

# Legacy Advisor

Summer 2011 Issue No. 11-1

## BENEFIT PLANS

### FASB Update: Disclosure About Employer Participation in Multiemployer Plans

In the Fall 2010 issue of *Legacy Advisor*, we described a proposed Accounting Standards Update, *Disclosure about an Employer's Participation in a Multiemployer Plan*, in which the Financial Accounting Standards Board (FASB) is recommending enhanced disclosures in employer financial statements for fiscal years ending after December 15, 2010, with a one-year deferral for nonpublic entities. Legacy joined over 300 entities in submitting comment letters, expressing our concerns about the proposed disclosures. Respondents were mainly concerned with the disclosure of a withdrawal liability amount, the costs to implement the standard, and the sheer volume of disclosures. FASB decided at its meeting on November 10, 2010 that a final standard will not be effective for the 2010 calendar year-end reporting period.

Most recently, FASB met on March 9, 2011 to discuss issues relating to the development of a final accounting standard addressing disclosures about an employer's participation in a multiemployer plan. Comment letters were summarized by FASB staff, and Legacy Professionals LLP was twice quoted in the comment summary. At this meeting, the Board directed its staff to continue to work with interested parties as it refines its disclosure recommendations.

While at the AICPA Employee Benefit Conference in May 2011, Legacy Partner Eileen Brassil spoke with William Hildebrand, FASB's project manager for this particular standard. While Mr. Hildebrand's views do not represent the official positions of FASB, he did indicate that the FASB staff was looking into alternatives to the withdrawal liability disclosure, ones that would be able to be produced in a more relevant and cost-effective manner, and developed within the existing infrastructure of the plan and the employer. Mr. Hildebrand also indicated that, while the FASB staff is initially focusing on developing disclosure recommendations with regard to an employer's participation in multiemployer pension plans, it is "putting to the side" disclosure recommendations for an employer's participation in multiemployer plans offering *other* postemployment benefits, such as health and welfare plans. However, disclosures about these benefits may be a part of the final standard.

We will continue to monitor this important topic and are available to discuss your questions.

### Legacy News

Legacy Partners Eileen Brassil, Bob Cann, and Tom This attended the recent American Institute of Certified Public Accountants (AICPA) National Conference on Employee Benefit Plans which was held May 2-4, 2011 in Las Vegas. This annual conference is always a must-attend for professionals who serve employee benefit plans.



Eileen Brassil, CPA

Attendance allows the opportunity to hear about significant changes and current issues directly from industry experts and authorities from the AICPA, Department of Labor, and Internal Revenue Service, all of whom deliver updates on the latest rules, regulations, and implementation guidelines. Question and answer sessions with regulatory officials and industry experts provide invaluable insight. Highlights from the conference are included in this issue.

As always, let us know if you have any specific questions or need any additional information on any of the topics covered in this publication.

If you prefer to receive this publication via email, send us a note to [info@legacypas.com](mailto:info@legacypas.com) or sign up on our website in the Publications section.

Wishing all clients and friends of Legacy a safe and healthy summer!

*This issue was edited by Eileen E. Brassil, CPA, Partner. Eileen can be reached at 312-384-4207 or [ebrassil@legacypas.com](mailto:ebrassil@legacypas.com).*

### On the Inside..

<a href="#">Patient Protection and Affordable Care Act – Two Provisions of Note</a>	2
<a href="#">Munster Office Relocating to Schererville</a>	2
<a href="#">Health Care Tax Credit</a>	3
<a href="#">Does Your Plan Need to File Under FBAR?</a>	3
<a href="#">Replacement of Schedule SSA with Form 8955-SSA</a>	4

**LEGACY**  
PROFESSIONALS LLP  
CERTIFIED PUBLIC ACCOUNTANTS

The perfect balance of commitment and experience.

## Patient Protection and Affordable Care Act – Two Provisions of Note

*The following two (of many) provisions from the Patient Protection and Affordable Care Act are worth noting and were discussed at the AICPA National Conference on Employee Benefit Plans. Recent guidance has been published on both.*

### Expanded 1099 Requirements Repealed

Last month, the Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011, which repeals the expanded Form 1099 information reporting requirements mandated by last year's health care legislation, was signed into law.

The Patient Protection and Affordable Care Act had expanded the Form 1099 reporting requirements to include

payments made to corporations after December 31, 2011 from businesses aggregating \$600 or more in a calendar year to a single payee. In addition, payments made for property and other gross proceeds for both property and services were also going to be reportable. The new Act repeals these expanded requirements. As a result, the 2011 Form 1099 reporting rules remain unchanged from 2010.

