

Dear Client:

On February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act of 2009 (ARRA). Among the provisions are changes to the way COBRA assistance is funded. This letter is being provided to our clients to make you aware of these changes and the effect that it may have on your payroll.

Under the new provisions, involuntarily terminated employees who are eligible for COBRA health insurance under their former employer's plan no longer have to pay the full premium for the first nine months of coverage. As part of the stimulus legislation, employers will pay 65 percent of the premium, for which they will receive a tax credit or government reimbursement. There is some administrative cost that is not reimbursed by the government under this mandate. The terminated employee must pay the remaining 35 percent of the premium in order for the employer to qualify for the tax credit.

Here are some key points of which to be aware regarding this legislation:

- Companies with fewer than 20 employees do not have to offer COBRA coverage under federal law, so the new provisions would not affect those companies.
- The plan applies to workers involuntarily terminated between September 1, 2008, and December 31, 2009.
- Coverage lasts for nine months effective February 17, 2009.
- The provisions only apply to those employees who were involuntarily terminated for reasons other than gross misconduct.
- Employers have until April 18, 2009 to notify those employees who were involuntarily terminated of the additional COBRA election and premium reduction information. This notification applies to any employee who was involuntarily terminated between the dates of September 1, 2008 and February 16, 2009 and did not elect COBRA coverage or elected it but has since discontinued COBRA.
- Employer reimbursement from the government will be in the form of a tax credit from your payroll tax deposit and will be reported on your Form 941 and may not be used to reduce the amount of tax liability used to determine the due date of a deposit.

If you receive COBRA from a terminated employee under the ARRA provisions, you must provide your payroll service with the amount paid by each employee so that the tax credits can be appropriately reported. This is true even if you outsource your COBRA administration. If Elliott Davis prepares your payroll, please provide that information to us.

For additional information about the new tax law, please contact your Elliott Davis engagement team or call Nancy Grigsby or Anita Murphy toll free at 1-800-503-4721.