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IRS Delays Mandatory W-2 Reporting of Cost of Health Care Coverage

On October 12, 2010, the IRS issued a notice providing interim relief to employers with regard to reporting the cost of coverage of employer-sponsored group health plans. Notice 2010-69 states that the previously mandatory notification to employees of the cost of such coverage will not be required on Forms W-2 issued for 2011.

This notice should come as welcome news for employers facing the daunting prospect of having to comply with health care cost reporting requirements under the Patient Protection and Affordable Care Act of 2010 ("Health Care Act of 2010"). The Health Care Act of 2010, which was enacted as Public Law 111-148 on March 23, 2010, would have required employers to report the total cost of employer-sponsored health care coverage beginning with tax year 2011. The implementation of that requirement, which is codified under section 6051(a)(14) of the Internal Revenue Code, will be delayed until tax year 2012 at the earliest.

The IRS issued notice 2010-69 with the acknowledgement that "relief is appropriate" for employers. The delay in implementation will provide employers with additional time to make necessary changes to their payroll systems and procedures in order to comply with the section 6051(a)(14) reporting requirements. Thus, employers will not be subject to any penalties for failure to report the aggregate cost of employer-sponsored coverage (which the IRS defines in section 49801(d)(1) of the Code) on Forms W-2 issued for 2011.

The Treasury Department and IRS intend to issue guidance later this year as to reporting requirements under section 6051(a)(14), which will include instruction on how to calculate health care continuation COBRA premiums. Additionally, the IRS posted a draft 2011 Form W-2 on its website, which can be found here: http://www.irs.gov/pub/irs-utl/draft_w-2.pdf.

If you are an employer interested in understanding the reporting requirements under the Health Care Act of 2010 so as to plan and prepare for future implementation, please do not hesitate to call your attorney at Hill, Farrer & Burrill, LLP. We will be glad to assist you in updating current payroll practices and procedures in order to seamlessly comply with these requirements in tax year 2012 and beyond.

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