### Reporting Employer-Provided Health Coverage

Under the Patient Protection and Affordable Care Act, employer-provided health coverage, while not taxable, is required to be reported on Form W-2 starting in tax year 2011. The Act requires employers to report the cost of coverage under an employer-sponsored group health plan. To give employers more time to update their payroll systems, the Internal Revenue Service recently issued interim guidance making this requirement optional for all employers in 2011. Further relief was granted for smaller employers filing fewer than 250 Forms W-2 by making the reporting requirement optional for them, at least for 2012. This optional treatment for smaller employers will continue until further guidance is issued.

This reporting is for informational purposes only, to show employees the value of their health care benefits so they can be more informed consumers. The amount reported does not affect tax liability, as the value of the employer contribution to health coverage continues to be excludible from an employee's income, and is not taxable.

While reporting is not required until at least 2012, an employer may choose to report earlier. Employers that report early should refer to IRS Notice 2011-28 for guidance on the various reporting requirements, including the determination of the cost of reportable coverage. In addition, the 2011 Form W-2 is available for viewing on [www.irs.gov](http://www.irs.gov). The form includes the codes that employers may use to report the cost of coverage under an employer-sponsored group health plan.

Furthermore, the cost of coverage under a multiemployer plan is not reportable. An employer that contributes to a multiemployer plan is not required to include the cost of coverage provided to an employee under that multiemployer plan in determining the aggregate reportable cost. If the only applicable employer-sponsored coverage provided to an employee is under a multiemployer plan, the employer is not required to report any amount on the Form W-2 for that employee.

Detailed information about the interim rules for this reporting requirement and the additional transition rules for certain employers and with respect to certain types of coverage can be found in IRS Notice 2011-28 and the instructions for the 2011 Form W-2.

*If you have any questions on these or any of the other provisions of the Patient Protection and Affordable Care Act, please let us know.*

*By Eileen E. Brassil, CPA, Partner, [ebrassil@legacycpas.com](mailto:ebrassil@legacycpas.com)*

## Munster Office Relocating to Schererville



Legacy's Munster, Indiana office will be moving to a new location over Memorial Day weekend. Our new address is 222 Indianapolis Boulevard, Suite 103, Schererville, IN 46375.

Our phone and fax numbers will remain the same. Please update your records accordingly.

We look forward to serving you from our new Northwest Indiana location!

## Health Care Tax Credit

Millions of small employers received postcards from the IRS beginning in April 2010 that alerted them to the new small business health care tax credit and encouraged them to check their eligibility. Even if you didn't receive a postcard, your organization still may be eligible.

To be eligible for the credit, a qualifying employer must cover at least 50% of the cost of health care coverage for some of its workers, must have less than the equivalent of 25 full-time workers (for example, an employer with fewer than 50 half-time workers may be eligible), and must pay average annual wages below \$50,000.

The credit is worth up to 35% of a small business' premium costs in 2010 and up to 25% of a tax-exempt employer's premium costs. On January 1, 2014, this rate increases to 50% (35% for tax-exempt employers).

The credit phases out gradually for employers with average wages between \$25,000 and \$50,000 and for employers with the equivalent of between 10 and 25 full-time workers.

To determine if your organization qualifies for the small business health care tax credit, follow the three simple steps on the IRS fact sheet located at [http://www.irs.gov/pub/irs-utl/3\\_simple\\_steps.pdf](http://www.irs.gov/pub/irs-utl/3_simple_steps.pdf).

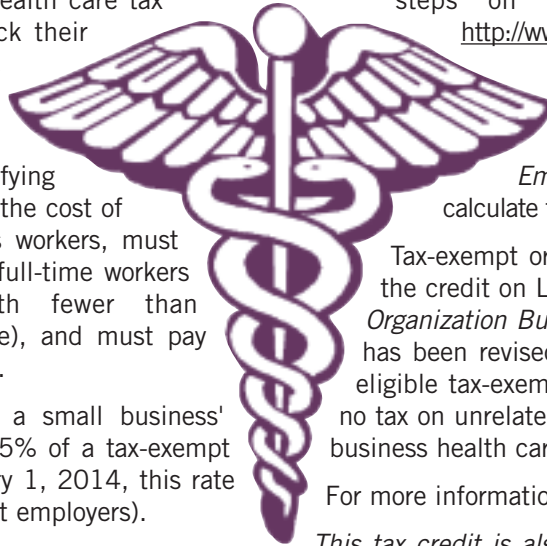
Small employers, whether for-profit or tax-exempt organizations, should use new Form 8941, *Credit for Small Employer Health Insurance Premiums*, to calculate the small business health care tax credit.

Tax-exempt organizations will include the amount of the credit on Line 44f of revised Form 990-T, *Exempt Organization Business Income Tax Return*. Form 990-T has been revised for the 2011 filing season to enable eligible tax-exempt organizations – even those that owe no tax on unrelated business income – to claim the small business health care tax credit.

