



Wisconsin Enacts Law to Allow Tax-Free Treatment of Adult Child Health Care

Previously the lone holdout, Wisconsin has reversed course and adopted, for state tax purposes, the federal tax treatment of employer-provided health coverage of adult children.

Background

The Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act of 2010, (collectively, “PPACA”) requires group health plans and insurance issuers that cover an employee’s biological, adopted, step, or foster children to extend coverage to these children until they attain age 26 (“adult child” or “adult children”). (See our May 13, 2010 [For Your Information](#).) This provision was effective for plan and policy years beginning on or after September 23, 2010. However, some plans and issuers either voluntarily, or pursuant to existing state laws, adopted some version of adult child coverage earlier.

To coordinate federal tax laws with the mandatory coverage of adult children, PPACA amended the Internal Revenue Code (Code) to exclude from income the value of health coverage and benefits provided to adult children. The federal income tax exclusion, which became effective on March 30, 2010, applies through the end of the calendar year in which the adult child attains age 26. (See our May 4, 2010 [For Your Information](#).)

BUCK COMMENT. *The extension of the special federal tax treatment through the end of the calendar year in which the adult child turns age 26 (even though the mandatory coverage requirement only applies until the adult child attains age 26) was made to prevent an employee from facing a federal tax issue if the plan provides coverage beyond the birthday.*

Of the states with state income taxes, nineteen had the potential for state taxation of adult child coverage. Eighteen of those states took action to conform their laws to the federal rules, but Wisconsin enacted legislation that specifically rejected that conformity. (See our September 16, 2011 [For Your Information](#).)

Wisconsin Law

On November 4, 2011, Wisconsin Governor Scott Walker signed into law [2011 Wisconsin Act 49](#) (Act 49). Act 49 conforms Wisconsin law with the federal tax treatment of employer-provided health coverage of dependent adult children. The law is effective for tax years beginning on January 1, 2011.

BUCK COMMENT. *Because Act 49 is effective only for tax years beginning January 1, 2011, similar to Hawaii and Kentucky, coverage provided to adult children in 2010 potentially is subject to state income tax.*

Conclusion

Wisconsin's new law providing that its state tax law will conform to the federal tax treatment of adult child health care coverage is welcome news for employers. However, because the new law applies to tax years beginning on January 1, 2011, employers with employees in Wisconsin may have had special issues with state taxes for the 2010 tax year. In addition, for employers with insured plans in states where the required age of coverage is beyond the year in which an adult child turns 26, there may be additional withholding under the federal Code if the adult child is not a qualifying child or qualifying relative.

Buck's consultants are prepared to assist you in determining how these tax rules may impact your payroll systems.

This FYI is intended to provide general information. It does not offer legal advice or purport to treat all the issues surrounding any one topic.