

TECH FLEX

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ISSUE XII

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REQUIRED ELECTRONIC FILING OF FORM 5500 DELAYED AGAIN

As reported in the August 2006 Tech Flex [\[LINK\]](#), the Department of Labor (DOL) issued a final rule requiring that all Form 5500s must be filed electronically for plan years beginning on or after January 1, 2008. The DOL stated that it believes that a wholly electronic system will result in reduced errors, more timely enforcement (which will increase protection for participants), and lower annual reporting costs.

However, on November 16, 2007, the effective date for mandatory electronic filing of Form 5500 was postponed. The new electronic filing requirement will now be effective for filings related to plan years beginning on or after January 1, 2009.

Under this new effective date, calendar year plan filers, the majority of filers, will have until July 2010 to make the changes necessary to allow electronic filing. For all plan filers, the Form 5500 is due by the end of the seventh month following the end of the plan year.

The DOL announcement also noted that the design of the new electronic filing system (EFAST2) is still being developed. The DOL is in the process of awarding a contract to build the new system. It is contemplated that the new system will include a secure Internet-based filing method.

For a copy of the November 16, 2007 Federal Register, please click on the link provided below:

<http://edocket.access.gpo.gov/2007/pdf/E7-21765.pdf>

2008 MEDICAL MILEAGE RATE ANNOUNCED

Transportation expenses, such as automobile mileage that qualify as tax deductible medical expenses under Internal Revenue Code Section 213 generally can be paid or reimbursed on a tax-free basis by a health flexible spending arrangement, health reimbursement arrangement, or health savings account if the expense is “primarily for, and essential to, medical care.”

On November 28, 2007, the Internal Revenue Service via Revenue Procedure 2007-70 announced that the standard mileage rate for use of an automobile to obtain medical care is 19 cents per mile for 2008, effective January 1, 2008. This represents a decrease of one cent from the 2007 rate of 20 cents per mile.

For a copy of Revenue Procedure 2007-70, please click on the link provide below:

<http://www.irs.gov/pub/irs-drop/rp-07-70.pdf>

2007 VERSION OF PUBLICATION 502 RELEASED

The Internal Revenue Service released the 2007 version of Publication 502 which taxpayers may use to determine what medical and dental expenses are deductible on their 2007 tax returns. Under Code Section 213(a), a taxpayer may claim a deduction for certain unreimbursed medical expenses to the extent they exceed 7.5% of the taxpayer's adjusted gross income.

PLEASE NOTE: Publication 502 is used to calculate personal income tax deductibility. It is used only as a guide in determining what may or may not be reimbursable under a Section 125 health flexible spending account (health FSA). Important differences exist between what is deductible for income tax purposes and what is reimbursable under a health FSA. For example, insurance premiums may be tax deductible but they are not reimbursable under a health FSA. Conversely, over-the-counter medications may be reimbursable under a health FSA but are not tax deductible.

There are only a few changes in the 2007 version of Publication 502. The following examples highlight the changes made in the publication.

Transportation:

- Clarification that the costs of operating a specially equipped car for nonmedical reasons are not considered tax deductible medical expenses.

Insurance Premiums:

- Clarification that dental insurance premiums are tax deductible.
- Confirmation that premiums paid for health or long-term care insurance cannot be deducted if the taxpayer elected to pay for this insurance with tax-free distributions from a retirement plan made directly to the insurance provider and these distributions would otherwise have been included in income.

For a copy of the 2007 Publication 502, please click on the link provided below:

<http://www.irs.gov/pub/irs-pdf/p502.pdf>

TEXAS REQUIRES NOTICE OF TEXAS HEALTH INSURANCE RISK POOL OPTION

Recently enacted Texas Senate Bill 1731 (SB 1731) requires carriers, employers, or other persons who are required to provide notification of medical insurance coverage continuation rights under the Consolidated Omnibus Reconciliation Act of 1985 (COBRA) to also provide a notice regarding the availability of coverage under the Texas Health Insurance Risk Pool (Pool). The Pool was created by the Texas Legislature to provide health insurance to eligible Texas residents who, due to medical conditions are unable to obtain coverage from commercial insurers. The Pool also serves as the Texas alternative mechanism for individual health insurance coverage, guaranteeing portability of coverage to qualified individuals who lose coverage under an employer group plan, church plan or state plan, as mandated by the federal Health Insurance Portability and Accountability Act of 1996.

SB 1731 now codified under Texas Insurance Code 1506.007 (a-1) states:

“A health benefits plan issuer, employer, or other person who is required to provide notice to an individual of the individual’s ability to continue coverage in accordance with...COBRA, shall, at the time that that notice is required, also provide notice to the individual of the availability of coverage under the pool.”

This rule applies to a policy, certificate, contract or evidence of coverage issued or renewed on or after September 1, 2007.

It is important to note that Texas Insurance Code 1506.007 also requires that “a health benefit plan issuer” who is *providing coverage* to an individual under COBRA must also provide notice of the pool option prior to the exhaustion of COBRA.

