W-2 Reporting to include Imputed Income Reporting
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Federal and State Courts of
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  Pennsylvania
  Connecticut
  District of Columbia
## Agenda

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Why should I care about imputed income?

Do we, as an employer, really have a problem if we don’t impute income to employees who have same-sex spouses, domestic partners and ineligible children covered under our Group Medical, Dental, Vision and other health plans?

Yes! Why what might I be liable for?

- Employer share of FICA & FUTA
- Employee share of FICA & FUTA (if the employee has terminated employment and you don’t have the means to withhold those monies)

Source: www.dol.gov
Dependents to Age 26: First Renewal Following 6 Months Post Enactment (09-23-2010)

- Must be your natural, adopted or step-child
- Do not have to be a student
- Do not have to be the EE’s IRC § 152 tax dependent

- The term “unmarried” is removed
- Spouses & children of these children are not eligible (no Fed Requirement to cover grandchildren)

- Until 2014 (GF Plans), if child has access to employer based coverage, then the child is not eligible
- Plans cannot impose a pre-existing condition exclusion on a child under the age of 19

- IRC modified so that value of ER-paid coverage is not taxable income to employee
Impute Income For?

As of 4/1/2010 Dependent Expanded

Employees, Opposite Sex Married Spouses & IRS Tax Dependents

All Covered Enrolled Participants

Domestic Partners & Their Children

Grandchildren

Side Note:
Section 223 of the Internal Revenue Code (IRC) = Health Saving Accounts (HSAs)
Section 152 of the IRC = Dependents
Imputed Income – pre/post method & problems

*Pre- PPACA*

EE: Bob
Election: Family - wife, 4 children (one child, “David” is 23 and has just graduated college and is now working).
Pre-Tax Election Family contribution less “X”
Post-Tax Election X = EE-amounts for 1 Dependent

Impute Income (for David) [Single COBRA rate minus 2%]
minus post-tax payments made (“X”)

Problems:
1. How much is “X”?  
2. What happens to “X” when there is more than 1 Dependent?
3. All three categories (the pre, post & imputed sections) need to change each time there is a Status Change or Special Enrollment Rights are exercised.

Crawford Advisors, LLC
Imputed Income – old way, Tier Comparisons

*Pre- PPACA*

**EE: Bob**
Election: Family - wife, 4 children (one child, “David” is 23 and has just graduated college and is now working).
Election with David Family
Election without David minus Family

Impute Income

---

**EE: Sally**
Election: Family - husband and 1 child (“Trish” who is 22 and is no longer a Full Time Student)
Election with Trish Family
Election without Trish minus EE+Spouse

Impute Income

Both are covering One non Sect. 152 dependent, yet only Sally is being charged
Imputed Income – correct method*

EE: Bob  
Election: Family - wife, 4 children (one child, “David” is 23 and has just graduated college and is now working).  
Pre-Tax Election Family  
Impute Income (for David) Single COBRA rate minus 2%

EE: Sally  
Election: Family - husband and 1 child (“Trish” who is 22 and is no longer a Full Time Student)  
Pre-Tax Election Family  
Impute Income (for Trish) Single COBRA rate minus 2%

Per IRS – (Notice 2010-38*) stop this as of 4/1/10

Both are covering One non Sect. 152 Dep. & Both are being charged the value of the benefit they received. The EE cost and the ER cost for the coverage.
Dependents to Age 26: State-by-State

a. HSA – fix. A “fix” bill is pending. Currently the penalty for invalid distributions is 20%. IRC Section 152 was no changed, neither were HSAs.

b. Qualifying child/relative – pre-health reform definitions age 19, or up to 24 if a full time student.
   So, non-152 dependents are only exempt from Fed. Tax for their coverage.

c. Group Health plans covering EE’s dependents in a non-conforming state, that health coverage is potentially taxable: AZ, GA, HI, ID, IN, MA, ME, VA, WV, WI.
   AR, CA, KY, MN, OR, SC amended their laws to conform. VT won’t enforce.

