

Taxation of Health and Welfare Benefits

In order for health and welfare benefits to be tax-free to the employee and deductible by the employer, such benefits must be offered in a manner that complies with the restrictions and limitations under the Internal Revenue Code, as well as IRS regulations and other interpretive guidance. This not only requires a thorough understanding of how each individual rule operates, but also how various sections of the Internal Revenue Code work together, and how the IRS's interpretation has evolved over time. Failure to comply with these rules exposes the employer and individual employees to taxation and related IRS interest and penalties. Our attorneys are experts in all issues related to the taxation of health and welfare benefits. We work closely with clients to help them understand their reporting and withholding obligations, draft/revise plan documents that comply with applicable rules, and, for our insurance company clients, assist with the development of tax-advantaged health and welfare products. Our expertise includes the following:

- Cafeteria plan requirements, including mid-year change in election and nondiscrimination rules.
- Taxation of self-funded health plans, including the nondiscrimination rules under Code section 105(h).
- Establishment and administration of Health Savings Accounts and Health Reimbursement Arrangements.
- Provision of post-retirement health care benefits.
- Voluntary Employees Beneficiary Association (VEBA) deduction limits under Code section 419A, unrelated business income tax and nondiscrimination rules.
- Group-Term Life insurance imputed income requirements for coverage in excess of \$50,000.
- Taxation of disability insurance and the application of the three-year look back rule.
- Establishment and administration of Qualified Transportation Benefit Programs.
- Taxation of travel reimbursements, including special rules regarding airline travel.

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- Applicability of Working Condition Fringe Benefit or De Minimis Fringe Benefit exclusions.
- Establishment and administration of Dependent Care Assistance Programs, including nondiscrimination issues.
- Taxation of Long-Term Care Insurance programs,
- Establishment and administration of Adoption Assistance programs, including establishing Adoption Assistance Flexible Spending Arrangements through a cafeteria plan.
- Establishment and administration of Educational Assistance Programs.