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TAX RELIEF, UNEMPLOYMENT INSURANCE REAUTHORIZATION, AND JOB CREATION ACT OF 2010

On December 17, 2010, President Obama signed into law the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (the "Tax Relief Act"), which contains a number of significant benefits-related tax provisions, including:

- **Transit Pass and Vanpooling Benefits.** The monthly income exclusion for qualified transit pass and vanpooling benefits will remain equal to the monthly income exclusion for qualified parking benefits until December 31, 2011. For 2011, this means that the monthly income exclusion for qualified transit pass and vanpooling benefits will remain at \$230.
- **Reduced Social Security Tax for Employees.** For 2011, the employee tax rate for Social Security is lowered from 6.2% to 4.2%. The employer tax rate for Social Security remains unchanged at 6.2%. Employers will need to implement the new 4.2% employee tax rate no later than January 31, 2011, and correct any over-withholding of Social Security tax no later than March 31, 2011.
- **Adoption Assistance Programs.** The changes to the income exclusion for employer-provided adoption assistance made by the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA") are extended through 2012. EGTRRA increased both the amount of the exclusion, which is \$13,360 per child for 2011, and the income phase-out range. Under previous law, these changes to the exclusion would not have applied after 2011.
- **Dependent Care Assistance Programs and Dependent Care Tax Credit.** For purposes of determining the income exclusion for dependent care assistance program benefits and the dependent care tax credit ("DCTC"), the deemed monthly earned income for a spouse who is a full-time student or incapable of self-care will continue to be \$250 per month for one qualifying individual and \$500 per month for two or more qualifying individuals through 2012. In addition, the increased amount of eligible expenses that may be taken into account in determining the DCTC (\$3,000 for one qualifying individual and \$6,000 for two or more qualifying individuals) and the increased percentage for determining the DCTC (35%) have been extended through 2012.
- **Employer-Provided Child Care.** The tax credit for employer-provided child care, which was scheduled to expire after 2010, is extended through 2012. The credit is equal to 25% of qualified child care expenses and 10% of

qualified child care resource and referral expenditures, up to \$150,000 annually.

- **Educational Assistance Programs.** The income exclusion for educational assistance received under an employer-provided qualified educational assistance program is also extended through 2012. The exclusion allows an employee to exclude up to \$5,250 annually.

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