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**Re: Health Care Reform Update: IRS Provides Relief for Employers for 2011 Form W-2 Reporting of the Cost of Employer-Sponsored Group Health Insurance Coverage**

Dear Clients and Other Friends,

Yesterday the IRS issued Notice 2010-69 providing interim relief for 2011 Form W-2 reporting of the cost of employer-sponsored group health insurance coverage. This health care reform provision had created much consternation for employers heading into 2011. Due to the level of concern that had been raised about this provision and the administrative difficulty of complying with it for 2011, some relief was anticipated. The IRS obliged yesterday with Notice 2010-69.\*

Health care reform legislation enacted in 2010, known as the Patient Protection and Affordable Care Act ("PPACA") and the accompanying Health Care and Education Reconciliation Act ("HCERA"), included this Form W-2 reporting provision. The provision requires that the aggregate cost of applicable employer-sponsored health care coverage must be reported on each employee's Form W-2, beginning for 2011 (i.e., beginning with 2011 Forms W-2 distributed in January 2012). Such aggregate cost is to be determined under rules similar to those of Code § 4980B(f)(4), referring to the definition of the "applicable premium" for COBRA continuation coverage. Despite its appearance on the Form W-2, the value of employer-provided health coverage will continue to be excludible from an employee's income.

IRS Notice 2010-69 thankfully provides that this reporting requirement is **NOT** mandatory for Forms W-2 issued for 2011. Employers will **NOT** be subject to any penalties for failure to meet such requirements, should the aggregate cost of employer-sponsored coverage not be reported on Forms W-2 issued for 2011. The IRS also noted that it anticipates that additional guidance about this reporting requirement will be issued before the end of this year.

This is welcome news from the IRS. Employers should continue to monitor IRS guidance about this reporting requirement and prepare for it to be applied to 2012 Forms W-2 (i.e., 2012 Forms W-2 distributed in January 2013).†

Please contact us with any questions you may have about IRS Notice 2010-69 and the interim relief for this health care reporting requirement for Forms W-2.

Sincerely,

Ted Rice

Holly A. Fistler

\* The notice is available at this web link: <http://www.irs.gov/pub/irs-drop/n-2010-69.pdf>

† Employers will be able to do this reporting for 2011 Forms W-2 if they wish. However, most employers will want to take advantage of the interim relief for 2011 provided by IRS Notice 2010-69 to prepare payroll systems and administrative procedures for compliance with this reporting requirement for 2012.