



Santa Barbara County Education Office

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Susan C. Salcido, Superintendent of Schools

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SBAS-9392

TO: K-12 School Districts
Independent Charter Schools
Community Colleges
Santa Barbara County SELPA
County Education Office - Internal Services

Due Date
Fri. Dec. 18

ATTENTION: Payroll and Human Resource Departments

FROM: Myron Porter, Payroll System Supervisor

SUBJECT: **W-2 Reporting for Domestic Partner Insurance**

In order to satisfy federal and state tax reporting requirements, there are additional compensation items that require special processing for inclusion on employee W-2 documents. This memo provides general information about taxable domestic partner insurance and instruction for inputting data into Escape.

Employers and employees with specific tax questions should seek advice from their tax counsel, CA Employment Development Department (EDD), or the Internal Revenue Service (IRS). This memo is informational and not intended as tax advice.

Districts determine and input taxable employee compensation amounts into the Escape system using specific ADDONS:

- D-PART-N = Domestic Partner Non-registered
- D-PART-R = Domestic Partner Registered

The ADDONS for an employee can be:

- A one-time adjustment in *HR/Payroll – Payroll – Adjust Payroll*
- Set up as a monthly adjustment in *HR/Payroll – Employment – Employee Management – select an employee and go to the Addon Tab*

The deadline for inputting additional employee taxable compensation into Escape is Friday, December 18.

Domestic Partner or Civil Union Spousal Health coverage consists of the imputed taxable value (fair market value of the insurance) of the cost of the domestic partner health insurance benefits. Contact your insurance provider for the formula and taxable amounts. This may include the taxable value even if there is no additional cost to the employer. This only applies to Federal Tax, and **not** to State of California tax.

Non-Registered Domestic Partner health coverage is taxable for both federal and state.

California law (AB 205) requires all California employers to offer the same health care benefits to employees with registered domestic partners that are offered to spouses to dependents of employees.

Federal Law

Federal tax law requires the inclusion of fringe benefits in an employee gross income, unless specifically excluded. Internal Revenue Code Section 106 contains provisions for exclusion from income of the employer-paid portion of health plans for an employee's spouse or dependents. Federal tax law does not provide for the tax exclusion of a domestic partner, unless that individual is the employee's dependent. The fair market value portion of health /benefits insurance coverage provided to a non-dependent domestic partner or civil union spouse is included in Federal gross income as taxable compensation to the employee for Federal income tax and Social Security and Medicare taxes.

Fair market value can be calculated in several ways, as listed below. Employers are advised to confirm with their insurance provider or legal counsel on applying a fair market value. The IRS does not recommend one specific method.

- a) **A calculated difference** between what the district contributes for the employee alone and the premium the district contributes for coverage of an employee and spouse or family minus the amount the employee contributes for the coverage.
- b) **An actuarial calculation.** The difference between the actuarial value of insurance for a single person and insurance for a couple or family minus the amount the employee pays for the coverage. This method would involve the need for actuarial calculations from your district's insurance company. **SISC uses this method.**

In IRS Letter Rulings it has be held that the amount includable in an employee's gross income is the fair market value of group coverage, regardless that the fair market value of group coverage may be less or more than the fair market value of individual coverage to the employer (IRS Private Letter Ruling 9111018, 9034048).

If the addition of a domestic partner adds no additional cost to the district due to the use of a blended rate or the employee is already at a family rate, the imputed income to the employee might be viewed as nonexistent. However, there is sufficient differing legal opinion that a value for Federal income would need to be determined for a benefit provided to a non-spouse, nondependent individual. Employers may need to review their operational policy in this area or contact their insurance company.

There are various Federal tax consequences for domestic partner coverage, based upon the dependent vs. non-dependent status of an individual and premium payment on a pre-tax and after-tax basis. Employer tax counsel should review any issues regarding taxable or non-taxable status.

IRC Section 125 regulations provide that employee contributions can be tax deferred for spouse or dependent coverage. If a domestic partner is not a dependent, the portion of the employee contribution assignable to the domestic partner must be an **after-tax deduction**.

Any added income is taxable to the employee for Federal Income Tax and Social Security and Medicare taxes.

California Tax Law

California tax liability for domestic partner health benefits is determined by whether or not there is a registered domestic partnership with the Secretary of State's office or civil union under California state law. California law provides that domestic partner health benefits for registered domestic partnerships are non-taxable for State income tax. Individuals are treated as a spousal relationship in a registered domestic partnership. Partnerships are registered on *Form DP-1 Declaration of Domestic Partnership*, with the Secretary of State's Office, as provided by Division 2.5 of the Family Code, commencing with Section 297. A number of requirements must be met to qualify as a "Registered Domestic Partnership" in California. Health benefits in a qualified partnership are non-taxable to the employee, per *California Revenue and Taxation Code Section 17021.7*. Reference www.sos.ca.gov, <https://www.sos.ca.gov/registries/domestic-partners-registry> California AB 25, AB 205, AB 2208, SB 30, FTB Notice 2008-5

Find additional information at the following resources:

IRS Publication 15-B *Employer's Tax Guide to Fringe Benefits*

IRS Publication 525 *Taxable and Non Taxable Income*

IRS Publication *General Instructions for Form W-2*

IRS Code Section 61, 106; IRS Publication 15, 15B and various IRS Letter Rulings

EDD Publication DE44 *California Employer Guide*

EDD Publication DE231EB *Taxability of Employee Benefits*

www.irs.gov

www.edd.ca.gov

For questions about this subject, please contact me at 805-964-4711 ext. 5280.