

COBRA Changes Under the 2009 Stimulus Act

By Amy M. Christen

Introduction

The American Recovery and Reinvestment Act of 2009 (the “Act”) was signed into law by President Barack Obama on February 17, 2009. This new legislation creates a federal government subsidy, paying 65 percent of the COBRA premium charged to an assistance-eligible individual for up to nine months.¹ This article outlines administrative, payroll, and other system changes necessary to comply with these COBRA provisions contained under the Act.

Action Items for Employers

Identify Group Health Plans Affected by the Act.

The COBRA subsidy provisions of the Act apply to group health plans subject to federal COBRA law under the Employee Retirement Income Security Act of 1974, the Internal Revenue Code, the Public Health Service Act, and the Federal Employee Health Benefits Program (e.g. group health plans sponsored by private sector employers, employee organizations (unions), state and local public employers, and federal employers).² The COBRA subsidy provisions also apply to health care continuation provisions mandated by comparable state law for church employers or small employers with fewer than twenty employees who otherwise are not subject to federal COBRA laws.³

The Act provides that the COBRA premium subsidy will apply to all types of group health plans (e.g. fully-insured or self-funded medical, prescription, dental, and vision plans), *except* for health care flexible spending account plans.⁴

Identify Assistance-Eligible Individuals.

The employer needs to identify all “assistance-eligible individuals.” An assistance-eligible individual is anyone who is involuntarily terminated from employment during the period beginning on September 1, 2008 and ending on December 31, 2009, and is eligible for and actually elects COBRA continuation coverage.⁵ A spouse and dependent children

also are treated as assistance-eligible individuals if they are entitled to COBRA coverage during this applicable time period as a result of the employee’s involuntary termination of employment.⁶

The employer also needs to identify any individual who otherwise would be an assistance-eligible individual but for the fact he or she does not have a COBRA election in effect on February 17, 2009 (e.g. such an individual who declined COBRA coverage or otherwise prematurely discontinued COBRA coverage). These individuals are entitled to extended election rights (described below).

Determine if a Termination of Employment is Involuntary.

Although the Act itself does not define “involuntary termination,” IRS Notice 2009-27⁷ provides the following guidance:

- An involuntary termination means a severance from employment due to the independent exercise of the unilateral authority of the employer to terminate the employment, other than due to the employee’s implicit or explicit request, where the employee was willing and able to continue performing services.
- The determination of whether a termination is involuntary is based on all the facts and circumstances. If a termination is designated as voluntary or as a resignation but the facts indicate that, absent such voluntary termination, the employer would have terminated the employee’s services, and that employee had knowledge that the employee would be terminated, the termination is involuntary.
- A loss of health care coverage alone will not constitute an involuntary termination of employment (and thus a mere reduction in hours of service where the employee continues to perform services for the employer will not qualify as an involuntary termination of employment).
- An employee-initiated termination from employment may constitute an

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involuntary termination for purposes of the federal COBRA subsidy if the employee terminates employment for good reason due to employer action that causes a material negative change in the employment relationship for the employee (e.g. a material change in geographical location of employment for an employee).

- A lay-off, furlough, or other suspension of employment to zero hours that results in a loss of health care coverage is an involuntary termination for purposes of the federal COBRA subsidy.
- An involuntary termination of employment may include a termination elected by an employee in exchange for a severance package if the employer indicates that after the offer period for the severance package a certain number of remaining employees in the employee's group will be terminated.
- An employee who is involuntarily terminated for gross misconduct is not eligible for COBRA coverage and thus would not qualify as an assistance-eligible individual under any circumstances.

Notify Certain Individuals of an Extended Election Period under COBRA.

No later than April 18, 2009, a group health plan was required to notify certain individuals that they had a second chance to elect COBRA coverage.⁸ These extended election rights apply to any individual who otherwise would be an assistance-eligible individual but for the fact he or she does not have a COBRA election in effect on February 17, 2009. This extended election period will apply not only to those assistance-eligible individuals who did not elect COBRA, but also to those who elected and then discontinued such coverage prior to the maximum COBRA period (e.g. for failure to pay premiums). This extended election period began on February 17, 2009, and it ends 60 days after the employer (or its plan administrator) actually provides the required notice.

