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TAX-FREE HEALTH BENEFITS EXTENDED TO CHILDREN UNDER AGE 27

On March 23, 2010 the President signed into law the Affordable Care Act which requires group health plans, that provide dependent coverage of children, to continue to make that coverage available to an adult child until age 26. To compliment this, the IRS released Notice 2010-38, providing guidance on the tax treatment of such coverage. This notice immediately allows employers with cafeteria plans to permit employees to begin making pre-tax contributions to pay for this expanded benefit for children up to age 27.

Who is an eligible child:

An eligible child is a son, daughter, stepson or stepdaughter of the employee, and includes a child that is both a legally adopted individual of the employee and an individual who is lawfully placed with the employee for legal adoption by the employee. Also included is an "eligible foster child", which is defined as an individual who is placed with the employee by an authorized placement agency, or by judgment, decree, or order of any court of competent jurisdiction. In addition, to be eligible, the child cannot turn age 27 before the end of the taxable year. Marital status, residency and/or support no longer matter in determining eligibility.

What this means:

As soon as your health plan allows for the enrollment of your adult child in accordance with the new law, you may make a status change and pre-tax the additional premium (if applicable), under your Cafeteria Plan. In addition, you may submit for reimbursement under your Unreimbursed Medical Spending Account any eligible out-of-pocket expenses incurred by your eligible adult child. These expenses must incur after March 30, 2010.

This guidance is very welcome and makes the tax advantages clear (unless your state law conflicts) in regards to adult children under the new law. Most states like, the state of Mississippi, follows federal law in regards to taxation under Section 125 of the Internal Revenue code. However, if your plan operates in another state, you should verify the tax laws of that state. As more information is available regarding state laws and any potential conflicts, we will update you.