



UPDATE Employee Benefits and Compensation

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IRS Delays Effective Date of New Nondiscrimination Rules for Insured Health Plans

The IRS has provided employers with an additional reason to be thankful this holiday season by delaying the effective date of new nondiscrimination rules for insured health plans. Although nondiscrimination rules have always applied to self-insured health plans, these rules were extended to insured health plans for the first time by the Patient Protection and Affordable Care Act. The rules, which prohibit plans from discriminating in favor of certain highly compensated individuals, will affect most insured health plans (other than grandfathered plans) and may limit the ability of employers to offer executive-only health plans or special benefits, such as full payment of premiums as part of a severance agreement, to executives and other highly paid employees. Given the lack of guidance as to the application and operation of these rules, and the fact that any failures to comply must be self-reported to the IRS and result in steep penalties, many employers have been concerned about complying with the new rules in their 2011 plan years. Under Notice 2011-1, the effective date of the rules is delayed until after regulations or other administrative guidance has been issued and will not apply until plan years beginning a specified period after issuance.

For more information on these changes, or any other employee benefits or compensation issues, please contact a member of our Employee Benefits and Compensation group:

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