirement was initially set to take effect beginning with the 2011 tax year. However, in October 2010, the Internal Revenue Service (IRS) delayed the compliance date by making health coverage cost reporting **optional for the 2011 tax year**. In April 2011, the IRS issued Notice 2011-28, which further delayed compliance with this requirement for small employers (those filing fewer than 250 Forms W-2) and provided interim technical guidance on the reporting requirement.

On Jan. 3, 2012, the IRS issued [Notice 2012-9](#), which replaced Notice 2011-28, and updated the interim technical guidance on the Form W-2 reporting requirement.

This Talon Benefits Legislative Brief summarizes the IRS's interim guidance on the Form W-2 reporting requirement.

COMPLIANCE DEADLINES

The Form W-2 reporting requirement is **optional for small employers with respect to the 2012 Forms W-2**. Small employers will not be required to comply with the reporting requirement for years beyond 2012, unless and until the IRS issues further guidance. A small employer is one that filed fewer than 250 Forms W-2 for the preceding calendar year. Thus, if an employer filed less than 250 Forms W-2 for 2011, the employer is not subject to the W-2 reporting requirement for 2012.

Large employers (those that file 250 or more Forms W-2) must comply with the reporting requirement **beginning in 2012** for the Forms W-2 that must be provided by the end of January 2013.

INTERIM GUIDANCE

Notice 2012-9 contains interim guidance for employers that include health coverage cost information on the Forms W-2 for 2012 and later years. Employers that voluntarily decided to report the cost of coverage on 2011 Forms W-2 may also rely on the technical guidance provided in Notice 2012-9.

Written in question-and-answer (Q&A) format, the guidance provides information on the following issues:

- Employers subject to the reporting requirement;
- Method of reporting on the Form W-2;
- Aggregate cost of employer-sponsored coverage;
- Cost of coverage required to be included in the aggregate reportable cost;
- Methods of calculating the cost of coverage; and



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- Other issues relating to the Form W-2 reporting requirements.

Notably, this guidance clarifies that the cost of coverage under certain plans is not required to be included on an employee's Form W-2. These plans include multiemployer plans, health reimbursement arrangements (HRAs), dental or vision plans that are not integrated into a group health plan providing health care coverage, self-insured group health plans that are not subject to federal continuation coverage requirements (such as church plans), and government plans maintained primarily for members of the military or their families.

The guidance also provides that employers are not required to report the cost of coverage under an employee assistance program (EAP), wellness program or on-site medical clinic if the employer does not charge COBRA beneficiaries a premium for the coverage.

To read the full interim guidance, see Notice 2012-9 at <http://www.irs.gov/pub/irs-drop/n-12-09.pdf>.

COMPLIANCE STEPS FOR EMPLOYERS

Employers subject to the reporting requirement for 2012 should make sure that they (or their payroll providers) are prepared to gather the necessary health coverage cost information in advance of having to complete the 2012 Forms W-2. In doing so, these employers should make sure they can identify the applicable employer-sponsored coverage that was provided to each employee and are prepared to calculate the aggregate cost of that coverage.

Employers may also have to address questions from employees regarding whether their health benefits are taxable under this new requirement. They can assure employees that the rule is a reporting requirement only, and does not mean they will incur additional tax obligations.

Talon Benefits will continue to monitor health care reform developments and will provide updated information as it becomes available.

This Talon Benefits Legislative Brief is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice.

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