Texas Insurance Code 1506.007 (a-2) states:

“A health benefit plan issuer who is providing coverage to an individual in accordance with ... COBRA, shall, not later than the 45th day before the date that coverage expires, notify the individual of the availability of coverage under the pool.”

Below is a link to a template Notice provided by the Texas Insurance Commission that may be used for notifying individuals of their rights under the Pool.

<http://www.tdi.state.tx.us/forms/lhlifehealth/lhl402.pdf>

U.S. CITIZENSHIP AND IMMIGRATION SERVICES PUBLISHES REVISED FORM I-9

As reported in the November 2007 Tech Flex [\[LINK\]](#), the United States Citizenship and Immigration Services (USCIS) announced on November 7, 2007 the availability of a revised Employment Eligibility Verification Form (I-9). The revised form eliminates the use of certain

documents in relation to the employment verification process. However, it is important to note that according to the Federal Office of Management & Budget, the new form has only been approved for use through June 30, 2008. This limited time frame allows for future modification of Form I-9, given the possibility of new immigration legislation.

In the November 7th USCIS release, employers were encouraged to begin using the amended Form I-9 as soon as possible. However use of the amended form would not become mandatory until 30 days after the form was published in the Federal Register. On November 26, 2007, the USCIS published (in the Federal Register) the new version of Form I-9. Consequently, as of December 26, 2007 employers must use the amended Form I-9 for all new hires and any re-verification of employment. (Note that employers do not need to complete new Form I-9s for current employees.)

Although the USCIS Notice provided that the revised Form I-9 is the only valid version as of November 7, 2007, the USCIS provided a transition period ending on December 26, 2007 during which no penalties would be assessed for use of the former version of Form I-9.

Specifically, the USCIS stated the following:

As of November 7, 2007, the Form I-9 (Rev. 06/05/07) N is the only version of the form that is valid for use. DHS recognizes that employers should be afforded a period of time to transition to the amended Form I-9. Therefore, DHS will not seek penalties against an employer for using a previous version of the Form I-9 on or before December 26, 2007. After December 26, 2007, employers who fail to use Form I-9 (Rev. 06/05/07) N may be subject to all applicable penalties under section 274A of the INA, 8 U.S.C. 1324a, as enforced by U.S. Immigration and Customs Enforcement (ICE).

For a copy of the USCIS Notice published in the November 26, 2007 Federal Register, please click on the link provided below:

<http://a257.g.akamaitech.net/7/257/2422/01jan20071800/edocket.access.gpo.gov/2007/pdf/07-5790.pdf>

IRS RELEASES 2008 AUTOMOBILE BUSINESS USE MILEAGE RATE

The Internal Revenue Service, on November 28, 2007, issued via Revenue Procedure 2007-70 the 2008 optional standard mileage rates used to calculate the deductible costs of operating an automobile for business, charitable, and moving purposes.

As of January 1, 2008, the standard mileage rates for the use of a car (including vans, pickups or panel trucks) will be:

- 50.5 cents per mile for business miles driven;
- 19 cents per mile driven for moving purposes; and
- 14 cents per mile driven in service to a charitable organization.

The new rate for business miles compares to a rate of 48.5 cents per mile for 2007, an increase of 2.5 cents per mile. The new rate of 19 cents per mile for moving purposes compares to 20 cents in 2007, a decrease of 1 cent per mile.

The standard mileage rates for business and moving purposes are based on an annual study of the fixed and variable costs of operating an automobile. The mileage rate for charitable miles is set by statute and remains at 14 cents per mile.

For a copy of Revenue Procedure 2007-70, please click on the link provide below:

<http://www.irs.gov/pub/irs-drop/rp-07-70.pdf>

COLORADO INCREASES MINIMUM WAGE

As of January 1, 2008, the minimum wage rate in Colorado will be raised from \$6.85 per hour to \$7.02 per hour.

In addition, the tipped employee minimum hourly rate in Colorado will increase from \$3.83 per hour to \$4.00 per hour in direct (cash) wages. The maximum tip credit will remain at \$3.02 per hour ($\$4.00 + \$3.02 = \7.02). Starting January 1, 2009, and in subsequent years, the tipped employee's minimum wage rate will be computed by subtracting the \$3.02 maximum tip credit from the adjusted minimum wage rate.

Finally, the training/youth wage rate in Colorado will rise from 85% of \$6.85 (\$5.8225) per hour to 85% of \$7.02 (\$5.967) per hour as of the first day of 2008.

VERMONT MINIMUM WAGE INCREASED

The Vermont minimum wage rate will increase from \$7.53 per hour to \$7.68 per hour effective January 1, 2008.

Also, the tipped employee minimum hourly rate will rise from \$3.65 per hour to \$3.72 per hour in direct (cash) wages. Consequently, the maximum tip credit will increase from \$3.88 per hour to \$3.96 per hour. ($\$3.72 + \$3.96 = \$7.68$).

Vermont has no training/youth wage, opportunity wage, or sub-minimum wage rate.

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