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## Revised Guidance on Reporting Healthcare Coverage on Form W-2

The healthcare reform law established new reporting requirements for employer-provided healthcare coverage on Form W-2. This new reporting requirement does not apply to calendar year 2011 Forms W-2. Unless transition relief applies, the reporting requirement applies beginning with the Forms W-2 provided for the calendar year 2012 (generally provided to employees in January 2013).

Newly released IRS [Notice 2012-9](#) updates and clarifies information about these requirements, restating and superseding the information previously provided in Notice 2011-28. See our April 2011 [Update](#) for background on the previous guidance. The new version of the Notice uses a helpful question-and-answer format to provide guidance and includes information on how to report, what coverage to include, and how to determine the cost of the coverage.

### **Affect on Tax Liability**

Note that reporting the cost of healthcare coverage on the Form W-2 does not mean that the coverage becomes taxable. The amount reported does not affect tax liability. The value of the employer's excludable contribution to health coverage continues to be excludable from an employee's income. The new reporting requirement is for informational purposes only and is intended only to provide useful and comparable consumer information to employees on the cost of their healthcare coverage.

### **Employers Subject to the Reporting Requirement**

Except as provided in the transition relief described below, all employers that provide "applicable employer-sponsored coverage" under a group health plan are subject to the reporting requirement. This includes federal, state and local government entities (except with respect to plans maintained primarily for members of the military and their families), churches and other religious organizations, and employers that are not subject to the COBRA continuation coverage requirements, but does not include federally recognized Indian tribal governments.

### **Where to Report on the W-2**

The value of the healthcare coverage will be reported in Box 12 of the employee's [Form W-2](#), using Code DD to identify the amount. The amount reported on the Form W-2 should include both the portion paid by the employer and the portion paid by the employee. The aggregate reportable cost for a calendar year on Form W-2 may be based on information available to the employer as of December 31 of the calendar year.

### **No Reporting Required if No W-2 Issued**

Employers will not be required to issue a Form W-2 solely to report the value of the healthcare coverage in the case of retirees or any other former employees receiving health coverage, provided the individual receives no compensation from the employer necessitating a W-2 (because they don't receive wages or salary).

### **Exclusions from W-2 Reporting Requirements**

Generally, any applicable employer-sponsored coverage must be included in the aggregate reportable cost shown on the Form W-2. However, the reporting requirement does not apply to certain types of coverage, including the following:

- Long-term care
- Archer MSA amounts
- Health Savings Accounts (HSAs)
- Health flexible spending arrangements (FSAs) funded solely by salary reduction contributions
- Coverage provided under hospital indemnity or other fixed indemnity insurance, or coverage for specified disease or illness if those benefits are offered as independent, non-coordinated benefits and the employee pays the full amount of the premium with after-tax dollars.
- Coverage for certain HIPAA "excepted benefits" such as accident or disability income insurance
- Liability insurance
- Worker's Compensation and vision benefits, unless they are stand-alone (HIPAA-excepted) benefits elected separately from medical plans;

### **Transition Relief**

For certain employers and with respect to certain types of coverage listed below, the requirement to report the value of coverage will not apply for the 2012 calendar year Forms W-2, and will not apply for future calendar years until the IRS publishes additional guidance. The employers and arrangements to which the transition relief applies includes the following:

- Employers filing fewer than 250 Forms W-2 for the previous calendar year (e.g., employers filing fewer than 250 2011 Forms W-2);
- Health Reimbursement Arrangements (HRAs);
- Wellness benefits, employee assistance plans (EAPs), and on-site medical clinics, to the extent COBRA enrollees aren't charged a premium for that coverage;
- Dental and vision plans that are not integrated into another group health plan (meeting the conditions of an "excepted benefit" for certain HIPAA purposes);
- Self-insured plans of employers not subject to COBRA continuation coverage or similar requirements;
- Multi-employer plans; and
- Forms W-2 furnished to employees who terminate before the end of a calendar year and request a Form W-2 before the end of that year.

Future guidance may limit the availability of some or all of this transition relief; however, any such future guidance will be prospective only and will not be applicable earlier than January 1 of the calendar year beginning at least six months after the date of issuance of the guidance. In no case

will any such future guidance limit the availability of this transition relief for the 2012 Forms W-2 (the Forms W-2 for the calendar year 2012 that employers generally are required to furnish to employees in January 2013). For example, in no event will reporting be required for 2012 Forms W-2 for any employer required to file fewer than 250 2011 Forms W-2.

### **Calculating the Reportable Cost**

An employer may calculate the reportable cost under a plan using the COBRA applicable premium method. Alternatively, (1) an employer that is determining the cost of coverage for an employee covered by the employer's insured plan may calculate the reportable cost using the premium charged method; and (2) an employer that subsidizes the cost of coverage or that determines the cost of coverage for a year by applying the cost of coverage in a prior year may calculate the reportable cost using the modified COBRA premium method. Special rules apply for employers that charge employees a composite rate (the same premium for different types of coverage under a plan, for example, a premium for self-only coverage versus family coverage). The reportable cost for an employee receiving coverage under the plan is the sum of the reportable costs for each period (such as a month) during the year as determined under the method used by the employer. An employer is not required to use the same method for every plan, but must use the same method with respect to a plan for every employee receiving coverage under that plan.

### **When to Begin Preparation for Reporting**

The 2012 Forms W-2 due in early 2013 must report on health coverage provided this year. Therefore, employers should begin identifying coverages they offer this year that are subject to reporting. Once the applicable coverages are identified, employers will need to determine the total cost for each employee for the year, track coverage by employee, and capture other needed data. Employers should review their systems for tracking employee health coverage immediately and work with their vendors to adjust systems and procedures as needed. Employers will need to be able to capture any changes in cost that may occur during the 2012 calendar year as well as the total cost for each employee for the year.

Notice 2012-09 is interim guidance applicable until further guidance is issued. The agencies continue to consider comments submitted on Notice 2011-28 as they work to develop regulations. In the meantime, more information about the requirement can be found on the [IRS Affordable Care Act pages](#).

Should you have questions about this or any aspect of healthcare reform, contact your Conner Strong and Buckelew account representative toll free at 1-877-861-3220. For a complete list of Legislative Updates issued by Conner Strong and Buckelew, visit our online [Resource Center](#).



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877-861-3220



news@connerstrong.com



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