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### TIR 11-5: Employer-Provided Health Care Benefits Update

This Technical Information Release (“TIR”) updates TIR 07-16, *Personal Income Tax Treatment of Employer-Provided Health Insurance Coverage for an Employee’s Child*, to reflect a Massachusetts statutory change<sup>[1]</sup> to the personal income tax enacted in response to the federal Affordable Care Act.<sup>[2]</sup> The general effect of the Massachusetts change is to conform to the federal income exclusion rules for health care benefits that are in effect for each year, notwithstanding the general Massachusetts tie-in to federal income and exclusion rules as of January 1, 2005. The Massachusetts change is effective for tax years beginning on or after January 1, 2010.

#### A. Federal Law

The Affordable Care Act generally requires group health plans and health insurance issuers to provide coverage for dependent children up to age 26. In addition, the Affordable Care Act amended the Internal Revenue Code (“Code” or “IRC”) to broaden the exclusion from gross income for employer-provided health care benefits for an employee’s child to the end of the year in which the child attains age 26.

IRC § 105 generally excludes from gross income employer-provided reimbursements made to an employee for the medical care of the employee, the employee’s spouse or the employee’s dependents. Effective March 30, 2010, the Affordable Care Act amended IRC § 105 to exclude from an employee’s gross income any employer-paid expenses incurred for the medical care of an employee’s child who has not attained age 27 as of the end of the taxable year.<sup>[3]</sup>

Coverage under an employer-provided health plan is excluded from an employee’s gross income under IRC § 106. Effective March 30, 2010, Internal Revenue Service Notice 2010-38 clarifies that the exclusion at IRC § 106 extends to coverage for an employee’s child who has not attained age 27 as of the end of the taxable year.

#### B. Massachusetts Law

For personal income tax purposes, Massachusetts generally follows the provisions of the Code as amended and in effect on January 1, 2005; however, specified Code sections are adopted “as amended and in effect for the taxable year.” Recently, the Legislature amended the personal income tax to adopt the current Code for IRC §§ 105 and 106, which provide exclusions from gross income for employer-provided health care benefits.<sup>[4]</sup>

Effective for tax years beginning on or after January 1, 2010, Massachusetts follows the federal treatment of IRC §§ 105 and 106 for exclusions from gross income for employer-provided health care benefits. Thus, to the extent employer-provided health care benefits are excluded from federal gross income under IRC §§ 105 or 106, including those benefits described above in part A of this TIR, such amounts are likewise excluded from Massachusetts gross income.

The Massachusetts change affects only a small class of taxpayers: employees with a child age 26 during 2010 or 2011 (but not age 27 by year end). There was previously a discrepancy between federal and Massachusetts gross income exclusions for this class of taxpayers; however, the Massachusetts exclusion has now been broadened to match the federal exclusion.

#### C. Employer Requirements; Form W-2 and Massachusetts Withholding

Employers that followed the federal health care benefits income exclusion rules for Massachusetts personal income tax purposes in 2010 and 2011 are not required to take any action as a result of the Massachusetts statutory change.

However, employers that for Massachusetts personal income tax purposes, in taxable years 2010 or 2011, followed the rules of IRC §§ 105 and 106 as in effect as of January 1, 2005, may have reported or withheld upon imputed income to an employee attributable to the value of health care coverage for an employee’s 26-year-old child who had not attained age 27 as of the end of the taxable year. Due to the statutory change which is effective back to taxable

years beginning on or after January 1, 2010, the value of such coverage is excluded from Massachusetts gross income if it is excluded from federal gross income.

For 2010, an employer is required to issue Form W-2C, Corrected Wage and Tax Statement, to an employee affected by the statutory change to correct the taxable state wage amount. Specifically, an employer must remove any imputed income from an employee's 2010 state wages if the value of health care coverage of a child of an employee was included in state wages but was excluded from federal gross income under IRC §§ 105 or 106. An employee receiving a Form W-2C can file an amended 2010 Massachusetts personal income tax return if he or she has already filed; an employee who has not yet filed his or her 2010 return must use the Form W-2C showing the corrected state wage amount. Any overpaid amount of withholding in 2010 will be taken into account when the employee files his or her 2010 Massachusetts personal income tax return.

For 2011, it is expected that an employer will adjust the withholding amount of Massachusetts personal income tax for affected employees. At year end, when preparing the 2011 Form W-2 for an affected employee, the employer is expected to make appropriate adjustments to exclude from state wages any amount of imputed income that was included in state wages but was excluded from federal gross income under IRC §§ 105 or 106. Any overpaid amount of withholding in 2011 will be taken into account when the employee files his or her 2011 Massachusetts personal income tax return.

/s/Navjeet K. Bal  
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Commissioner of Revenue

NKB:MTF:adh

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[1] St. 2011, c. 9, §§ 7 and 56.

[2] The federal Affordable Care Act refers to the *Patient Protection and Affordable Care Act*, P.L. No. 111-149, and the *Health Care and Education Reconciliation Act of 2010*, P.L. No. 111-152.

[3] P.L. 111-152, § 1004(d).

[4] G.L. c. 62, § 1(c), as amended by St. 2011, c. 9, §§ 7 and 56.