

PUBLICATION

Delay in W-2 Reporting Requirements

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IRS Delays Reporting of Group Health Plan Cost on W-2

On October 12, the Internal Revenue Service (IRS) released Notice 2010-69, which provided a one-year delay in the Affordable Care Act (ACA) requirement to report the cost of coverage under an employer-sponsored group health plan on Form W-2. The IRS stated that this delay was necessary to allow employers to make changes to their payroll systems or procedures in preparation for compliance with the new ACA requirement.

The IRS also issued a draft W-2 Form for 2011, which would allow employers to voluntarily provide information about the cost of coverage. The IRS stated it plans to publish guidance on this requirement later this year.

The original reporting requirement stems from the ACA Section 9002, which requires an employer to report the aggregate cost of employer-sponsored health coverage on the W-2 Form. A copy of the Notice can be accessed by [<http://www.irs.gov/pub/irs-drop/n-2010-69.pdf>].

Other Enhanced Employer Reporting Requirement

Before the enactment of ACA, section 6041 of the Internal Revenue Code required businesses making payments to a single recipient of at least \$600 in a single year to file a Form 1099 – MISC with the IRS and the recipient. The IRS regulations exempted, among other things, payments made to corporations and payments made for merchandise. Beginning in 2012, section 9006 of ACA will effectively require all businesses to report payments to and purchases from any taxable entity totaling \$600 or more in a calendar year, regardless of the payee's corporate status or whether the payments were made for merchandise or other property.

In summary, the new law amends the requirement in two principle ways. First, payments to corporations will no longer be automatically exempt from reporting requirements by virtue of the payee's corporate status, despite current regulations to the contrary. Second, the types of payments that can trigger the reporting requirement will be expanded.

The provision is effective for payments made after December 31, 2011. The provision has proven to be controversial. Legislation has been introduced in Congress that would repeal the modifications or increase the dollar amount that triggers the reporting requirement but as of this date, the provision remains in effect.

On July 1, 2010, the IRS announced its request for comments on the expanded reporting requirements that apply to payments made after December 31, 2011 (Notice 2010-51). Comments were due to the IRS by September 29, 2010.

Baker Donelson is aware of the potential impact of this provision on our business clients and we are carefully monitoring any relevant action. If you have any questions, contact your Baker Donelson attorney or any of the attorneys in our Health Reform group.