



General Assembly Relieves Income Tax Uncertainty

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Although the debate concerning the future of health care reform under The Patient Protection and Affordable Care Act ("PPACA") continues in Virginia and around the nation, Virginia's General Assembly has resolved a pressing personal income tax issue arising from the passage of PPACA.

Background

PPACA requires employer group health plans to cover employees' dependent children up to age 26, if the group health plan provides dependent coverage generally. The value of health coverage provided to employees' adult children is excluded from the employees' gross income for federal income tax purposes, even if those children do not meet the definition of dependent contained in Internal Revenue Code Section 152. However, in states that have not conformed their state income tax laws to the Internal Revenue Code changes made by PPACA, the value of health coverage for such adult children may be considered income for state income tax purposes, unless the child also meets the applicable state definition of a tax dependent.

Action taken by Virginia General Assembly

Fortunately, on January 27, 2011, the Virginia General Assembly passed H.B. 1874, which, once signed by the Governor, will immediately conform Virginia income tax laws to the Internal Revenue Code as in effect on December 31, 2010. The bill does not explicitly state that it will apply retroactively with respect to adult dependent coverage offered by employer group health plans in 2010. However, officials at the Virginia Department of Taxation believe the bill applies to the 2010 tax year. Williams J. White, Assistant Tax Commissioner for Policy and Mark C. Haskins, Director of Policy Development Division, who spoke with Williams Mullen about the bill, advised that the Department of Taxation will follow the federal income tax treatment for adult dependent coverage provided in 2010 and thus will not impute income for such coverage in 2010. Although the bill provides welcome relief, its passage may be a little late for employers who have already prepared Form W-2s for 2010.

Bottom Line for Employers

- For 2011 and beyond, employers providing adult dependent coverage will not have to impute income to employees whose adult dependents receive coverage under the plan.
- Employers who provided adult dependent coverage in 2010 and have not issued 2010 Form W-2s do not need to impute income to employees whose adult dependents received coverage under the plan.
- Employers who have already issued 2010 Form W-2s showing imputed income for adult dependent coverage should issue amended 2010 Form W-2s to affected employees.

For more information about this topic, please contact the author or any member of the Williams Mullen Employee Benefits & Executive Compensation Team.

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