d. GA, HI, IN have pending legislation to fix this “gap”.
# Sample Illustration

<table>
<thead>
<tr>
<th>Annual numbers</th>
<th>Single Employee</th>
<th>Employee with Spouse</th>
<th>Employee with Domestic Partner (or one average Dependent)</th>
<th>Employee/Family with Two Non-IRC 152 dependents</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Annual Employee Salary (Gross)</strong></td>
<td>$50,000.00</td>
<td>$50,000.00</td>
<td>$50,000.00</td>
<td>$50,000.00</td>
</tr>
<tr>
<td><strong>EE’s Pre-Tax Salary Deferrals</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>$ (1,480.70)</td>
<td>$ (2,381.08)</td>
<td>$ (2,381.08)</td>
<td>$ (4,375.54)</td>
<td></td>
</tr>
<tr>
<td><strong>Net Income</strong></td>
<td>$48,519.30</td>
<td>$47,618.92</td>
<td>$47,618.92</td>
<td>$45,624.46</td>
</tr>
<tr>
<td><strong>Imputed Income</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>$ -</td>
<td>$ -</td>
<td>$ 4,980.00</td>
<td>$ 9,960.00</td>
</tr>
<tr>
<td><strong>Taxable Income (Net + Imputed)</strong></td>
<td>$48,519.30</td>
<td>$47,618.92</td>
<td>$52,598.92</td>
<td>$55,584.46</td>
</tr>
<tr>
<td><strong>Employee’s Tax Liability</strong></td>
<td>$18,267.52</td>
<td>$17,928.52</td>
<td>$19,803.49</td>
<td>$20,927.55</td>
</tr>
<tr>
<td><strong>Difference attributable to one Domestic Partner</strong></td>
<td>-----</td>
<td>$ -</td>
<td>$1,874.97</td>
<td>-----</td>
</tr>
</tbody>
</table>

* Assumes 37.65% (25% FIT, 5% State, 7.65% FICA)

**Single COBRA rate minus 2%**

**Single COBRA rate minus 2%**

X 2 non-152 Deps
Q1: Is this new? When was Section 152 of the Internal Revenue Code enacted?

A1: It is not new. IRC Section 152 has been the law for many, many years. What we’ve seen, over the past few years is that more and more states and employers are expanding their covered populations to include dependents up to age 26 (without any proof of student status) and covering domestic partners. In 2004, for tax year 2005, the Working Families Tax Relief Act, modified language and it is possible that some children that would no longer be “qualified children” would be “qualified relatives”, but that’s another discussion. What is “new” here, is that as of this summer, we have strong indications from the IRS that the methods employers have used, in the past, for imputing income are not acceptable (such as comparing “tiers” with and without the non-152 dependents).

IRS Note: Change taxability due to PPACA. Leave section 152 alone.
Q2: I called the IRS help lines and asked about imputed income. They didn’t know what I was talking about? Also, I can’t find any IRS publications on this topic. Please help.

A2: IRS Publication 15 and 15-B are excellent overall guides to help Employer ascertain taxation and withholding issues and can be obtained by checking IRS’ list of publications on their website. Further, the instructions for form W-2 explain that the amount for taxable health insurance should be included in Box 1, 3 and 5 on their W-2s. There are also comments about noting it in Box 14.

IRS W-2 Instructions (2011):

IRS W-2 Instructions (2012):
Pennsylvania: As of June 2011, the Pennsylvania Department of Revenue has updated their guidance. “Accordingly, the expansion of employer-provided health insurance to a non-dependent child of an employee does not require legislative action for the value of this health insurance coverage to be excluded from Pennsylvania personal income tax.”

Wisconsin: As of October 2011, the Wisconsin passed legislation that would enable employers to offer coverage to employees’ adult children up to 26 without employees being taxed on coverage. Subsequent IRS rules said that the coverage can be extended on a tax-free basis through the end of the year in which the child turns 26.
Q3: Does this imputed income apply to a disabled dependent child?

A3: The short answer is no. Internal Revenue Code Section 152(c)(3)(B) states: "Special Rule for Disabled. In the case of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during such calendar year, the requirements of subparagraph (A) [note: that's the paragraph that spells out qualifying children under age 19 or age 19-23 and a full time student] shall be treated as met with respect to such individual."
IRS Issues Guidance on Health Care Coverage W-2 Reporting
As a result of PPACA
W-2 Reporting…Why

- Congress wants everyone to know/understand the total cost of your coverage – so that you can shop for coverage.

W-2 Reporting…Who, What & When

- **2013:** IRS Notice 2011-28 contains new information on W-2 reporting of the cost of health care coverage.
  - Beginning with W-2’s issued on 1/31/2013 for 2012 earnings, employers will provide this cost data in *Box 12, using code DD* (an information only box).
- **2014:** Less than 250 employees? In 2012, your company is relieved from tracking & reporting the value of health care coverage on Forms W-2.
  - You’ll start with your 1/31/2014 issued W-2’s for calendar year 2013.

