



Required Cafeteria Plan Amendments

Insights

8.25.10

The changes in the law made as part of healthcare reform require most cafeteria plans to be amended by December 31, 2010. If you have a health flexible spending account (FSA), expenses for over-the-counter drugs cannot be reimbursed after December 31, 2010, unless the drug is insulin or is prescribed by a physician. The definition of dependent for FSA purposes can include a participant's child who is under age 27.

Employers should have their cafeteria plan documents reviewed so that any necessary changes can be made in time. If you do not have a written plan document for your cafeteria plan or your plan document has not been updated, Fisher Phillips has developed a model plan that provides an efficient and cost-effective way for you to customize a cafeteria plan document to meet your needs.

Internal Revenue Code Section 125 requires that a cafeteria plan be in writing and be adopted on or before the first day of the first plan year to which it relates. This applies to amendments to the plan as well. In proposed regulations issued in 2007, the IRS stated that if a cafeteria plan does not comply with applicable requirements regarding content and timing of adoption, then the plan is not a cafeteria plan and all employees' elections of non-taxable benefits are not effective.

If you would like more information please contact one of our benefits attorneys listed below:

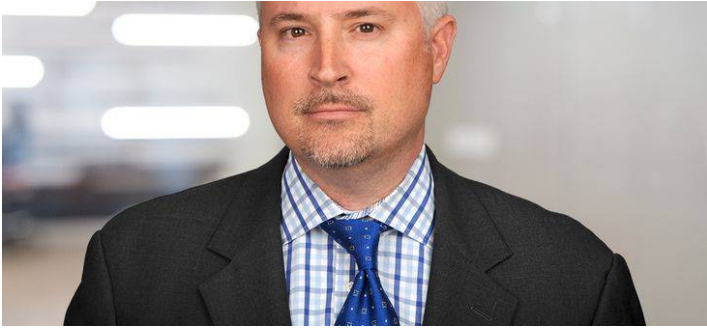
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