

Rae Anne Beaudry

From: Larry Grudzien, Attorney at Law <larry@larrygrudzien.com>
Sent: Sunday, September 21, 2014 4:21 PM
To: Rae Anne Beaudry
Subject: IRS Releases Notice 2014-55 Providing for Additional Election Changes Events

From the Desk of

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IRS Releases Notice 2014-55 Providing for Additional Election Changes Events

September 21, 2014

Last week, the IRS released Notice 2014-55 which provides additional permitted election changes for health coverage under Code Section 125 cafeteria plans. This notice provides two specific situations in which a cafeteria plan participant may wish to revoke, during a plan year, the employee's election for employer-sponsored health coverage under the cafeteria plan in order to purchase a Qualified Health Plan through a Marketplace.

The first situation involves a participating employee whose hours of service are reduced so that the employee is expected to average less than 30 hours of service per week but for whom the reduction does not affect the eligibility for coverage under the employer's group health plan. This may occur, for example, under certain employer plan designs intended to avoid any potential assessable payment under Code Section 4980H. To be eligible for this situation, an individual must met two conditions:

- 1. The employee has been in an employment status under which the employee was reasonably expected to average at least 30 hours of service per week and there is a change in that employee's status so that the employee will reasonably be expected to average less than 30 hours of service per week after the change, even if that reduction does not result in the employee ceasing to be eligible under the group health plan; and**

2. The revocation of the election of coverage under the group health plan corresponds to the intended enrollment of the employee, and any related individuals who cease coverage due to the revocation, in another plan that provides minimum essential coverage with the new coverage effective no later than the first day of the second month following the month that includes the date the original coverage is revoked.

The second situation involves an employee participating in an employer's group health plan who would like to cease coverage under the group health plan and purchase coverage through a Marketplace without that resulting either in a period of duplicate coverage under the employer's group health plan and the coverage purchased through a Marketplace or in a period of no coverage. To be eligible for this situation, an individual must meet two conditions:

1. The employee is eligible for a Special Enrollment Period to enroll in a Qualified Health Plan through a Marketplace pursuant to guidance issued by the Department of Health and Human Services and any other applicable guidance, or the employee seeks to enroll in a Qualified Health Plan through a Marketplace during the Marketplace's annual open enrollment period; and

2. The revocation of the election of coverage under the group health plan corresponds to the intended enrollment of the employee and any related individuals who cease coverage due to the revocation in a Qualified Health Plan through a Marketplace for new coverage that is effective beginning no later than the day immediately following the last day of the original coverage that is revoked.

In both situations, a cafeteria plan may rely on the reasonable representation of an employee who has an enrollment opportunity for a Qualified Health Plan through a Marketplace that the employee and related individuals have enrolled or intend to enroll in a Qualified Health Plan for new coverage that is effective beginning no later than the day immediately following the last day of the original coverage that is revoked.

This notice permits a cafeteria plan to allow an employee to revoke his or her election under the cafeteria plan for coverage under the employer's group health plan (other than a flexible spending arrangement (FSA)) during a period of coverage in each of those situations provided two conditions are met. The Treasury Department and the IRS intend to modify the regulations under Section 125 consistent with the provisions of this notice, but taxpayers may rely on this notice immediately.

For a copy of IRS notice 2014-55, please click on the link below:

<http://www.irs.gov/pub/irs-drop/n-14-55.pdf>

For More Information:

**If you have any comments or questions regarding any of above information,
please do not hesitate to call me (708) 717-9638 or e-mail me
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**Thank-You,
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