

Alert

New Reporting Requirements for New York State Employers

September 15, 2011

Effective July 15, 2011, New York State employers must report whether health insurance benefits are available to the dependents of their employees pursuant to the Low Income Support Obligation and Performance Improvement Act (the "Act"). The Act, which amends New York Tax Code Sections 171-a and 171-h ("Section 171-a" and "Section 171-h"), was enacted in an effort to increase the number of children enrolled in health insurance programs.

Quarterly Wage Reporting

Employers have been required to report the name, Social Security number, and gross wages paid to each employee who resides in, or is employed in, New York State on Form NYS-45 (Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return) in accordance with Section 171-a. Under the Act, employers must additionally disclose whether dependent health insurance benefits are available to these employees. Form NYS-45 has been revised to include a new entry for the availability of dependent health insurance benefits. Form NYS-45 is available at: <http://www.tax.ny.gov/forms/default.htm>.

New Hire Reporting

The Act also expands upon an employer's reporting requirements for new hires and re-hires. Section 171-h previously required that employers report the name, address, and Social Security number of each newly hired or rehired employee as well as the employee's identification number on Form W-4, or an equivalent form. Under the Act, employers now must also disclose whether dependent health insurance benefits are available to newly hired or re-hired employees and, if so, the date that the employee qualifies for the benefits. This information must be reported on Form IT-2104 (Employee's Withholding Allowance Certificate) or Form IT-2104-E (Certificate of Exemption From Withholding), both of which were updated to reflect this new requirement. Employers may also submit this information electronically at: <https://www.nynewhire.com/index.jsp>. It should be noted that employers can no longer fulfill their new hire reporting obligations by submitting a Form W-4 alone.

Educational Institution Rule

According to the Rules for Specific Employment Types on the New York State Department of Taxation and Finance website, teachers and other employees of educational institutions who are paid an annual salary are not considered to be rehired when they return to school for the beginning of a new school year.

Conclusion

New York State employers should ensure that they are in compliance with the new reporting requirements. Those employers utilizing payroll providers to file quarterly wage and new hire reports should coordinate with their payroll providers to determine how to identify and report employees who qualify for dependent health insurance benefits.

Authored by [Mark E. Brossman](#), [Ronald E. Richman](#), [Holly H. Weiss](#), [Scott A. Gold](#) and [Adam J. Rivera](#).

If you have any questions concerning this *Alert*, please contact your attorney at Schulte Roth & Zabel or one of the authors.

New York

Schulte Roth & Zabel LLP
919 Third Avenue
New York, NY 10022
+1 212.756.2000
+1 212.593.5955 fax

Washington, DC

Schulte Roth & Zabel LLP
1152 Fifteenth Street, NW, Suite 850
Washington, DC 20005
+1 202.729.7470
+1 202.730.4520 fax

London

Schulte Roth & Zabel International LLP
Heathcoat House, 20 Savile Row
London W1S 3PR
+44 (0) 20 7081 8000
+44 (0) 20 7081 8010 fax

www.srz.com

U.S. Treasury Circular 230 Notice: Any U.S. federal tax advice included in this communication was not intended or written to be used, and cannot be used, for the purpose of avoiding U.S. federal tax penalties.

This information has been prepared by Schulte Roth & Zabel LLP ("SRZ") for general informational purposes only. It does not constitute legal advice, and is presented without any representation or warranty as to its accuracy, completeness or timeliness. Transmission or receipt of this information does not create an attorney-client relationship with SRZ. Electronic mail or other communications with SRZ cannot be guaranteed to be confidential and will not (without SRZ agreement) create an attorney-client relationship with SRZ. Parties seeking advice should consult with legal counsel familiar with their particular circumstances. The contents of these materials may constitute attorney advertising under the regulations of various jurisdictions.