



# FLEX FLASH

## W-2 HEALTH COVERAGE REPORTING REQUIREMENT UNDER THE AFFORDABLE CARE ACT DELAYED

The Internal Revenue Service (IRS) released guidance stating that employers **will not** be required to report the aggregate cost of employer-sponsored health coverage on employees' W-2 forms issued for 2011. This W-2 reporting requirement was introduced by the Affordable Care Act. The IRS delayed the W-2 reporting requirement to give employers more time to make necessary changes to their payroll systems.

The delay in the Form W-2 requirement provides significant short-term relief to employers and to the service providers that prepare W-2 Forms.

The W-2 reporting requirement is first required for the 2012 tax year—that is, the value must be reported on the Form W-2 issued in January 2013 for the 2012 tax year. To comply with this requirement, employers must:

- determine the applicable employer-sponsored coverage that is provided to each employee;
- calculate the aggregate cost of such coverage for each employee; and
- report that cost on each employee's W-2.

The Treasury Department/IRS anticipate issuing additional guidance on the W-2 reporting requirement by the end of this year.

### Draft W-2 Form Released

The IRS has issued a draft Form W-2 and Instructions, with new Code DD that employers may use to report the cost of employer-sponsored health coverage in Box 12. The IRS has emphasized that the new reporting requirement does not mean that the amounts reported are taxable; the reporting requirement is intended to be informational only. As mentioned above the IRS indicates that it will be issuing further guidance, which presumably will address open issues relating to this new reporting requirement such as how to value coverage. Guidance on how to handle reporting for retirees, non-calendar-year plans, and retroactive enrollment changes also would be welcome.



New Form W-2

22222 <input checked="" type="checkbox"/>		Void <input type="checkbox"/>	a Employee's social security number		For Official Use Only		
b Employer identification number (EIN)			1 Wages, tips, other compensation		2 Federal income tax withheld		
c Employer's name, address, and ZIP code			3 Social security wages		4 Social security tax withheld		
			5 Medicare wages and tips		6 Medicare tax withheld		
			7 Social security tips		8 Allocated tips		
d Control number			9		10 Dependent care benefits		
e Employee's first name and initial		Last name	Suff.	11 Nonqualified plans		12a See instructions for box 12	
f Employee's address and ZIP code			13 Statutory employee <input type="checkbox"/>	Retirement plan <input type="checkbox"/>	Third-party sick pay <input type="checkbox"/>	12b	
			14 Other			12c	12d
			15 State	Employer's state ID number	16 State wages, tips, etc.	17 State income tax	18 Local wages, tips, etc.

What is "Applicable Employer-Sponsored Coverage"?

The new Form W-2 reporting requirement applies only to "applicable employer-sponsored coverage," a term that generally includes any employer-provided coverage under an insured or self-insured health plan, but is subject to numerous exceptions, including exceptions for (a) accident-only insurance; (b) disability income insurance; (c) long-term care coverage; (d) coverage only for a specified disease; and (e) hospital indemnity or other fixed indemnity insurance. As explained below, the term also does not include stand-alone, insured dental, or vision coverage.

HAS and Archer MSA contributions, and salary reduction contributions to a health FSA, are included in the definition of applicable employer-sponsored coverage, but they are **explicitly excluded** from the W-2 reporting obligation.



### **What is “Aggregate Cost”?**

“Aggregate cost” is determined under “rules similar to” the COBRA rules for applicable employer-sponsored coverage (including employee and employer contributions), including the special rules governing self-insured plans. For plans that charge the same COBRA premium for both single and family coverage, the plan must calculate separate the family premiums for this reporting requirement. As noted earlier, the aggregate cost calculation does not include contributions for HSAs or Archer MSAs and salary-reduction contributions to health FSAs. It does, however, appear to include self-insured dental and vision coverage.

### **Dental and Vision Coverage**

Based on a plain reading of the statutory language, it appears that the cost of insured dental or vision coverage which is offered “under a separate policy, certificate, or contract of insurance” is excluded from the aggregate cost of employer-sponsored coverage to be reported on the employee’s Form W-2. By contrast, the cost of self-insured dental or vision coverage (whether a limited-scope stand-alone benefit or bundled with medical) appears to be included on the employee’s Form W-2. It is unclear whether this distinction between insured and self-insured dental/vision plans was intentional and whether future guidance or a technical corrections bill will ultimately conform the treatment of self-insured and fully insured dental/vision plans.

*Resource: EBIA Compliance Library*