



## **Nondiscrimination**

The federal health reform law, the Patient Protection and Affordable Care Act, includes applying Internal Revenue Code 105(h) to employers offering insured benefit plans. This prohibits employers from discriminating in favor of highly-compensated employees and is referred to as “nondiscrimination.”

In late December 2010, the IRS issued a notice that it will suspend enforcement of the health reform law’s nondiscrimination provision until it issues and finalizes regulatory guidance. Based on the best information available to us at this time, that follow up guidance is expected to be issued in mid-2011.

The IRS’s nondiscrimination rules will apply to non-grandfathered fully insured groups (self-funded groups are already subject to the nondiscrimination rule in Internal Revenue Code 105(h)). The effective date of new rules, once final, likely will be the first plan year after the rules are finalized.