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Employee Benefits | Life Insurance | Retirement Planning

TO: Clients of Sitzmann Morris & Lavis Inc.

RE: W2 Reporting Relief

On October 12, 2010, the Internal Revenue Service (IRS) announced in Notice 2010-69 that it would make the reporting of employer-sponsored healthcare costs on Form W-2 OPTIONAL for the 2011 tax year. The W-2 disclosure requirement will become mandatory for the 2012 tax year. Consequently, employers will not incur any penalties for failure to comply with the W-2 reporting requirement for 2011.

In Notice 2010-69, the IRS says it is providing the relief to allow employers additional time to make any necessary changes to their payroll systems or procedures in preparation for compliance with the reporting requirement.

The IRS has also issued a draft 2011 Form W-2 that includes the codes that employers may use to report the cost of health care coverage.

Background: The Patient Protections and Affordable Health Care Act (PPACA) will require employers to disclose the aggregate cost of the applicable employer-sponsored coverage for the calendar year (Tax Year) on Form W-2. The law was to take effect beginning with the 2011 tax year for employees participating in health plan coverage. It now will take effect with the 2012 tax year, reportable on January 31, 2013.

1. **Applicable Employer-sponsored Coverage.** For purposes of W-2 reporting, applicable employer-sponsored coverage is defined in § 4980I(d)(1) and has the following meaning:
 - All health care coverage (e.g. medical, dental, vision, EAP (when applicable), chiropractic, etc.)
 - Whether insured or self-insured

- Whether partially or fully paid for by the employer or employee

Excluded from employer sponsored coverage are:

- Section 125 salary reduction contributions made to Health Care Spending Accounts (FSAs);
 - Long term care, accident or disability income insurance (LTD/STD);
 - Aflac-type target benefits (e.g. cancer, specific disease, hospital indemnity, etc.); or
 - Employer contributions to Health Savings Accounts or Archer Medical Savings Accounts.
2. **Governmental Entities.** The same rules apply. Applicable employer-sponsored coverage includes coverage under a group health plan (as shown above) established and maintained by the U.S. government, the government of any state or its political subdivisions, or by any agency or instrumentality of such government.
 3. **Determining the Amount.** PPACA § 9002(a) says that the aggregate cost will be determined under the rules of § 4980B(f)(4), referring to the definition of applicable premium which is used for determining COBRA premium.

What's Next:

The Treasury Department and the IRS expect to issue guidance on the W-2 reporting requirement by the end of this year. We will provide you with more detail as it becomes available. As always, contact your SML Account team if you have any questions.