The Act sets forth the content requirements of such notices, which are generally described in the next section. The Department of Labor ("DOL") created model notices to help group health plans comply with these notice requirements.⁹

For individuals who elect COBRA coverage during this extended election period,

such coverage will start retroactive to the first period of COBRA that begins *after* February 17, 2009 (i.e. for most plans, March 1, 2009), but coverage is not retroactive to the date the individual originally lost active coverage under the plan.¹⁰ The coverage of an assistance-eligible individual who elects COBRA during this extended election period will end when COBRA coverage otherwise would have ended for such individual had he or she elected COBRA when initially eligible to do so after the qualifying event. These individuals also will not be treated as experiencing a significant break in service for purposes of applying preexisting condition exclusions under a plan for the period beginning on the original qualifying event date and ending on the first day of the first COBRA coverage period after February 17, 2009 (i.e. for most plans, March 1, 2009).¹¹ An individual electing COBRA coverage during this extended enrollment period must be given at least 45 days after the election date of COBRA coverage to pay his or her first COBRA premium payment of 35 percent.¹²

Note that the extended election period rights only apply to group health plans subject to federal COBRA laws and will not apply to continuation coverage that is provided pursuant to state law only (unless such state law otherwise provides similar special election rights).¹³

Satisfy Other Notice Requirements.

The employer (or its plan administrator) also must notify all other qualified beneficiaries who become entitled to COBRA coverage during September 1, 2008 to December 31, 2009, of the federal subsidy.¹⁴ In other words, any qualified beneficiary (not just the former employee) with a qualifying event date of September 1, 2008 through December 31, 2009, will receive a supplemental notice (even if he or she loses coverage for reasons other than an involuntary termination of employment). The intent is to give all qualified beneficiaries information about the subsidy so that they can make an informed decision as to whether or not they believe they should qualify as assistance eligible individuals.

The plan can notify them either by amending existing COBRA forms to include such information or issuing a separate notice that is mailed with all other required COBRA election notices and forms. A separate notice may be the preferable approach, since the new legislation has a limited duration apply-

ing only to involuntary terminations occurring between September 1, 2008, and December 31, 2009.

Under the Act, these notice requirements are met only if the notice contains all of the following:¹⁵

- a description of the subsidy and any conditions on entitlement to such subsidy—such information must be displayed in a prominent manner in the notice;
- a description of different health care options for COBRA purposes, if the employer chooses to offer special coverage options;
- the forms necessary for establishing eligibility for the subsidy;
- contact information for the plan administrator and any other person (e.g. the insurer or third-party administrator) maintaining relevant information in connection with the subsidy;
- a description of the extended election period available to individuals who do not have a COBRA election in place as of February 17, 2009 but otherwise would qualify as assistance-eligible individuals; and
- a description of the individual's obligation to inform the plan if he or she becomes eligible for another group health plan or Medicare.

The DOL has created model notices for these purposes.¹⁶

The Act provides that failure to timely provide such notices shall be treated as a failure to meet the notice requirements under COBRA, which potentially could lead to civil penalties under ERISA (e.g. \$110 per day), and the Internal Revenue Code (e.g. \$100 per day).¹⁷

Modify COBRA Premium Payment System.

The group health plan must modify its COBRA premium process to accept from each assistance-eligible individual only 35 percent of the premium amount that he or she otherwise would be required to pay.¹⁸ The federal government will subsidize the remaining 65 percent of such premium payment. This federal subsidy applies to periods of COBRA coverage beginning after February 17, 2009.¹⁹ A period of coverage is the monthly (or shorter) period for which COBRA premiums are charged. For example, if your group health plan uses calendar months, the federal

subsidy of COBRA payments will begin on March 1, 2009.

If the employer (plan or insurer) is not able to adjust its systems before this effective date and assistance-eligible individuals actually pay 100 percent of the COBRA premium, then the plan must either credit the subsidized portion of the premium against future COBRA premiums (if the plan administrator reasonably expects the overpayment to be fully applied to future COBRA premiums within 180 days) or refund the subsidized portion within 60 days.²⁰

However, an employer should wait until a qualified beneficiary has notified the employer of his or her request to be treated as an assistance eligible individual before the employer actually reduces such individual's COBRA premiums to 35 percent, as the individual might not be eligible for the subsidy by reason of being eligible for coverage under another group health plan or Medicare or being above the income threshold (as explained below).²¹

Modify Payroll Taxes for Reimbursements.

