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Issue XV

March, 2009

From

GEORGE J. COHEN



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Modified COBRA Provisions—What To Inform Your Clients

The American Recovery and Reinvestment Act of 2009 known as ARRA has been signed into law as of February 17th. The act includes a 65% subsidy for up to 9 months of COBRA premiums for involuntary terminated employees and their covered dependents between 9/1/08 and 12/31/09.

Here are some of the details that are required by the Act: The employer must immediately identify all qualified individuals who were involuntarily terminated between 9/1/08 and 2/17/09. Employers have 60 days to notify qualified individuals of the changes.** The qualified individual has 60 days to elect COBRA coverage. To qualify for the 65% federal subsidy, the terminated employee must pay 35% of the

applicable COBRA premium and the employer funds the remaining 65%. The employer then claims a credit on federal income and employment taxes. The subsidy is available 3/1/09 to qualified individuals and is available for up to 9 months. Eligibility for the subsidy ends when the individual becomes eligible for either another employer's health plan or Medicare. The individual is required to provide timely written notice when he or she no longer qualifies for COBRA. Failure to do so is punishable by a penalty equal to 110 percent of the subsidy received after becoming eligible for coverage. High income individuals may choose to waive this subsidy. Individuals with an adjusted gross income greater than \$145,000 (\$290,000 if mar-

ried and filing jointly) are not eligible for this subsidy, and if received will have their income tax increased by the entire amount. Individuals with an AGI of between \$125,000 and \$145,000 who receive a subsidy will have their income tax increased by a proportional percentage. Employers will need to file 3 reports relating to the Act:

- Attest that employees receiving a subsidy were involuntarily terminated.
- Accounting of payroll tax credit taken.
- Report of all employees covered and amount of the subsidy each received.

** Model COBRA notices complying with the Act were posted on the USDOL Website on March 19, 2009. They can be found at <http://www.dol.gov/ebsa/COBRamodelnotice.html>

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