

Publications

IRS Releases Notice 2011-35 and Requests Comments on Health Coverage Fee to Fund Patient-Centered Outcomes Research Institute

ATTORNEYS & PROFESSIONALS

Christine Keller

ckeller@groom.com

202-861-9371

Brigen Winters

bwinters@groom.com

202-861-6618

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SERVICES

On June 9, 2011, the Internal Revenue Service (“IRS”) released Notice 2011-35 (“Notice”) requesting comments on the implementation of a fee that is payable each year from 2012 through 2018 (for calendar year plans) by issuers of health insurance policies and plan sponsors of self-insured health plans to fund the Patient-Centered Outcomes Research Institute.

The fee (which some have referred to as the “comparative effectiveness fee”) is established as a federal tax under the Internal Revenue Code and was a surprise to many when enacted by section 6301 of the Patient Protection and Affordable Care Act (“PPACA”) (adding sections 9511, 4375, 4376, and 4377 to the Internal Revenue Code (“Code”)). This Notice is the first information that the IRS has provided regarding the fee, and provides some insight regarding the effective date, possible mechanics of calculating and paying the fee, and possible safe harbors and other exceptions that the IRS may ultimately adopt. The Notice states that the IRS will be issuing proposed regulations setting forth rules in published guidance regarding the fee, and that the IRS will consider comments received in response to this Notice in drafting those proposed regulations. Comments are due by September 6, 2011.

In the attached memo, we provide key information about the fee and the comments that the IRS has requested.

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