While the federal government is actually subsidizing the remaining 65 percent of the COBRA premium payment, the mechanics of the program require the entity that provides the COBRA coverage to seek the reimbursement from the federal government for such 65 percent subsidy.²² For a group health plan that is self-funded through an employer's general assets and/or subject to federal COBRA law, the *employer* will be entitled to the reimbursement. For a group health plan that is a multiemployer plan, the *multiemployer plan* itself will be reimbursed for the premium subsidy. For a fully insured group health plan that is not subject to federal COBRA law and not a multiemployer plan but is subject to state laws that mandate continuation coverage, the *insurance company* providing the insurance will be entitled to the reimbursement.

Note that even if an insurance company is responsible for seeking a reimbursement for the subsidy under state law, the employer will need to assist the insurance company with identifying the assistance-eligible individuals and providing the notices to such individuals.

The method of seeking reimbursement is to take the 65 percent subsidy from payroll taxes that the employer (or other entity receiving the reimbursement) owes. The quar-

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terly Form 941 has been modified to include Line 12a to report this amount and Line 12b to report the number of former employees claiming the subsidy. The amount of the COBRA subsidy that the employer provides during the quarter will be treated as having been deposited for payroll tax deposit purposes on the first day of the quarter and applied against the employer's deposit requirements. As a result, the employer can decide either to offset its payroll tax deposits or claim the subsidy as an overpayment at the end of the quarter. The credit also can be claimed on any later Form 941; it does not need to relate to the quarter in which the subsidy actually applied. If the employer elects to reduce its payroll tax deposits during the quarter by the amount of the subsidy, the employer should report the credit claimed on its quarterly Form 941, and it is not necessary to report the specific amount of the credit that is applied against each deposit (i.e. an employer that applies the credit towards its required semi-weekly deposits would still report the total credit at the end of the quarter on Form 941 for the calendar quarter).

If the amount of the 65 percent premium subsidy is more than payroll taxes, the additional amount due to the employer will be treated as a refund or a credit to payroll taxes as if there were an overpayment of payroll taxes. Any overstatement of the subsidy reimbursement amount will be treated as an underpayment of payroll taxes by such employer (or other entity) and may be assessed and collected by the IRS in the same manner as payroll taxes (including penalties). As a result, employers need to evaluate their payroll systems (i.e. consult with their payroll administrators) to coordinate how they will offset the federal subsidy.²³

Determine the Amount of the Subsidy.

An employer or other entity cannot claim a subsidy credit on its payroll taxes unless the assistance-eligible individual actually pays 35 percent of the amount of any COBRA premium that is due by him or her for a period of coverage.²⁴ In determining whether an assistance eligible individual has paid 35 percent of the premium, payments made on behalf of such individual by another person (other than the employer with respect to which the involuntary termination occurred) are taken into account. If the employer fully subsidizes 100 percent of an individual's COBRA premium, then no subsidy reimbursement would

be available to the employer. Moreover, any period of coverage for an assistance-eligible individual beginning after February 17, 2009 that is fully subsidized by the employer will count against the maximum nine-month subsidy period.²⁵

For example, assume John Smith is involuntarily terminated on March 1, 2009 and elects COBRA coverage beginning as of such date. Assume further that the cost of COBRA coverage is \$1,000 (which represents 102 percent of the applicable premium as defined under COBRA). The employer agrees to fully subsidize John's COBRA payment (i.e. pay on John's behalf the full \$1,000 amount and not require John to make any additional payment) for the first three months of COBRA coverage. After this time, the employer requires John to pay for his own COBRA coverage (i.e. \$1,000/month) for the remainder of John's COBRA coverage period after June 1, 2009.

No federal subsidy would be available to John Smith for the first three months of coverage (March 1, 2009 through May 31, 2009) as John Smith did not pay for any portion of the cost of his COBRA coverage. Beginning June 1, 2009, John Smith will be entitled to pay only 35 percent of the \$1,000 (i.e. \$350) for the next six months (i.e. June 1, 2009 to November 30, 2009). After December 1, 2009, John Smith will be required to pay for the entire cost of his COBRA coverage (i.e. \$1,000) for the remainder of his COBRA period.

