



Client Bulletin

Keller»Benefit
Services

Year End Legislative Update

RECENT TAX LEGISLATION - AFFECTS ON BENEFITS

Several important changes to employer benefits were included in the tax cut compromise legislation President Obama signed into law on Friday, December 17th. Those changes are outlined below.

Qualified Transportation Plans - 2011 transit benefit unchanged, delayed transit system smartcard rule

Per our email blast on Friday December 17th, two major developments will impact your qualified transportation plans. First, the mass transit monthly benefit limit will remain \$230 for 2011. (Prior to the tax cut compromise, the mass transit monthly benefit limit was set to decrease to \$120 in 2011.)

Second, the IRS has announced a delay in implementing the transportation "separate buckets/purses" rule until 2012. The separate buckets rule will require transit system smartcards to internally segregate and restrict the use of parking and transit benefit funds for their designated expenses (e.g. parking benefits should not be used to purchase train fare). The rule was due to take effect 1/1/2011, however major transit systems, like Washington D.C.'s Metro, need additional time to bring their systems into compliance. Metro has indicated that they will delay implementation of their proposed SmarTrip card changes until sometime later in 2011. [Click here for the official Metro press release.](#)

Educational Assistance - extended through 12/31/2012

Section 127 of the IRC permits employers to provide up to \$5,250 per year in tax-free tuition assistance to employees. Prior to this legislation, tax-free educational assistance was due to expire at the end of 2010.

Adoption Assistance - extended through 12/31/2011, indexed for 2011

The tax cut compromise legislation did make minor changes to the adoption assistance statute, however there was no effect on the current benefit limits or expiration date of these benefits. As a reminder, due to the health care reform package, employer-sponsored adoption assistance benefit limits (combined with an individual's refundable tax credit) were increased to a maximum of \$13,170 in 2010 (\$13,360 in 2011). The adoption assistance provisions are still due to expire on 12/31/2011.

Child & Dependent Care Tax Credits - extended through 12/31/2012

Current limits for the federal "Child and Dependent Care Tax Credit" have been extended through 2012. Individuals can claim a percent of dependent care expenses (based upon income) of up to \$3,000 for one child and \$6,000 for two or more children.

While the tax credit is not an employer benefit, it does impact employee benefits under a dependent care assistance plan including dependent care FSAs. Employees cannot use dependent care expenses that are paid by the employer or through an FSA towards the tax credit, and vice versa.

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Social Security Payroll Tax - temporarily reduced for 2011 only

For calendar year 2011, the employee portion of social security payroll taxes will be reduced by 2% down to a total of 4.2%. The employer portion of social security payroll taxes will remain at 6.2%. There is no change to the 1.45% Medicare payroll tax. You should contact your payroll vendor or accountant for more information.

HEALTH CARE REFORM UPDATE - STATE TAXATION OF ADULT CHILD HEALTH COVERAGE

Prior to health care reform, any employer-sponsored health coverage provided to an employee's non-IRS tax dependent was considered taxable to the employee. Most commonly, this was applicable to domestic partner coverage. However, there were also instances where covered children were not the employee's tax dependent.

When health care reform mandated health plan eligibility include children up to age 26, the IRS announced that coverage for these adult children would still be tax-free to the employee, even if the child is not the employee's tax dependent. This was a huge administrative relief to employers. Unfortunately, some states have not been able to reconcile their state tax code with the IRS's guidance on the federal tax code.

Most states follow the federal tax code to allow for a smooth coordination of federal and state tax withholdings. Three states (California, Minnesota, and Wisconsin) have indicated that due to technical reasons, their state tax code conflicts with the IRS guidance in regards to health coverage provided to non-tax dependent adult children. Therefore, for residents of California, Minnesota, and Wisconsin, employer-provided health coverage for an employee's non-tax dependent adult child will be considered taxable income at the state level, but not federal. This means that employers will have to determine whether any employees who reside in these states are providing health coverage to non-tax dependent adult children, and as necessary, add the fair market value of the adult child's coverage to the employee's taxable state wages on their 2010 Form W-2.

- [California](#)
- [Wisconsin](#)
- [Minnesota](#)

In addition to these three states, 17 other states may have state tax codes that conflict with the federal tax code including Arizona, Arkansas, Georgia, Hawaii, Idaho, Indiana, Iowa, Kentucky, Maine, Mississippi, New Jersey, Oregon, Pennsylvania, Puerto Rico, South Carolina, Virginia, and West Virginia. At this time, none of these states have issued guidance on this topic. If you have employees residing in any of these states, we recommend that you contact your payroll vendor or tax advisor for more information. We understand that some states are in the process of addressing this issue in 2011.

Keller is unable to provide tax advice but has prepared a sample form for your employees to self-report the tax dependent status of his/her covered family members and can assist you in determining fair market value of benefits. We recommend that you contact your payroll vendor, accountant, or other tax advisor for more guidance on this issue.