



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
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The Honorable Tammy Baldwin
Member, U.S. House of Representatives
10 E. Doty Street, Suite 405
Madison, WI 53703

Attention:

Dear Congresswoman Baldwin:

I am responding to your email, dated September 25, 2009, on behalf of a constituent who inquired about the deductibility of COBRA premiums.

In general, a taxpayer can deduct medical expenses that he or she paid during the taxable year for qualified medical care, to the extent that such expenses exceed 7.5% of the taxpayer's adjusted gross income. Insurance premiums that are paid during the taxable year for medical care are specifically included as a medical expense. However, if the insurance policy provides payments for items other than medical care (such as indemnity for loss of life, sight, or limb), the taxpayer may deduct only the premiums for the medical care part of the policy if the charge for the premiums is reasonable. The insurance contract must separately identify the premiums for the medical care or the provider must give them to the taxpayer in a separate statement.

In 1985, the Congress passed the Consolidated Omnibus Budget Reconciliation Act (COBRA), which provided that qualifying individuals could choose to continue their medical insurance provided by their employer after leaving their employment. These individuals had to pay the premiums to continue the insurance coverage. This has become known as COBRA coverage. In 2009, the Congress passed the American Recovery and Reinvestment Act, which provides a 65% reduction in the premium for COBRA coverage. This reduction applies only to employees involuntarily terminated between September 1, 2008, and December 31, 2009. If the taxpayer elects this coverage, the taxpayer is only responsible for paying 35% of the premium.

Provided that the COBRA medical insurance premiums are paid for medical care, the premiums are a medical expense which, to the extent it and other medical expenses exceed 7.5% of the taxpayer's gross income, is deductible. If a taxpayer qualifies for

the premium reduction and elects such reduction, the amount of the medical expense taken is limited to what is actually paid as a COBRA premium.

Please see Notice 2009-27, 2009 I.R.B. 838, for further information regarding the COBRA premium reduction and Publication 502, Medical and Dental Expenses, for further information on deducting medical and dental expenses. Both of these publications are available to download at our website, www.irs.gov.

I hope this information is helpful. If you have additional questions please call or myself at .

Sincerely,

Christopher F. Kane
Branch Chief, Branch 3
(Income Tax & Accounting)