



IRS Tax Treatment of Wellness Program Benefits

Prepared by:
Patrick Folley
Heyl, Royster, Voelker & Allen, P.C.



August 2016

IRS Tax Treatment of Wellness Program Benefits, ©2016 Lorman Education Services. All Rights Reserved.

INTRODUCING

Lorman's New Approach to Continuing Education

ALL-ACCESS PASS

The All-Access Pass grants you **UNLIMITED** access to Lorman's ever-growing library of training resources:

- ☑ Unlimited Live Webinars - 120 live webinars added every month
- ☑ Unlimited OnDemand and MP3 Downloads - Over 1,500 courses available
- ☑ Videos - More than 700 available
- ☑ Slide Decks - More than 1700 available
- ☑ White Papers
- ☑ Reports
- ☑ Articles
- ☑ ... and much more!

Join the thousands of other pass-holders that have already trusted us for their professional development by choosing the All-Access Pass.



Get Your All-Access Pass Today!

SAVE 20%

Learn more: www.lorman.com/pass/?s=special20

Use Discount Code Q7014393 and Priority Code 18536 to receive the 20% AAP discount.

*Discount cannot be combined with any other discounts.

IRS Tax Treatment of Wellness Program Benefits

Thursday, July 28, 2016

The IRS Office of Chief Counsel recently released a memorandum providing guidance on the proper tax treatment of workplace wellness programs. Workplace wellness programs cover a range of plans and strategies adopted by employers to counter rising healthcare costs by promoting healthier lifestyles and providing employees with preventive care. These programs take many forms and can encompass everything from providing certain medical care regardless of enrollment in health coverage, to free gym passes for employees, to incentivized participation-based weight loss programs. Due to the wide variation in such plans the proper tax treatment can be complicated. However, the following points from the IRS memo can help business owners operating or considering a wellness program evaluate their tax treatment.

First, the memo confirmed that coverage in employer-provided wellness programs that provide medical care is generally not included in an employee's gross income under section 106(a), which specifically excludes employer-provided coverage under an accident or health plan from employee gross income. 26 USC § 213(d)(1)(A) defines medical care as amounts paid for "the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body," transportation for such care, qualified long term care services, and insurance (including amounts paid as premiums).

Second, it was made clear that any section 213(d) medical care provided by the program is excluded from the employee's gross income under section 105(b), which permits an employee to exclude amounts received through employer-provided accident or health insurance if it is paid to reimburse

expenses incurred by the employee for medical care for personal injuries and sickness. The memo emphasized that 105(b) only applies to money paid specifically to reimburse the employee for expenses incurred by him for the prescribed medical care. This means that the exclusion in 105(b) does not apply to money that the employee would receive through a wellness program irrespective of any expenses he incurred for medical care. 26 CFR 1.105-2.

Third, any rewards, incentives or other benefits provided by the wellness program that are not medical care as defined by section 213(d) must be included in an employee's gross income. This means that cash prizes given to employees as incentives to participate in a wellness program are part of the employee's gross income and may not be excluded by the employer. However, non-money awards or incentives might be excludable if they qualify as de minimis fringe benefits (ones that are so small and infrequent that accounting for them is unreasonable or impracticable). 26 USC § 132(a)(4). The memo gives the example of a t-shirt provided as part of a wellness program as such an excludable fringe benefit, and notes that money is never a de minimis fringe benefit.

Fourth, payment of gym memberships or reimbursement of gym fees is a cash benefit, even when received through the wellness program, and must be included in gross income. This is because cash rewards paid as part of the wellness program do not qualify as reimbursements of medical care and cannot be a fringe benefit.

Fifth, where an employee chooses a salary reduction to pay premiums for healthcare coverage and the employer reimburses the employee for some or

all of the premium amount under a wellness program, the reimbursement is gross income.

These points laid out in the IRS memo provide a solid foundation for understanding the tax treatment of workplace wellness programs and should be kept in mind by business owners deciding how to structure new wellness plans for their employees, or ensuring the tax compliance of existing plans.

