

# Report “Calls”

The PPACA's impact  
on Form W-2 reporting  
requirements

## Do the PPACA Form W-2 reporting requirements apply to employers for 2011? For 2012?

**Answer:** Section 9002 of PPACA added Internal Revenue Code (Code) section 6051(a)(14), which requires that the “aggregate cost” of “applicable employer-sponsored coverage” be reported on Form W-2 effective for taxable years beginning on or after January 1, 2011. Code section 6051(a) generally requires an employer to furnish a Form W-2 to each employee on or before January 31 of the following year or, if an individual's employment is terminated before the close of the year, within 30 days after the date of receipt of a written request from the employee (if that 30-day period ends before the January 31 due date).

In October 2010, the IRS issued Notice 2010-69, which made the PPACA Form W-2 reporting requirement optional for 2011 Forms W-2, and indicated that further guidance would be issued on what should be reported. On March 29, 2011, the IRS issued Notice 2011-28 (and a series of “frequently asked questions” or “FAQs”), which provide further transition guidance and relief on reporting the cost of employer-provided health coverage on Form W-2.

Among other things, Notice 2011-28 provides the following guidance and relief:

- Generally, employers (including governmental and tax-exempt entities and



churches) will be required to report the cost of employer-sponsored health coverage beginning with the 2012 Form W-2 required to be furnished in January 2013.

- Employers are not required to report the cost of employer-sponsored health coverage on any Forms W-2 required to be furnished to terminated employees before January 2013.
- Small employers who file fewer than 250 Forms W-2 for 2011 will not be subject to the reporting requirement for the 2012 Form W-2 (and reporting will not be required for such employers for the 2013 Form W-2 unless and until future IRS guidance is issued).
- The applicable employer-sponsored health-care amount will be reported on the Form W-2 in box 12, using Code “DD.”
- The reported amount is for informational purposes only and does not cause otherwise excludable amounts to be included in an employee's income.
- No amount is required to be reported for any individual who is not otherwise required to be provided a Form W-2. This means that a Form W-2 with the applicable employer-sponsored health-care amount does not have to be provided to retirees or other former employees who do not receive any reportable compensation

from an employer. (However, to the extent deferred compensation is paid to a former employee and reported on Form W-2, this may trigger the reporting requirement.)

- The transitional guidance in Notice 2011-28 applies until further guidance is issued, and any additional guidance will apply prospectively.

**Does the total cost of the health coverage have to be reported, including the employer's share and the employee's share?**

Answer: The reported amount must include the entire cost of "applicable employer-sponsored coverage" under a group health plan. This will include both the portion of the coverage paid by the employer and the portion paid by the employee, regardless of whether it is paid on a pre-tax basis through salary reductions under the employer's cafeteria plan or on an after-tax basis. The reported cost includes even amounts that are included in the employee's income (e.g., imputed income for domestic partner coverage).

Further, the reporting requirement

## The reported amount is for informational purposes only and does not cause otherwise excludible amounts to be included in an employee's income.

will apply regardless of the scope of the employer-sponsored coverage (e.g., employee-only vs. family), and whether the coverage is provided on an insured or self-insured basis.

**What types of employer-provided coverage are subject to the Form W-2 reporting requirements?**

Answer: In general, the Form W-2 reporting requirement applies with respect to all "applicable employer-sponsored coverage" that is excludable from an employee's income under Code section 106, or that would be so excludable if it were employer-provided coverage.

Certain types of coverage are, however, generally excludable (either under the

PPACA statutory language or the transition guidance provided in Notice 2011-28), including the following:

- Contributions to a health savings account (HSA) (or Archer MSA);
- Salary reduction contributions to a health flexible spending account (FSA) (but note, employer "flex credit" contributions to a health FSA are included);
- Health reimbursement arrangements (HRAs);
- Long-term care coverage;
- Stand-alone dental or vision plans that are not integrated into a group health plan providing additional health-care coverage (as determined under the HIPAA "excepted benefit" rules);
- Other HIPAA excepted benefits as described in Code section 9832(c)(1) (e.g., accident or disability-only insurance) (but note, on-site medical clinics are included);
- Hospital or fixed-indemnity insurance, or coverage only for a specified disease, but only if such coverage is paid for by the employee on an after-tax basis;
- Self-insured coverage that is not subject to the COBRA federal continuation coverage requirements.

In addition, employer contributions to a multiemployer plan are not required to be included in the cost of coverage provided to an employee who is covered under the multiemployer plan.

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