The amount that must be reported is the “aggregate cost of applicable ER-sponsored coverage,” (that is excluded gross income under IRC Section 106 (with some exceptions)).
• **W-2 Reporting…More Than 250 Employees?**
  Here’s What You Need to Know:

<table>
<thead>
<tr>
<th>Type of Coverage</th>
<th>Reportable on W-2?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fully insured Medical/Rx coverage</td>
<td>Yes.</td>
</tr>
<tr>
<td>Self funded Medical/Rx coverage</td>
<td>Yes (unless it is a Church Plan exempt from COBRA).</td>
</tr>
<tr>
<td>Insured Dental or Vision</td>
<td>No, if unbundled from Med/Rx*.</td>
</tr>
<tr>
<td>Self funded Dental or Vision</td>
<td>No, if unbundled from Med/Rx*.</td>
</tr>
<tr>
<td>HCFSA contributions</td>
<td>No, for EE Sect. 125 contributions. But, YES if the ER makes HCFSA contributions or gives credits.</td>
</tr>
<tr>
<td>HRA contributions</td>
<td>No.</td>
</tr>
<tr>
<td>HSA contributions</td>
<td>No. Continue reporting in W-2-box 12 (Code W).</td>
</tr>
<tr>
<td>On-site medical clinics</td>
<td>Yes, if a group health plan.</td>
</tr>
<tr>
<td>Multiemployer plans (MEWAs)</td>
<td>No.</td>
</tr>
<tr>
<td>Long-Term Care</td>
<td>No.</td>
</tr>
<tr>
<td>Gov't health plans (for military &amp; military families)</td>
<td>No.</td>
</tr>
<tr>
<td>Indian Tribal Gov't sponsored health plans</td>
<td>No.</td>
</tr>
<tr>
<td>Indemnity / Illness policies (E.g. AFLAC, Colonial Life, etc.)</td>
<td>No.</td>
</tr>
</tbody>
</table>
W-2 Reporting Continued…

- An employer may choose from among several methods of calculating the reportable cost under a plan:
  - The COBRA premium cost to the EE
  - The premiums charged for the EE’s coverage
  - A modified COBRA premium (whether the employer subsidizes COBRA premiums or bases them on premiums calculated in a prior year).

- *Note: This is provisional guidance and may be changed (IRS Notice 2011-28).*

Which employers and when will they be subject to these requirements?

- All employers that provide “applicable employer-sponsored coverage” under a group health plan are subject to the reporting requirement.

- “Applicable employer-sponsored coverage” means coverage under any group health plan made available to the employee by an employer which is excludable from the employee’s gross income under internal Revenue Code § 106 or would be excludable if it were employer-provided coverage.”

- “This includes federal, state and local government entities (except with respect to plans maintained primarily for members of the military and their families), churches and other religious organizations, and employers that are not subject to COBRA continuation coverage requirements, but does not include federally recognized Indian tribal governments.”

- **Note:** Employers are not required to report the cost of health coverage on any Forms W-2 required to be furnished to employees prior to January 2013. However, if an employer chooses to report earlier (e.g. on the 2011 Forms W-2 generally furnished to employees in January 2012) the employer may look to *Notice 2011-28* for guidance regarding that voluntary earlier reporting.

Source: IRS.gov
What types of health care coverage must be included and reported on Form W-2?

• “Employers are required to report the total cost of all “applicable employer-sponsored coverage” provided to an employee. For any employee, “applicable employer-sponsored coverage” is coverage under a group health plan that the employer makes available to the employee that is non-taxable to the employee (or that would be non-taxable if coverage were employer-provided).”

Source: IRS.gov
Some types of coverage are excluded from this reporting requirement under the Affordable Care Act (ACA) or by IRS authority under this new requirement

- Health savings accounts (HSAs)
- Health reimbursement arrangements (HRAs)*
- Separate dental or vision (“stand alone”) coverage (whether insured or self-insured) that is not “bundled” into a group health plan
- Pretax salary reduction contribution to a Flexible Spending Account (HCFSA)
- Long-term care
- Archer medical savings accounts (MSAs)
- Coverage only for accident or disability income insurance
- Liability insurance, including general liability and automotive liability
- Workers compensation or similar insurance
- Automobile medical payment insurance
- Credit-only insurance
- Other similar insurance coverage, specified in regulations, under which benefits for medical care are secondary or incidental to other insurance benefits
- Coverage only for a specified disease or illness
- Hospital indemnity or other fixed indemnity insurance

*Currently excluded from W-2 reporting by authority of the IRS under transition relief in Notice 2011-28
Transition Relief

Certain provisions of the new interim guidance provide transition relief to employers, mostly by deferring compliance with the Form W-2 reporting requirement. This includes relief for:

- Employers that file fewer than 250 Forms W-2 (2014 -1/31/14 for 2013 tax year’s W-2)
- Forms W-2 furnished to terminated employees before the end of the year
- Forms W-2 for employees in multiemployer plans
- Reporting the cost of HRAs
- Reporting the cost of dental and vision plans
- Reporting the cost of self-insured plans that are not subject to COBRA or similar continuation requirements
What amounts of imputed income for Life and Disability are affected by the code?

