

Tax News

February 2009

New COBRA Rules Under the ARRA of 2009

The following is a brief summary of the new COBRA rules under the American Recovery and Reinvestment Act of 2009 (ARRA). Keep in mind that the U.S. Treasury has 30 days from the date of enactment (February 17, 2009) to publish further guidance, and the Department of Labor has 30 days to provide “model” COBRA notices. Therefore, further information will be forthcoming on or before March 17, 2009.

- a. Covers those “eligible individuals” who involuntarily terminated employment between September 1, 2008, and December 31, 2009. The term “involuntary termination” is not defined in the Act.
- b. Eligible individuals are former employees (and dependents/spouses) who are not eligible for Medicare coverage, nor are covered or offered coverage under a new employer plan. Additionally, there are phaseout modified adjusted gross income (MAGI) limitations that begin at \$125,000 for individuals, and \$250,000 for families for “same year income.”
- c. Provides a 65% subsidy of COBRA continuation premiums, with the former employee paying 35% and the Employer paying 65%. The Employer will recover the amount paid through a payroll tax credit on their quarterly 941 returns and/or through a direct payment from the U.S. Treasury.
- d. The subsidy is generally not taxable to the former employee. However, once the former employee’s MAGI reaches or exceeds the limits noted in item “b” above, it appears that either the subsidy must be reduced or a portion of the subsidy becomes taxable. Phaseout ranges are \$125,000 to \$145,000 for individuals, and \$250,000 to \$290,000 for families.
- e. The subsidy lasts for a maximum of nine months and will terminate prior to the end of nine months if the former employee qualifies for Medicare or is offered coverage through a new employer sponsored health plan.
- f. Workers who involuntarily terminated between September 1, 2008, and February 17, 2009, (date of enactment) and who initially declined COBRA, must be provided a notice of the new subsidy and be given 60 days to elect COBRA coverage and receive the new subsidy.
- g. Workers who involuntarily terminated between September 1, 2008, and February 17, 2009, and who elected COBRA, must be provided a notice of the new subsidy and be given 90 days to revise coverage and receive the new subsidy. Note that the subsidy is not retroactive. Therefore, workers will not receive a refund for premiums paid for coverage prior to March 1, 2009.
- h. Employers will need to provide revised COBRA notices to all workers terminated involuntarily between September 1, 2008, and December 31, 2009. It appears that the notice will differ slightly for those terminated between September 1, 2008, and February 17, 2009, and who previously elected COBRA; those terminated between September 1, 2008, and February 17, 2009, who previously declined COBRA; and those terminated after February 17, 2009. Again, model notices are expected to be issued by the Department of Labor in mid-March.

We Can Help

This summary covers only the high points of the new COBRA changes. Call the professionals at Doeren Mayhew today at (248) 244-3000 for help determining how these changes relate to your specific tax situation.