

## LSG Compliance

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**From:** LSG Compliance  
**Sent:** Thursday, June 02, 2011 3:45 PM  
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**Attachments:** W2 Guidance.pdf



## W-2 Reporting Guidance

**June 2, 2011**

The Patient Protection and Affordable Care Act of 2010, as enacted, requires employers to report the total cost of employer-sponsored health care coverage on each employee's Form W-2. Initially, this was required for the 2011 calendar year, but the IRS has delayed the enforcement of this provision. The IRS has also issued guidance on what is included and excluded when calculating employer-sponsored coverage. Please see the attached document, created with Jaffe Raitt Heuer & Weiss, P.C., for detailed guidance on this healthcare reform provision impacting every employer.

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### Helpful Links from the IRS Website:

[Frequently Asked Questions](#)

[2011 Form W-2](#)

[Notice 2011-31](#) – Interim Guidance on Informational Reporting of Employer Sponsored Health Coverage

[Notice 2011-28](#) – Interim Guidance on Information Reporting to Employees of the Cost of Their Group Health Insurance Coverage

[Notice 2010-69](#) – Interim Relief with Respect to Form W-2 Reporting

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The Patient Protection and Affordable Care Act of 2010, as enacted, requires employers to report the total cost of employer-sponsored health care coverage on each employee's Form W-2, Wage and Tax Statement, beginning with the 2011 calendar year. Reporting is for informational purposes; it does not affect the tax treatment of the coverage. This information will enable individuals to compare the cost of health care.

In October, 2010, the IRS announced that reporting the cost of "applicable employer-sponsored coverage" would be optional for 2011, giving employers an extra year to comply with the new reporting requirement.<sup>1</sup>

In March, 2011, the IRS issued comprehensive guidance on how to report the cost of group health coverage.<sup>2</sup> The following summarizes the reporting requirements applicable for 2012 reporting, and will assist you in working with your health care and payroll service providers to implement this new requirement. (NOTE: employers may voluntarily begin reporting the 2011 cost of coverage. Those employers would follow the guidance summarized below.)

## Which employers are subject to the Form W-2 reporting requirement?

Except as described below, all employers (including government and tax-exempt employers) that provide "applicable employer-sponsored coverage" during a calendar year are subject to the reporting requirement. Until further guidance is issued by the IRS, however, an employer is not required to report the cost of coverage if it filed fewer than 250 Forms W-2 for the prior year. The IRS has indicated that if your company files fewer than 250 Forms W-2 for 2011 (generally furnished to employees in January 2012) it is not required to report the cost of coverage on employees' Forms W-2 for any year prior to 2014.

## What is "applicable employer-sponsored coverage"?

"Applicable employer-sponsored coverage" means coverage made available to employees under an employer-sponsored group health plan, the value of which is excluded from the employees' gross income. Group health plans can be fully insured, self-insured (that is, expenses are paid from the employer's general assets) or a combination of both, and includes on-site medical clinics. It does not include coverage for former employees, such as retiree medical plans.

For this purpose, applicable employer-sponsored coverage does NOT include (and the cost of which is not included in calculating the cost of coverage):

- Long term care coverage
- Coverage for accident-only or disability income insurance
- Liability insurance and coverage supplement to liability insurance
- Workers' compensation
- Automobile medical payment insurance
- Stand-alone (separate) dental or vision coverage\*
- Coverage for specified diseases
- Any other coverage not excludable from gross income

## What is included in the aggregate cost of coverage?

The total cost reported on Form W-2 includes the employer's and employee's (both pre-tax and after-tax contributions) share of the cost of coverage and employer contributions (but not employee deferrals) under a cafeteria plan.

Any amount included in an employee's taxable income as imputed income does not reduce the cost of that employee's coverage. If, for example, your group health plan allows an employee to enroll domestic partners or adult children

\*Subject to change in treatment by IRS, with at least six months advance notice of change

<sup>1</sup> IRS Notice 2010-69, 2010-44 IRB 576, 10/12/2010

<sup>2</sup> IRS Notice 2011-28, 2011-16 IRB, 03/29/2011

beyond the calendar year in which the child turns 26, the cost of that additional coverage is imputed income to the employee. The cost of that employee's coverage is not modified by the inclusion of a portion of the cost in his or her gross income. Similarly, if income is imputed to a highly compensated individual because a self-insured plan is discriminatory, the total cost of coverage reported for that individual is not modified by the amount of the imputed income.

