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ERISA Group Benefits Alert

December 23, 2010

IRS DELAYS NONDISCRIMINATION TESTING

REQUIREMENTS FOR INSURED HEALTH BENEFIT PLANS

As you may know, the recently enacted health care reform requires changes to employer-sponsored health plans. Some health care reform changes are effective for the first plan year beginning on or after September 23, 2010 (January 1, 2011 for calendar year plans).

The most difficult of the new rules scheduled to take effect in the first year was the application of nondiscrimination testing to fully insured group health plans (an exception excludes "grandfathered plans"). The testing rule was expected to be similar to the rule currently in place for self insured plans. On December 22, 2010, the IRS announced that the nondiscrimination testing requirements have been delayed for fully insured plans released. The IRS admitted that "fundamental concerns about plan sponsors' ability to comply with" the requirements exist, and that compliance should not be required until after regulations or other administrative guidance has been issued.

A number of our clients have indicated that they have been struggling with this nondiscrimination testing issue. The delay announced by the IRS should be helpful to many employers who need more time to plan for this potentially difficult health care reform requirement.



Please note that this *Benefits Alert* only highlights the most significant changes in the law. The details of these changes are complex and beyond the scope of this Alert. We look forward to discussing these changes and how they may impact your plans with you. Please do not hesitate to contact any of the following members of our Employee Benefits and Executive Compensation Practice if you have any questions or if you would like additional information.



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