**Group Term Life Insurance – Employer Paid**
- You must impute income for life insurance coverage above $50,000; coverage of any amount for “key employees” provided through a discriminatory plan; employer-paid coverage in excess of $2,000 for spouses and dependents; and employee-paid supplemental life insurance that is provided under a plan that “straddles” the IRS Table I rates.

<table>
<thead>
<tr>
<th>Age</th>
<th>Cost of $1,000 of GTL per month</th>
<th>Cost of $1,000 of GTL per year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 25</td>
<td>$0.05</td>
<td>$0.60</td>
</tr>
<tr>
<td>25-29</td>
<td>$0.06</td>
<td>$0.72</td>
</tr>
<tr>
<td>30-34</td>
<td>$0.08</td>
<td>$0.96</td>
</tr>
<tr>
<td>35-39</td>
<td>$0.09</td>
<td>$1.08</td>
</tr>
<tr>
<td>40-44</td>
<td>$0.10</td>
<td>$1.20</td>
</tr>
<tr>
<td>45-49</td>
<td>$0.15</td>
<td>$1.80</td>
</tr>
<tr>
<td>50-54</td>
<td>$0.23</td>
<td>$2.76</td>
</tr>
<tr>
<td>55-59</td>
<td>$0.43</td>
<td>$5.16</td>
</tr>
<tr>
<td>60-64</td>
<td>$0.66</td>
<td>$7.92</td>
</tr>
<tr>
<td>65-69</td>
<td>$1.27</td>
<td>$15.24</td>
</tr>
<tr>
<td>70 and above</td>
<td>$2.06</td>
<td>$24.72</td>
</tr>
</tbody>
</table>

**Example** Tom’s employer provides him with group-term life insurance coverage of $200,000. Tom is 45 years old, is not a key employee, and pays $100 per year toward the cost of the insurance. Tom’s employer must include $170 in his wages. The $200,000 of insurance coverage is reduced by $50,000. The yearly cost of $150,000 of coverage is $270 ($0.15 x 150 x 12), and is reduced by the $100 Tom pays for the insurance. The employer includes $170 in boxes 1, 3, and 5 of Tom’s Form W-2. The employer also enters $170 in box 12 with code “C.”
What amounts of imputed income for Life and Disability are affected by the code? Continued….

Coverage in excess of $50,000 – All participants will have imputed income on premiums for group term life insurance in excess of $50,000, if such premiums are paid by the employer or are paid on a pre-tax basis by employees (i.e., paid through a cafeteria plan). The imputed income amount is based on the IRS Table I rates.

There are few exceptions, such as coverage provided after an employee becomes disable; any portion of coverage for which the employer is directly or indirectly the beneficiary; and coverage for which a charity is the sole beneficiary.

**Discriminatory plan** – If your group term life insurance plan discriminates in favor of any “key employee” – either as to eligibility or as to the kind or the amount of benefits – then all “key employees” covered under the plan must include in taxable income the cost of the first $50,000 of coverage. The amount taxable to the key employees is the higher of the actual cost or Table I cost. There are no tax consequences to non-key employees in the plan.
What amounts of imputed income for Life and disability are affected by the code? Continued...

Coverage in excess of $2,000 for spouses or dependents - If the employer pays the premium for life insurance with the face amount of more than $2,000 for an employee’s spouse or dependents, the entire premium amount is imputed income for the employee. If the life insurance is less than $2,000, however, the coverage is excludable as a “de minimis” fringe benefit under IRC Section 132, and there is no imputed income for the employee.

The plan “straddles” the Table I rates – If you offer employee-paid supplemental group term life insurance, employees who pay less that the IRS Table I rates will have imputed income equal to the difference between the Table I rates and the amounts they pay. Employees who pay more than the Table I rates will not have imputed income.
What amounts of imputed income for Life and disability are affected by the code? Continued…

**Long-Term Disability “Gross-up” Plans** - Employers who pay the premiums for employees’ long-term disability (LTD) insurance may want to impute income equal to the premium amount, so that if an employee becomes disabled, benefits received will not be taxable.

If LTD premiums are paid with after-tax employee dollars, any benefits received will not be subject to taxation; however, if the premiums are paid by the employer or with employee pre-tax dollars, any benefits received are taxable. Some employers offer arrangements under which employees can elect annually whether they or the employer will pay their LTD premiums for the upcoming year. Other employers pay the LTD premium and then impute income only for certain categories of employees (often management employees).

**Note:** You must discuss with your carrier how premiums will be paid before you implement such arrangements.
Questions

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