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TAX EQUITY FOR DOMESTIC PARTNER AND HEALTH PLAN BENEFICIARIES ACT

The Problem

Although employer-provided health coverage for different-sex spouses is excluded from an employee's gross income, domestic partner benefits are not. As a result, an employee who elects domestic partner coverage pays more income and payroll tax than a similarly-situated employee with a different-sex spouse. Moreover, because of this inequitable treatment, employers who offer benefits to domestic partners face the administrative burden of calculating taxes separately, and they also pay additional payroll taxes.

What is the Tax Equity for Domestic Partner and Health Plan Beneficiaries Act?

The Tax Equity for Domestic Partner and Health Plan Beneficiaries Act (DP Tax) would end the taxation of benefits provided for domestic partners and other non-spouse beneficiaries under employers' health plans. The bill would exclude the value of employer-provided health insurance for a domestic partner or other non-spouse beneficiary from an eligible employee's income, as it does for benefits provided for a spouse or dependent. This legislation does *not* mandate that employers provide coverage to non-spouse beneficiaries. Nor does it establish criteria for determining which beneficiaries qualify. This remains the province of the employers themselves. The bill simply eliminates the unfair taxation of benefits that employers choose to provide.

The bill would also make clear that domestic partners or non-dependents can be included in pre-tax cafeteria plan elections, permit Voluntary Employees' Beneficiary Associations (VEBAs) to provide full benefits to domestic partners and non-dependents, and extend Health Related Savings Accounts to cover domestic partners and other non-dependents. Finally, the bill would equalize the treatment of health coverage for spouses and for domestic partners and other non-dependents for payroll tax purposes.

Growing Numbers of Top Employers Offer Equal Family Benefits

In growing numbers, employers across the country have made the business decision to provide health benefits to domestic partners of their employees. Over 56 percent of Fortune 500 companies provide such coverage. This is more than a twelve-fold increase from 1995 and underscores a clear trend in the American workplace. Federal tax law has not kept up with the business community, however, and employers that offer such benefits as well as the employees who receive them are taxed inequitably.

What is the Current Status of the Bill?

In the 110th Congress, DP Tax was introduced by Senator Gordon Smith (R-OR) and was referred to the Senate Finance Committee. The bill had 26 co-sponsors.

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