For more information, please feel free to contact us.

*This tax credit is also a provision of the Patient Protection and Affordable Care Act.*

*By Donna A. Hubert, CPA, Partner, [dhubert@legacycpas.com](mailto:dhubert@legacycpas.com)*



## Does Your Plan Need to File Under FBAR?

Final revised regulations for the FBAR (Report of Foreign Bank and Financial Accounts) became effective at the end of March 2011. While not granting a broad exemption for benefit plans, certain changes to the definitions within the rules provide some relief to plan filers.

The FBAR was created many decades ago under the Bank Secrecy Act and is enforced by the Financial Crimes Enforcement Network (FinCEN). The actual Form, TD F 90-22.1, is available through the Internal Revenue Service (IRS) and is used to report a financial interest in or signature authority over a foreign financial account. Based on informal remarks by IRS officials shortly before the filing due date of June 30, 2009, the FBAR became a topic of intense focus for the benefit plan world. At that time, the comments indicated that investments held by benefit plans in offshore hedge funds and private equity funds would trigger an FBAR filing, not only for the plan, but also for those individuals with signature authority over the plan. An outcry of questions and objections resulted from the guidance confusion, which prompted the IRS to grant filing extensions to delay FBAR filings for the 2009 calendar year until June 30, 2011.

With the recently issued revisions to the FBAR regulations, the definitions were clarified. A *financial account* is reportable if located outside the United States and includes traditional bank deposit accounts, securities and brokerage accounts, and shares in a mutual fund or similar pooled fund (i.e., a fund that is available to the general public with a regular net asset value determination and regular redemptions.) Because most offshore hedge funds and private equity funds are typically not available to the general public and are considered private offerings, they do not fall under the definition of a foreign financial account. Furthermore, the regulations clarify that when holdings outside of the United States are only accessible through a U.S. global custodian bank, no FBAR filing is required.

The regulations also narrowed the meaning of *signature authority* and *financial interest* as they relate to benefit plans. The end result is that an FBAR filing may very well not be warranted for your plan under these revisions. The plan's investment consultant may aid in the determination of whether an FBAR filing is required.

## Replacement of Schedule SSA with Form 8955-SSA



Bob Cann, CPA

One of the changes made by the Department of Labor when mandating electronic filing of Form 5500, *Annual Return/Report of Employee Benefit Plan*, was the removal of Schedule SSA from the Form 5500. Form 8955-SSA, *Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits*, replaced the Schedule SSA and will need to be filed with the Internal Revenue Service as a stand-alone form for plan years beginning on or after January 1, 2009.

The new Form 8955-SSA will still follow the due date of the Form 5500, which is the last day of the seventh month following the plan year end with an extension available for two and one-half months. The IRS has announced that the due date for filing the Form 8955-SSA for the 2009 and the 2010

plan years is the later of either the due date that generally applies for filing the Form 8955-SSA for the 2010 plan year or August 1, 2011. The August 1, 2011 deadline for filing 2009 Form 8955-SSA can be extended to October 15, 2011 if a Form 5558, *Application for Extension of Time To File Certain Employee Plan Returns*, is timely filed. The individual statement that must be furnished to the separated participant should be furnished no later than the due date for filing the Form 8955-SSA.

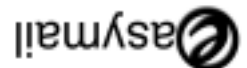
The IRS will allow the preparation of one Form 8955-SSA covering both 2009 and 2010 reportable employees. In that case, the 2010 reportable employees are treated as reported in 2009. A plan that reports on a calendar year basis and combines information for the 2009 and 2010 plan years should enter January 1, 2009 as the beginning date and December 31, 2009 as the ending date.

By Bob Cann, CPA, Partner, [rcann@legacycpas.com](mailto:rcann@legacycpas.com)

*This publication is distributed with the understanding that the author(s), publisher and distributor are not rendering legal, accounting or other professional advice or opinions on specific facts or matters, as each individual circumstance is unique. Pursuant to IRS Circular 230 - This written advice is not intended or written to be used, and it can not be used by any taxpayer, for the purpose of avoiding penalties that may be imposed on the taxpayer. - All articles are for the exclusive and private use of our clients, prospects, and business associates. With prior approval, articles may be reprinted with proper attribution. ©Legacy Professionals LLP*



Please contact us at [info@legacycpas.com](mailto:info@legacycpas.com) if you would like to receive Legacy Advisor via email. Visit our website where our articles are now individually posted.



311 South Wacker Drive  
Suite 4000  
Chicago, IL 60606

LEGACY  
PROFESSIONALS LLP  
CERTIFIED PUBLIC ACCOUNTANTS

PRESORTED  
FIRST CLASS  
U.S. POSTAGE PAID  
CHICAGO, IL  
PERMIT NO. 2237