



Alert

Employee Benefits & Executive Compensation
Client Service Group

To: Our Clients and Friends

February 22, 2011

IRS Reverses Course – Breast Pumps and Other Lactation Supplies are Now Deductible Medical Expenses subject to Reimbursement under FSAs, HRAs and HSAs

In Announcement 2011-14, the Internal Revenue Service (“IRS”) concluded that breast pumps and supplies that assist lactation are medical care under Section 213(d) of the Internal Revenue Code because they are for the purpose of affecting a structure of the body of the lactating woman. Therefore, these expenses can now be reimbursed under a health flexible spending arrangement, health reimbursement arrangement or health savings account. The IRS had previously taken the position that these expenses were not eligible for reimbursement under these types of plans. In light of this change, the sponsor of one of these types of plans should consider whether a plan amendment, a summary of material modifications to participants, or both, are necessary.

Implementation of Disclosure Rules for Service Provider Contracts Delayed Until January 1, 2012

On July 16, 2010, the Department of Labor’s Employee Benefits Security Administration (“EBSA”) issued regulations requiring certain service providers to employee pension benefit plans (including profit sharing and 401(k) plans) to disclose information on direct and indirect compensation. The regulations are intended to assist plan fiduciaries in determining the reasonableness of fees charged to the plans and the existence of any conflicts of interest by the service providers. Compliance with these rules is generally required to keep many typical service provider arrangements from becoming prohibited transactions. These rules were scheduled to apply to service contracts and arrangements in existence on or after July 16, 2011. On February 11, 2011, EBSA extended the compliance date to January 1, 2012. Plan sponsors should continue efforts and communication with plan service providers to ensure compliance by January 1, 2012.

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