

MEMORANDUM

To: The Louisiana Sheriffs' Pension and Relief Fund

From: Tarcza & Associates

Re: Employer-provided health insurance

Date: July 7, 2010

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Section 9002 of the Patient Protection and Affordable Care Act (P.L. 111-148) and the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152) (the "healthcare reform act") provides that an employer will be required to report on an employee's Form W-2 the aggregate cost of employer-provided coverage under a group health plan (other than salary reduction contributions made to a health FSA). This reporting requirement will be effective for 2011 (i.e., for the Form W-2 to be issued in January, 2012).

Some questions have been raised about the impact this new reporting requirement might have on the calculation of income and payroll taxes. Currently, the value of employer-provided health insurance is not used in calculating an employee's gross income for federal income tax purposes. The new reporting requirement will not change this. Payroll taxes (or "FICA taxes") are imposed separately from regular federal income taxes and, according to I.R.C. §3121, are generally imposed on all remuneration from employment. The definition of "wages" that payroll taxes are imposed upon is found in I.R.C. §3121(a). Under IRC §3121(a)(2), employer-provided health insurance coverage is specifically excluded from an employee's wages for payroll tax purposes. The new reporting requirement does not amend IRC §3121(a)(2).

The new reporting requirement is being introduced with the ultimate goal of establishing an excise tax on high cost employer-provided health insurance. Section 9001 of the healthcare reform act establishes the so-called "Cadillac tax" on high-cost plans and is not scheduled to take effect until 2013. Section 9001 also defines the annual limitation above which the excise tax will apply. In general, the limit is \$8,500 per year for an individual and \$23,000 per year if the coverage is applied for a family. It is also worthwhile to note that these limits are increased by \$1,350 and \$3,000, respectively, if the employee is engaged in a high-risk profession such as law enforcement.

The stated purpose of requiring the inclusion of cost of employer-sponsored health coverage on an employee's Form W-2 is to help administer the excise tax on high-cost plans and to help the government determine who has health insurance coverage. The real impact of the new reporting requirement could be seen in the future, however, if further amendments to the Internal Revenue Code are passed. Currently, the new requirement that employer-provided

health insurance coverage be included on an employee's Form W-2 will have no impact on the calculation of an employee's gross income for federal income tax purposes. The definition of "wages" for payroll tax purposes will also be unaffected by the new reporting requirement.