

EMPLOYEE BENEFITS & EXECUTIVE COMPENSATION ALERT

September 2013

Employer Deadline to Issue Notice of Health Insurance Exchanges Approaching Fast

October 1, 2013, is the deadline for many employers to provide certain information to their employees (including part-time employees, and regardless of plan enrollment status) relating to the health insurance “exchanges” or “marketplaces” established under the Patient Protection and Affordable Care Act. Generally, the notice requirement applies to any employer with \$500,000 in annual dollar volume of business that is engaged in interstate commerce, produces goods for interstate commerce, or handles, sells or works on goods or materials that have been moved in or produced for interstate commerce, as well as other employers also covered by the Fair Labor Standards Act, including: hospitals; institutions that care for and house the elderly, mentally ill or disabled who reside on the premises; schools for mentally or physically disabled or gifted children; pre-schools, elementary and secondary schools; institutions of higher education; and federal, state and local government agencies.

Each notice must be in writing and delivered either by first class mail, or electronically in a manner consistent with the Department of Labor’s (“DOL”) electronic disclosure regulations. For workers who are current employees before October 1, 2013, employers must provide the notice no later than that date. For new employees hired after October 1, 2013, but prior to January 1, 2014, the notice must be provided at the time of hiring. For new employees hired on or after January 1, 2014, notice must be provided within 14 days after the employee’s start date.

The notice must:

- Inform employees of the existence of, and services provided through, a health insurance exchange, as well as the manner in which an employee may contact an exchange for assistance;
- Inform employees that they may be eligible for a premium tax credit under section 36B of the Internal Revenue Code if the employer’s share of the total allowed costs of the benefits provided under the employer’s group health plan is less than 60% of such costs and the employee chooses instead to purchase a qualified health plan through the exchange; and
- Inform employees that purchasing qualified health coverage through the exchange may jeopardize their ability to obtain an employer contribution (if any) to any employer-provided health benefits plan. The notice should also indicate that all or a portion of the employer’s contribution (if any) may be excludable from the employee’s income for federal income tax purposes.

To assist employers in complying with the notice requirements, the DOL has issued two model notices that can be accessed online at www.dol.gov/ebsa/healthreform (“Notice to Employees of Coverage Options”). One model notice applies to employers that offer health insurance to some or all of its employees, and the other model applies to employers that do not offer a health plan.

Although the DOL has recently indicated that it will not impose any fines or penalties for failure to provide the notice, it strongly encourages employers to comply with the notice requirements.

What An Employer Should Do Now

All employers should take steps to ensure that the notices have been or will be distributed to all employees (including part-time employees) by the October 1, 2013, deadline.

If you have any questions concerning how to proceed with respect to the notice requirement, including questions concerning electronic delivery of the notice, please contact us.

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This edition of the Employee Benefits & Executive Compensation Alert highlights recent guidance published by the IRS concerning the October 1, 2013, deadline for employers to provide notice regarding health insurance exchange information. The Alert was written by Devin M. Karas, a member of the Employee Benefits & Pension Practice Area at Reid and Riege, P.C. The Practice Area works closely with clients to design and draft tax-qualified and nonqualified retirement plans. For information or additional copies of this Alert, or to be placed on our mailing list, please contact Devin (tel. 860-240-1063) (e-mail dkaras@rrlawpc.com) or another member of the Practice Area, John J. Jacobson, Chair (tel. 860-240-1006) (e-mail jjacobson@rrlawpc.com), John V. Galiette (tel. 860-240-1009) (e-mail jgaliette@rrlawpc.com), Ronald J. Koniuta (tel. 860-240-1034) (e-mail rkoniuta@rrlawpc.com), or Erek M. Sharp (tel. 860-240-1074) (e-mail esharp@rrlawpc.com), or the Reid and Riege attorney with whom you regularly work.

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