If an employer partially subsidizes a portion of the assistance-eligible individual's applicable COBRA premium amount, the federal subsidy would be available on a limited basis. Assume that the maximum applicable premium under COBRA is \$1,000 and the employer currently pays 70 percent of that amount, i.e., \$700, and the individual pays the remaining 30 percent of that amount, i.e., \$300. Under these circumstances, the assistance-eligible individual is entitled to pay 35 percent of the already subsidized payment of \$300 (i.e., \$105 or $35\% \times 30\% = 10.5\%$ of the entire applicable premium of \$1,000), and then the employer would be entitled to a reimbursement of 65 percent of \$300 (i.e., \$195 or 65%

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x 30% = 19.5% of the entire applicable premium of \$1,000). The employer is not entitled to any federal subsidy reimbursement for the portion of the COBRA premium it subsidizes (i.e. no federal subsidy for the \$700 paid by the employer on behalf of such individual).²⁶

To take full advantage of the federal subsidy, employers that pay a portion of the COBRA premium may want to consider prospectively restructuring such employer-subsidy for existing assistance-eligible individuals (to the extent not contractually bound to provide a specified amount), or at least modifying the employer subsidy for future assistance-eligible individuals.

Develop Procedures to Comply with Reporting Obligations.

Each person entitled to reimbursement under the Act (via payroll taxes) will be required to submit such reports as the secretary of the treasury may require to substantiate reimbursement requests. At this time, the IRS has indicated that no additional information relating to the COBRA subsidy is to be submitted with Form 941, other than completing Line 12a to report the amount of the federal subsidy and 12b to report the number of former employees claiming the subsidy.²⁷ However, entities claiming the credits must maintain supporting documentation for the credit claimed, including:

- Information on the receipt, including dates and amounts, of the assistance eligible individuals' 35 percent share of the premium;
- In the case of an insured plan, a copy of the invoice or other supporting statement from the insurance carrier and proof of timely payment of the full premium to the insurance carrier required under COBRA;
- In the case of a self-insured plan, proof of the premium amount and proof of the coverage provided to assistance-eligible individuals;
- Attestation of involuntary termination of employment, including the date of the termination (which must be during the period of September 1, 2008 to December 31, 2009) for each covered employee whose involuntary termination is the basis for eligibility for the subsidy;
- Proof of each assistance-eligible individual's eligibility for COBRA coverage at any time during the period from

September 1, 2008 to December 31, 2009 and election of COBRA coverage;

- A record of the social security numbers of all covered employees, the amount of the subsidy with respect to each covered employee, and whether the subsidy was for one individual or two or more individuals;
- Any other documents necessary to verify the correct amount of the reimbursement.

Adjust COBRA Procedures to Recognize the Maximum Subsidy Period.

The employer also will need to develop processes necessary to end the subsidy when the individual is no longer eligible to claim it and to reinstate the 100 percent COBRA premium payment charge if the individual continues to be eligible for COBRA. Under the Act, the subsidy will cease to apply as of the earliest of:²⁸

- The first date on which the assistance-eligible individual becomes *eligible* (not actually enrolled) for coverage under another group health plan (other than plans providing only dental, vision, counseling or referral services, health care flexible spending account, or health reimbursement arrangements) or *eligible* for Medicare coverage. Note that the Act requires an assistance-eligible individual who becomes eligible for coverage under another group health plan to notify the plan providing COBRA coverage in writing, and failure to do so could result in a penalty of 110 percent of the subsidy provided to him or her after the date he or she became eligible for such other coverage.²⁹ An employer is not required to refund to the IRS the excess premium reduction received as a credit merely because the assistance-eligible individual failed to provide notice to the employer that he or she is no longer eligible for the federal subsidy, unless the employer otherwise knew of the eligibility for such coverage.³⁰
- Nine months after the first day of the first month to which the subsidy applies.
- The end of the maximum COBRA coverage period required by law (including permissible early terminations (e.g. failure to timely pay premium), and

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including the end of the maximum COBRA coverage period for those assistance-eligible individuals who elected COBRA during the extended enrollment period).

Determine Whether to Implement Special Coverage Options.

