

Memo

To: Clients
From: Weber • O'Brien, Ltd.
Re: IRS Releases Information on COBRA Continuation Premium Subsidy

The Internal Revenue Service has released IR-2009-15 which contains new detailed information that will assist employers in claiming credit for a portion of the COBRA medical premiums under a recently-enacted premium subsidy provision.

The recently-enacted American Recovery and Reinvestment Act of 2009 include changes to the health benefit provision of the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA"). The new law states that COBRA will provide certain former employees, retirees, spouses, former spouses, and dependent children the right to temporary continuation of health coverage at group rates, with a partial subsidy from the Federal Government. COBRA generally covers health plans maintained by private-sector employers with 20 or more full and part-time employees. These provisions also apply to employee organizations and federal, state, or local governments. Eligible former employees enrolled in their employer's health plan at the time they lost their jobs are required to pay only 35% of the cost of COBRA coverage under the new law. Employers are required to treat the 35% payment by eligible former employees as full payment of the medical insurance premiums, and are entitled to a refundable credit for the other 65% of the COBRA cost on their payroll tax return.

Although several conditions apply to eligibility for the premium subsidy, the two most important restrictions relate to the nature of the termination and the income of the former employee. The former employee must have become eligible for COBRA coverage as the result of the "involuntary termination" of employment. In addition, an individual whose income exceeds specified threshold levels is not eligible for the premium subsidy, while other individuals are eligible only for a partial subsidy based on their income.

Employers must maintain supporting documentation for the credit claimed. Required documentation includes:

- Documentation of receipt of the employee's 35% share of the premium;
- In the case of insured plans, a copy of the invoice or other supporting statement from the insurance carrier and proof of timely payment of the full premium to the insurance carrier; and

- Declaration of the former employee's involuntary termination.

The new COBRA subsidy provisions also apply to insurers required to offer continuation coverage under state law similar to the federal COBRA.

To assist employers in complying with the new provisions and claiming the credit, the following information has been posted on the IRS website:

- New information on the "COBRA Health Insurance Continuation Premium Subsidy" at:
www.irs.gov/newsroom/article/0,,id=204505,00.html
- A list of questions and answers for use by employers at:
www.irs.gov/newsroom/article/0,,id=204708,00.html

Form 941, Employer's Quarterly Federal Tax Return, will also be sent to about two million employers in mid-March. The form has been revised in order to provide a means to claim the new COBRA premium assistance payments credit.

We hope you find this explanation helpful. If you have any questions please do not hesitate to call one of us.

This weekly newsletter is provided to our clients as one of our many services to help update you on the always-changing tax laws. If you have any questions, please feel free to contact Dave O'Brien at (419) 885-8338 Ext. 202 or email at dobrien@weberobrien.com or Jim Weber at (419) 885-8338 Ext. 224 or email jweber@weberobrien.com.