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## Form W-2 Healthcare Reporting Requirements

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# Overview

- Patient Protection and Affordable Care Act
  - “Aggregate cost” of “applicable employer-sponsored coverage” to be reported on Form W-2
- IRS Notice 2010-69
- IRS Notice 2011-28
  - Effective for 2012 Forms W-2 Issued in January 2013
  - Employers Subject to Reporting Requirement
  - Applicable Employer-Sponsored Coverage
  - Aggregate Cost
  - Calculation Methods
  - Form W-2 Reporting
- Purely Informational?
- Planning Considerations

# Employers Subject to Reporting Requirement

- All employers unless specifically excluded
- Who is excluded:
  - Employers who filed fewer than 250 Forms W-2 for the previous year\*
    - *e.g., employers filing fewer than 250 2011 Forms W-2 (issued in Jan. 2012) not required to report on 2012 Forms W-2 (issued in Jan. 2013)*
  - Federally recognized Indian tribal governments

# Applicable Employer-Sponsored Coverage

- “Applicable employer-sponsored coverage” is:
  - Coverage under any employer-provided group health plan that is
  - Nontaxable to the employee
- Includes coverage for civilian employees under government plans

# Applicable Employer-Sponsored Coverage

- “Group health plan”
  - Any plan of, or contributed to by, an employer (or employee organization) to provide healthcare
    - *Insured or self-insured*
  - Good-faith application of a reasonable interpretation of rules

# Applicable Employer-Sponsored Coverage

- Applicable employer-sponsored coverage excludes:
  - HIPAA excepted benefits (other than onsite clinics)
    - *Accident, disability, and AD&D insurance*
    - *Workers' compensation insurance*
    - *Liability insurance*
  - Long-term care
  - Separate policy substantially for treatment of mouth or eyes
  - Independent, noncoordinated benefits
    - *Specified disease, hospital, or fixed indemnity insurance*

# Aggregate Cost

- Total cost of coverage under all applicable employer-sponsored coverage
- Aggregate cost includes:
  - Costs paid by the employer and employee (pre-tax and post-tax premiums)
  - Even if included in the employee's gross income
    - *domestic partner*
    - *dependent older than 26*

# Aggregate Cost

- Excluded from aggregate cost:
  - Archer MSAs
  - HSAs
  - Salary reductions into health FSAs
  - Governmental plans for military

# Aggregate Cost

- Additional exclusions (until future guidance is issued):
  - Multiemployer plans\*
  - HRAs\*
  - Stand-alone dental and vision plans\*
  - Self-insured church and other plans that are not subject to federal COBRA\*
- Any change to the transition relief will apply prospectively and will not apply to any calendar year beginning within six months of its issuance
  - If guidance issued by 6/30/12, then no earlier than 2013
  - If guidance issued by 7/30/12, then no earlier than 2014

\* Until future guidance is issued

# Aggregate Cost

- “Aggregate cost” to be determined under rules similar to COBRA premiums
  - Good-faith compliance
  - No additional COBRA guidance

# Aggregate Cost – Calculation Methods

- COBRA applicable premium method (minus 2%)
- Premium charged method – for insured plans
- Modified COBRA premium method – for employer-subsidized coverage or if employer bases COBRA on prior-year premiums
  
- Special rules for composite rates (e.g., single coverage class)
- Special rules for determining whether to include health FSA contributions (employer flex credits)

# Aggregate Cost – More Rules

- Cost determined on a calendar-year basis
- Employers must track changes to the costs and coverage occurring during the calendar year
  - Midyear cost changes
  - When employees commence, change, or terminate coverage
- Employer can use any reasonable method to determine the cost
  - New employees midmonth – cost at beginning or end of month, or prorate
  - Terminated employees – may report COBRA costs (or not)
- Must be consistent for all employees in plan

# Form W-2 Reporting

- Voluntary for 2011 (Forms W-2 issued in Jan. 2012)
- Required for most employers in 2012 (Form W-2 issued in Jan. 2013)
- Common paymaster and successor employer rules
- Reported in Box 12, Code DD
- Not aggregated on Form W-3, Transmittal of Wage and Tax Statements
- W-2c obligation
- Information reporting penalties

# Form W-2 Reporting

- Not required for:
  - Individuals who would not normally receive a Form W-2
    - *Retired employees*
    - *COBRA qualified beneficiaries*
  - W-2s issued to terminated employees upon request before the end of a calendar year\*

# Reporting for Informational Purposes (Only?)

- “Provide employees useful and comparable consumer information”
- Does not affect tax exclusion
- “Cadillac” tax (2018)
- Taxation (federal, state, or both)

# Planning Considerations

- Discuss payroll programming to capture 2012 monthly COBRA premiums (less 2% administrative fee)
- Identify plans constituting applicable employer-sponsored coverage
- Identify exempted plans/benefits/populations
- Determine how to track employee terminations and coverage changes during plan year

Questions?

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