The employer needs to decide if it wants to allow assistance-eligible individuals to switch to a different health care option for COBRA purposes. If an employer decides to offer special coverage options, then it must notify assistance-eligible individuals of their right to switch coverage options (such notice should be included in the general notice that the employer otherwise is providing to such individuals regarding subsidy rights under the Act).³¹

Generally, a qualified beneficiary will receive the same coverage he or she had on the date prior to the qualifying event (except as otherwise permitted for open enrollment rights). Even at a 65 percent discount, many assistance-eligible individuals still may not be able to afford COBRA coverage. As a result, the Act permits, but does not require, an employer to permit an assistance-eligible individual to elect, not later than 90 days after written notice is provided to him or her about this option, a different health care option, but only if:

- the COBRA premium for the different coverage option does not exceed the COBRA premium for the coverage in which the assistance-eligible individual was enrolled when the qualifying event occurred;
- the employer is offering the different coverage option to active employees; and
- the different coverage option cannot provide only dental, vision, counseling or referral services and cannot be a health care flexible spending account plan or an on-site facility primarily providing first aid, preventive or wellness care.

Accept Waiver of Right to Receive Subsidy for High Income Earners.

Individuals with modified adjusted gross incomes that exceed \$250,000 (for joint filers) or \$125,000 (for all other filers) will not be eligible for the full premium subsidy.³² The subsidy will be fully phased out for those individuals with adjusted gross incomes of

\$290,000 (for joint filers) or \$145,000 (for all other filers). Any portion of a subsidy that an individual receives but is not eligible for will need to be reported on the individual's annual income tax return, and the amount of tax that such individual would otherwise pay will be increased by the amount of such subsidy.

Note: Employers and insurers will not be required to determine whether an individual's income makes him or her ineligible for the subsidy. Rather, the employers and insurers can treat all assistance-eligible individuals as eligible for the subsidy and receive reimbursement for 65 percent of the COBRA premium payments and cannot refuse to provide the subsidy to an individual because of the individual's income.³³ However, an assistance-eligible individual can notify the plan, employer, or insurer that he or she will not be eligible for the subsidy and thus will pay 100 percent of the COBRA premium amount. The assistance eligible individual who wants to make a permanent election to waive the right to the subsidy may do so by providing a signed and dated notification (including a reference to a permanent waiver) to the entity that is reimbursed for the premium reduction.³⁴ There is no separate additional notification to any government agency. If an assistance-eligible individual makes a permanent election to waive the subsidy, he or she may not receive the premium reduction for any future period of COBRA continuation coverage in 2009 or 2010, regardless of modified adjusted gross income in those years.

Determine the Impact on Retiree Health Care Coverage.

If the employer maintains a retiree group health plan, the employer needs to determine how the Act will impact such retiree coverage. Under COBRA regulations, an employer may offer an individual a choice between COBRA coverage and coverage under the employer's retiree health plan.³⁵ If the retiree health care coverage does not otherwise qualify as COBRA coverage and the employee elects retiree health care coverage, he or she generally is doing so in lieu of COBRA coverage and thus waives COBRA coverage rights. Under these circumstances, the retiree would not be eligible for the federal subsidy under the retiree health care plan.

Conversely, if the retiree health care coverage runs concurrently with and is treated as COBRA coverage under the same group

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health plan, the federal subsidy would be available for assistance-eligible individuals to the extent they are required to share in the cost of retiree health care coverage.³⁶

Modify COBRA Procedures to Reflect Extended COBRA Periods.

Pursuant to the Act, the employer also should modify its COBRA procedures and plan language to recognize the following two circumstances under which a qualified beneficiary may extend his or her initial COBRA coverage period:³⁷

PBGC Eligible Individuals. If, as of the qualifying event date of termination of employment, a covered employee has a nonforfeitable right to receive any pension benefits directly from the Pension Benefit Guaranty Corporation, the maximum COBRA coverage period for the covered employee is extended until the covered employee's date of death. The maximum COBRA coverage period for the covered employee's surviving spouse or dependent children ends 24 months after the covered employee's date of death.

Trade Adjustment Assistance Individuals. If (as of the date COBRA coverage would otherwise end because of the regular 18-month or 36-month COBRA coverage period expires) the covered employee is an eligible individual under the Trade Adjustment Assistance Program, the maximum COBRA coverage period is generally extended until the date the covered employee ceases to be an eligible individual under the Trade Adjustment Program.

These provisions apply only to those COBRA coverage periods that would otherwise end on or after February 17, 2009, provided, however, that they will not require any period of coverage to extend beyond December 31, 2010.

Notably, the Act eliminated the original House provision that would have extended COBRA coverage until Medicare eligibility for individuals who lost coverage as a result of termination of employment when they are 55 years of age or older or have 10 or more years of service with the employer.

