



LEGISLATIVE BRIEF

Health Care Reform: Form W-2 Reporting Requirements

The Patient Protection and Affordable Care Act (PPACA) requires employers to report the aggregate cost of employer-sponsored group health plan coverage on their employees' Forms W-2. The purpose of the reporting requirement is to provide information to employees regarding how much their health coverage costs.

This requirement was originally effective for the 2011 tax year and the W-2 Forms that would be provided in January 2012. However, the IRS later made reporting **optional for 2011** for all employers. The IRS has further delayed the requirement for small employers (those who file fewer than 250 Forms W-2) by making it optional for these employers until further guidance is issued. For the larger employers, the requirement will be **mandatory for the 2012 Forms W-2** (that must be issued in January 2013).

Please note that although the information must be disclosed on the W-2, this requirement does not mean that the cost of the coverage will be taxable to the employee.

This PSW Benefit Resources and Insurance Services Legislative Brief describes the Form W-2 reporting requirement, including guidance provided by the IRS in [Notice 2011-28](#). Please read below for more information.

FORM W-2 REPORTING REQUIREMENT

Section 9002(a) of PPACA provides that employers must disclose the aggregate cost of applicable employer-sponsored coverage provided to employees on the employee's Form W-2. Section 9002(a) specifically adds this information to the list of other items that must be included on the Form W-2. These items include information such as the individual's name, social security number, wages, tax deducted, the total amount incurred for dependent care assistance under a dependent care assistance program and the amount contributed to any health savings account (HSA) by the employee or his or her spouse.

The inclusion of this information on the Form W-2 does not change the requirements with respect to taxable income, or the tax exclusion for amounts paid for medical care or coverage. Those items are addressed in another portion of the tax law that is not affected by this change. However, this information may be used to determine whether a plan is a "Cadillac plan" for purposes of the excise tax on high-cost health plans that will take effect in 2018.

The IRS has clarified that the reporting rule does not require an employer to issue a Form W-2 including the aggregate cost of coverage to an individual if the employer does not otherwise have to issue a W-2 for that person. For example, an employer would not have to issue a Form W-2 to a retiree or other former employee receiving no reportable compensation.

EMPLOYERS SUBJECT TO THE REPORTING REQUIREMENT

In general, all employers that provide applicable employer-sponsored coverage must comply with the Form W-2 reporting requirement. This includes government entities, churches and religious organizations, but does not include Indian tribal governments.

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However, until further guidance is issued, small employers are not subject to the reporting requirements. An employer is considered a small employer if it had to file fewer than 250 W-2 Forms for the prior calendar year.

COVERAGE THAT MUST BE REPORTED

Under this new requirement, the information that must be reported relates to “applicable employer-sponsored coverage.” Applicable employer-sponsored coverage is, with respect to any employee, coverage under any group health plan made available to the employee by the employer which is excludable from the employee’s gross income under Code sect. 106.

For purposes of this reporting requirement, it does not matter whether the employer or the employee pays for the coverage – it is the aggregate cost of the coverage that must be reported. The aggregate cost of the coverage is determined using rules similar to those used for determining the applicable premiums for purposes of COBRA continuation coverage. It must be determined on a calendar year basis.

Some types of coverage do not need to be reported on the Form W-2 under this requirement. These are:

- Coverage under a dental or vision plan that is not integrated into a group health plan providing other types of health coverage;
- Coverage under a Health Reimbursement Arrangement (HRA);
- Coverage under a multiemployer plan;
- Coverage for long-term care;
- Coverage under a self-insured group health plan that is not subject to COBRA (such as a church plan);
- Coverage provided by the government primarily for members of the military and their families;
- Excepted benefits, such as accident or disability income insurance, liability insurance, or workers’ compensation insurance;
- Coverage for a specific disease or illness; and
- Hospital indemnity or other fixed indemnity insurance.

Also, salary reduction contributions to a health flexible spending arrangement (FSA) under a cafeteria plan are not required to be reported. However, if the amount of the health FSA for the plan year (including optional employer flex credits) exceeds the salary reduction elected by the employee for the plan year, the amount of the health FSA minus the salary reduction election must be reported.

The reporting requirement does not apply to amounts contributed to an Archer medical savings account (Archer MSA) by the employee (or spouse) or amounts contributed to a health savings account (HSA) by the employee (or spouse). Those amounts are already required to be separately accounted for on the Form W-2.

If an employer provides coverage (such as continuation coverage) to an employee who terminates employment during the year, the employer may apply any reasonable method of reporting the cost of coverage for that year, as long as that method is used consistently for all employees. Regardless of the method used, an employer does not have report any amount for an employee who requested a Form W-2 before the end of the year.

Example: Bob is an employee of ABC Company on January 1, and continues employment through April 25. Bob had individual coverage under ABC Company’s group health plan through April 30, with a cost of coverage of \$350 per month. Bob elected continuation coverage for the six months following termination of employment, covering the period May 1 through October 31, for which he paid \$350 per month. ABC Company will have applied a reasonable

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method of reporting Bob's cost of coverage if it uses either of the following methods consistently for all employees who terminate coverage during the year:

- Reports \$1,400 as the reportable cost under the plan for the year, covering the four months during which Bob performed services and had coverage as an active employee; or
- Reports \$3,500 as the reportable cost under the plan for the year, covering both the monthly periods during which Bob performed services and had coverage as an active employee, and the monthly periods during which Bob had continuation coverage under the plan.

COMPLIANCE STEPS FOR EMPLOYERS

Although this requirement is now optional for the 2011 tax year, employers that will have to comply in future years should ensure that they (or their payroll provider) are prepared to gather this information in advance of having to complete the Forms W-2 for 2012. In doing so, they should make sure they can identify the applicable employer-sponsored coverage that was provided to each employee and be 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 this reporting is for informational purposes only, to show employees the value of their health care benefits so they can be more informed consumers. The amount reported does not affect tax liability, as the value of the employer contribution to health coverage continues to be excludible from an employee's income, and it is not taxable.

PSW Benefit Resources and Insurance Services will continue to update you if additional information becomes available with respect to this requirement.