



## SITZMANN ▪ MORRIS ▪ LAVIS

Employee Benefits | Life Insurance | Retirement Planning

**TO: Clients of Sitzmann Morris & Lavis, Inc.**

**RE: CA Tax Conformity with Health Care Reform - Update**

We reported in a December SML Update on the issue of states not conforming to the new federal tax treatment of benefits for adult children up to age 26. This memo provides you with recently published guidance from the California Franchise Tax Board (FTB) and Employment Development Department (EDD).

### FTB Guidance:

California law has not been amended to conform to the 2010 federal income tax rules which exclude the value of the medical coverage provided to nondependent adult children from California gross income and allow a deduction to self-employed individuals for health insurance premiums for nondependent adult children under age 27. For California income tax purposes, the fair market value of employer-provided medical coverage for some adult children in excess of the amount paid by the employee for such coverage may result in taxable income to the employee. Any amount paid by an employee for such additional coverage is excluded from federal, but not California taxable wages.

The additional income is reportable and taxable to the employee, not to the adult child.

The amount of income included in taxable wage is equal to the amount by which fair market value of the taxable benefit received by an employee exceeds the amount the employee pays for the benefit.

In addition, self-employed individuals may not deduct the health insurance premium paid for an adult child under age 27 who is not a dependent.

[http://www.ftb.ca.gov/professionals/taxnews/2011/February/Article\\_10.shtml](http://www.ftb.ca.gov/professionals/taxnews/2011/February/Article_10.shtml)

EDD Guidance:

President Obama signed a health care reform package comprised of the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010 on March 23, 2010. These acts afford employees and their qualified dependents coverage for health benefit purposes. Effective September 23, 2010, under provisions of the Patient Protection and Affordable Care Act, dependent children are permitted to remain on their parents' insurance plan until their 26th birthday.

Typically, employer-provided health insurance premium payments to an employee or their qualified dependents under an employer's health plan are not subject wages per California Unemployment Insurance Code (CUIC) Section 931.

Although the new federal rules consider a nondependent adult child to be a qualified dependent, California law does not. Therefore, the portion of the insurance premium attributable to the nondependent adult child would be wages and subject to all California state payroll taxes. Reporting the insurance premium wage amount will be different for California and Federal wages on the 2010 W-2. For California purposes, the income to the employee would be the difference between the insurance premiums paid including the nondependent adult child and the amount that would have been paid without the adult child. This difference will be additional California State wages and included in wages reported in Box 16 of the employee's W-2. For example:

Premium including nondependent adult child	\$987
Premium excluding nondependent adult child	\$683
Additional wages to be included in W2, Box 16	\$304

[http://www.edd.ca.gov/payroll\\_taxes/Nondependent\\_Adult\\_Child\\_Health\\_Care\\_Premiums.htm](http://www.edd.ca.gov/payroll_taxes/Nondependent_Adult_Child_Health_Care_Premiums.htm)

What's Next:

The California legislature has introduced AB 36 for the purpose of conforming with the non-taxability provisions in PPACA for coverage provided to adult dependents through age 26. AB 36, if passed and signed by Governor Brown, would be retroactive to March 30, 2010. It would

effectively apply on the first day of the first Plan Year in which the adult dependent coverage became available (on or after September 23, 2010). We hope that if passed they will provide clear instructions for those who have already reported income on 2010 W2's. We will keep you posted on the progress of this bill.

Feel free to contact your SML Account Team for additional information.