Review Health Plan Documents.

The employer should review its formal plan documents, summary plan descriptions, and employee notices to determine if any changes are needed. In addition to these COBRA changes, there have been a number of other recent laws that may necessitate changes to health plan documents (e.g. Michelle's Law,³⁸ 2009 changes to the Mental Health Parity Act,³⁹ and the Children's Health Insurance Program Reauthorization Act⁴⁰).

NOTES

1. American Recovery and Reinvestment Act of 2009, Title III – Premium Assistance For COBRA Benefits -- Section 3001, Pub L No 111-5, 123 Stat 115 (the "Act").

2. Act Sec. 3001(a)(10)(B); <http://www.dol.gov/opa/media/press/ebsa/EBSA20090301.htm> (Q&A-2).

3. Id.

4. Id.; IRS Notice 2009-27 (Q&A-27); <http://www.irs.gov/newsroom/article/0,,id=205364,00.html>. (AE-5 & AE-9).

5. Act Sec. 3001(a)(3); IRS Notice 2009-27 (Q&As 10 to 19).

6. Id.; <http://www.irs.gov/newsroom/article/0,,id=205364,00.html>. (AE-2 & AE-3).

7. IRS Notice 2009-27 (Q&As 1 to 9).

8. Act Sec. 3001(a)(4) and (a)(7)(C); <http://www.dol.gov/opa/media/press/ebsa/EBSA20090301.htm> (Q&A-6).

9. <http://www.dol.gov/ebsa/COBRAmodelnotice.html>.

10. Act Sec. 3001(a)(4)(B); IRS Notice 2009-27 (Q&As – 47 to 55).

11. Act Sec. 3001(a)(4)(C).

12. IRS Notice 2009-27 (Q&A-55).

13. IRS Notice 2009-27 (Q&A-51).

14. Act Sec. 3001(a)(7); <http://www.dol.gov/opa/media/press/ebsa/EBSA20090301.htm> (Q&A-8, 13 to 15).

15. Act. Sec. 3001(a)(7)(B).

16. <http://www.dol.gov/ebsa/COBRAmodelnotice.html>.

17. Act. Sec. 3001(a)(7); ERISA Sec. 502(c); IRC Sec. 4980B(b) and (e).

18. Act Sec. 3001(a)(1).

19. Act Sec. 3001(a)(1); IRS Notice 2009-27 (Q&A – 30 to 32).

20. Act Sec. 3001(a)(12)(E)(iii).

21. <http://www.irs.gov/newsroom/article/0,,id=205364,00.html> (AE-15 & AE-16).

22. Act Sec. 3001(a)(12)(A) (adding new IRC Sec. 6432); <http://www.irs.gov/newsroom/article/0,,id=205364,00.html>. (FP-1 to 20; RD-1 to 10).

23. See <http://www.irs.gov/newsroom/article/0,,id=205364,00.html>. (FP-1 to 20; RD-1 to 10) for general guidance on seeking reimbursements from federal government for the 65% federal subsidy.

24. Act Sec. 3001(a)(1); IRS Notice 2009-27 (Q&As 20 to 26).

25. IRS Notice 2009-27 (Q&A – 20, Examples 2 and 4).

26. *Id.*
27. <http://www.irs.gov/newsroom/article/0,,id=205364,00.html>. (RD-1 to 10).
28. Act Sec. 3001(a)(2); IRS Notice 2009-27 (Q&As 33 to 44).
29. Act Sec. 3001(a)(2)(C); Act Sec. 3001(a)(13) (adding new IRC Sec. 6720C).
30. IRS Notice 2009-27 (Q&A – 42).
31. Act Sec. 3001(a)(1)(B) and (a)(7)(B)(vi).
32. Act Sec. 3001(b).
33. IRS Notice 2009-27 (Q&A - 45).
34. IRS Notice 2009-27 (Q&A - 46).
35. Treas. Reg. 54.4980B-7 (Q&A 7).
36. IRS Notice 2009-27 (Q&As 5, 28 and 36).
37. Act Sec. 1899F.
38. Publ L No 110-381, 122 Stat 4081.
39. Pub L No 110-343, Title V, Subtitle B, 122 Stat 3765, 3881.
40. Pub L No 111-3, 123 Stat 8.



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