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**MEMORANDUM
2010-21**

Health Care Reform: W-2 Reporting Relief for 2011

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On October 12, 2010, the Internal Revenue Service (IRS) announced in [Notice 2010-69](#) that it would make the reporting of employer-sponsored healthcare costs on Form W-2 OPTIONAL for the 2011 tax year. The W-2 disclosure requirement will become mandatory for the 2012 tax year in January 2013. The IRS has also issued a [draft 2011 Form W-2](#) that includes the codes that employers may use to report the cost of health care coverage.

Summary of the Law

By way of background, the Health Care Reform Law (HCR) will require employers to disclose the aggregate cost of the applicable employer-sponsored coverage for the calendar year (Tax Year) on Form W-2. The law was to take effect beginning with the 2011 tax year for employees participating in health plan coverage. It now will take effect with the 2012 tax year, reportable in January 31, 2013.

1. **Applicable Employer-sponsored Coverage.** For purposes of W-2 reporting, applicable employer-sponsored coverage has the following meaning:
 - All health care coverage (e.g. medical, dental, vision, EAP, chiropractic, etc.)
 - Whether insured or self-insured
 - Whether partially or fully paid for by the employer or employee
 - Excluding IRC Section 125 salary reduction contributions made to Health Care Spending Accounts, Long Term Care (such as the Unum products), Aflac-type target benefits (e.g. cancer/specific disease, hospital indemnity, etc.), or employer contributions to Health Savings Accounts or Archer medical Savings Accounts.
2. **Governmental Entities.** The same rules apply. Applicable employer-sponsored coverage includes coverage under a group health plan (as shown above) established and maintained by the U.S. government, the government of any state or its political subdivisions, or by any agency or instrumentality of such government.
3. **Self-employed Individuals.** For self-employed individuals (i.e. treated as employee under Internal Revenue Code (IRC) Section 401(c)(i)) health coverage under any group health plan will be treated as “applicable employer-sponsored coverage.”



4. **Determining the Amount.** The law itself (Section 9002(a)) says that the aggregate cost will be determined under Section 4980I(d)(1), rules which are similar to the rules of Section 4980B(f)(4) for determining applicable COBRA premium.

Why the Delay?

In Notice 2010-69, the IRS notice says it is providing the relief to allow employers additional time to make any necessary changes to their payroll systems or procedures in preparation for compliance with the reporting requirement. Consequently, employers will not incur any penalties for failure to comply with the W-2 reporting requirement promulgated by HCR for 2011.

The IRS expects to issue additional guidance on the W-2 reporting requirement by the end of this year. We will keep you informed of developments as they become available.

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