

***Health Care Reform:
Planning for the 2014 Employer
Health Insurance Mandate***
Special Tax-Related Concerns

Central Virginia Employee Benefits Council
May 7, 2013

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Form W-2 Reporting Requirement

General Rule

Employers must report the aggregate cost of “applicable employer-sponsored coverage” annually on Form W-2 for each covered person.

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Form W-2 Reporting Requirement

What is “applicable employer-sponsored coverage”?

- Nontaxable coverage under a group health plan (or any coverage that could be nontaxable if paid by an employer).
 - Examples: medical plans, coordinated/integrated dental and vision plans, certain disability programs, employer (non-salary reduction) contributions to health care flexible spending accounts

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Form W-2 Reporting Requirement

Special Rules for EAPs, Wellness Programs, and On-Site Medical Clinics

- Employee assistance programs (EAPs), wellness programs, and on-site medical clinics also qualify as “applicable employer-sponsored coverage” if they are “group health plans.”
 - This generally means that if either of these programs provide health care in the form of any service other than a referral (*i.e.*, provides preventive, diagnostic, or therapeutic services; performs procedures addressing physical, mental, or functional status; or sells or dispenses drugs or other medical devices), the program is a group health plan

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Form W-2 Reporting Requirement

Special Rules for EAPs, Wellness Programs, and On-Site Medical Clinics

- Even if these programs are group health plans that fall within the realm of reportable employer-sponsored coverage, the IRS provides an exception to the reporting requirement for these programs if the employer does not charge a COBRA premium for access following a qualifying event.
 - For example, if an employer does not charge a COBRA premium to terminated employees for an EAP that provides psychological counseling sessions, there is no requirement to add the cost of EAP coverage to the aggregate reportable cost on the Form W-2.

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Form W-2 Reporting Requirement

Coverage Exempt from the Reporting Requirement

- Examples of exempt coverage
 - Long-term care coverage
 - Dental-only and vision-only (nonintegrated) plans
 - Accident and disability income insurance
 - Automobile coverage (including, med-pay insurance)
 - Worker's compensation
 - Credit-only insurance
 - Hospital indemnity and cancer-only policies

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Form W-2 Reporting Requirement

What does “aggregate cost” mean?

The aggregate cost is the total cost of all *reportable* employer-sponsored coverage.

- Generally includes both employer-paid and employee-paid (pre-tax and after-tax) costs, based on COBRA rates
- Does not include any health savings account contributions, Archer Medical Savings Account contributions, salary reductions to health care flexible spending accounts, and coverage under a health reimbursement arrangement

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Form W-2 Reporting Requirement

Summary Logistics

- Who?
 - Employers who file less than 250 Forms W-2 annually are exempt
 - Reporting also not required for self-insured plans that are exempt generally from COBRA (e.g., church plans) and multiemployer plans
- When?
 - Reporting required for 2012 Forms W-2 due January 31, 2013, but an extension is available (until January 31, 2014 for 2013 Forms) for reportable EAP, wellness program, and on-site medical clinic coverage
- Where?
 - Form W-2, Box 12, Code DD

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Medicare Payroll Tax Increase

A new 0.9% additional Medicare employment tax became effective January 1, 2013 for:

- Single taxpayers earning more than \$200,000; and
- Married (joint filing) taxpayers earning more than \$250,000

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Medicare Payroll Tax Increase

- The additional 0.9% tax applies only to wages in excess of \$200,000.
- Employees are liable for the tax.
 - The 0.9% increase only applies to the employee-paid portion of FICA taxes; there is no employer match.
- There is no requirement to notify an employee when the employer starts withholding the additional 0.9%.

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Medicare Payroll Tax Increase

- An employer is required to collect the additional tax only if (and when) the employer pays wages that exceed \$200,000 each calendar year, regardless of the employee's tax filing status.
 - For example, an employer is not required to collect the additional 0.9% from an employee who earns \$100,000, even though the employee's spouse earns \$300,000 (and they file a joint return).
- An employer will be liable for the additional tax if (i) the employer fails to withhold the tax and (ii) the employee does not pay the tax that should have been withheld.
 - Even if an employer fails to withhold but ultimately is not liable for the tax (for example, because the employee paid the tax at yearend), the employer still may be liable for penalties associated with delinquent employment tax deposits and reporting requirements

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Medicare Payroll Tax Increase

Key Items Concerning the Additional Medicare Tax

- For purposes of calculating \$200,000, "wages" include:
 - Taxable fringe benefits not paid in cash
 - Tips
 - Imputed income (e.g., group-term life insurance coverage that exceeds \$50,000, group health plan coverage for non-tax dependents)
 - Third-party sick pay
- Employees may request additional withholding (but not specifically for the additional Medicare tax) on Form W-4 or make estimated tax payments.

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Cafeteria Plan Changes

Health Care Flexible Spending Accounts (FSA)

- Effective January 1, 2013, health care FSA contributions are limited to \$2,500 each year
- Limit applies to employee salary reductions, not employer matching or other non-elective FSA contributions
- Cafeteria/flexible benefit plans must be amended to include the new contribution limit by December 31, 2014.

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Cafeteria Plan Changes

Special (Temporary) Mid-Year Election Change

- New transition relief allows non-calendar year cafeteria plan participants to make a mid-year election change to avoid penalties associated with the Affordable Care Act's individual responsibility coverage requirement.
 - Elect to drop employer-sponsored coverage and elect Exchange coverage instead; or
 - Elect employer-sponsored coverage instead of Exchange coverage
- Cafeteria plans may be amended to reflect the special mid-year election change rule any time before December 31, 2014, as long as the amendment is effective retroactive to the first day of the 2013 plan year.

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Questions?