The following are specifically NOT included in determining the aggregate cost of coverage:

- Amounts contributed to an Archer MSA
- Amounts contributed to a health savings account
- Amounts employees elect to defer under a health flexible spending arrangement
- Amounts paid pursuant to a health reimbursement arrangement\*
- Cost of coverage provided under a multiemployer plan\*
- Cost of coverage provided under a self-insured group health plan that is not subject to any federal continuation coverage requirements (for example, COBRA, Federal Employees Health Benefits Program)\*
- Cost of coverage provided by the federal government, state or local government, or any agency or instrumentality of any government, primarily for members of the military and their families

## What methods may be used to determine the cost of coverage?

An employer may use one of the following three methods to determine the cost of coverage for each period during a calendar year. (NOTE: cost must be determined on a calendar year basis, even if the policy year or plan year is not a calendar year.) The same method must be used for every employee covered under the same group health plan.

1. *COBRA applicable premium method.* You may use as the cost of coverage the COBRA premium calculated in a manner that satisfies the requirements of Internal Revenue Code section 4980B(f)(4), the "COBRA applicable premium."
2. *Premium charged method.* If your plan is a fully insured plan, the premium charged by the insurer for an employee's group health coverage may be reported as the cost of coverage.
3. *Modified COBRA premium method.* If your company subsidizes the COBRA applicable premium paid by qualified beneficiaries for COBRA continuation coverage (that is, qualified beneficiaries pay less than the COBRA applicable premium), then you may use a reasonable good-faith estimate of the COBRA applicable premium for the cost of coverage (cost reported is the unsubsidized amount). If your company charges each qualified beneficiary a COBRA premium equal to a prior year's COBRA applicable premium, you may report the prior year's COBRA applicable premium as the cost for the current year.

If all employees pay the same amount towards the cost of their coverage (whether elect single, family or some variation) you may report the same cost of coverage for all employees (employer plus employee portion). If employees pay a different premium based on the type of coverage (all employees who elect single coverage pay \$X and all employees who elect family coverage pay \$Y) you may report the same amount as the cost of coverage for all employees electing the same type of coverage.

## What happens if an employee changes coverage during the year?

The reported cost of coverage must take into account any change in coverage during the calendar year. If a change in coverage occurs in the middle of a period (for example, mid-month), you may use any reasonable method to determine the cost for that period, so long as the same method is used for all employees who have a mid-period change in coverage. Using the cost at the beginning of the period or at the end of the period, or averaging or prorating the costs, are all reasonable methods.

\*Subject to change in treatment by IRS, with at least six months advance notice of change

## Where is the Cost of Coverage Reported?

The cost of coverage is reported on Form W-2 in box 12 using code DD (see Form instructions).

The total reported cost of coverage is not, however, reported on Form W-3, Transmittal of Wage and Tax Statements.

Until future guidance provides otherwise, if a terminated employee requests his or her Form W-2 before the end of the calendar year, you are not required to report the cost of coverage on his or her Form W-2.

You are not required to issue a Form W-2 to a retiree or other former employee who would not normally receive a Form W-2 from your company.

## At-a-Glance Summary:

<b>Employer-Sponsored Coverage Reported on W-2</b>
Group health plans (fully insured or self-funded)
On-site medical clinics
Employer contributions to flexible spending accounts
<b>Employer-Sponsored Coverage/Expenses <u>Not</u> Reported on W-2</b>
Retiree health plans
Stand-alone (separate) dental or vision coverage
Amounts employees elect to defer under a health flexible spending arrangement
Long term care coverage
Coverage for accident-only or disability income insurance
Liability insurance and coverage supplement to liability insurance
Workers' compensation
Automobile medical payment insurance
Coverage for specified diseases
Any other coverage not excludable from gross income
Amounts contributed to an Archer MSA (employer or employee based)
Amounts contributed to a health savings account (employer or employee based)
Amounts paid pursuant to a health reimbursement arrangement
Cost of coverage provided under a multiemployer plan
Cost of coverage provided under a self-insured group health plan that is not subject to any federal continuation coverage requirements (for example, COBRA, Federal Employees Health Benefits Program)
Cost of coverage provided by the federal government, state or local government, or any agency or instrumentality of any government, primarily for members of the military and their families