Kibble & Prentice
A USI Company

COMPLIANCE ALERT
December 16, 2009

COBRA SUBSIDY EXTENSION POSSIBLE BEFORE YEAR-END

The House has released an amendment to the **FY2010 Defense Appropriations Bill** and new legislation (the **Jobs for Main Street Act of 2010)**, both containing an extension to the COBRA subsidy. For a copy, see the House Appropriations Committee's Web site at http://appropriations.house.gov/.

The House overwhelmingly passed the Appropriations Bill (395-30), and is expected to vote on the Jobs Bill by the end of the week. While not expected to take up the job-related legislation before the upcoming recess, the Senate has indicated it will pass the Appropriations Bill before the end of the year. Therefore, it is likely that some extension of the COBRA subsidy provisions will be included in the final version offered to the President. The President is expected to sign this legislation before the end of the year.

Briefly, the proposed COBRA subsidy extension in the House amendment includes:

- An extension of the eligibility period for the COBRA subsidy from December 31, 2009 to February 28, 2010;
- Clarification that only the date of the qualified event relating to the COBRA coverage (e.g. the involuntary termination of employment) will determine eligibility for the COBRA subsidy – and not the date the individual becomes covered by COBRA;
- An extension of the maximum duration of assistance from 9 months to 15 months;
- An opportunity for those individuals who lost eligibility for the subsidy (i.e. when the subsidy expired on November 1, 2009) and then lost COBRA coverage due to non-payment of premiums, to retroactively continue COBRA coverage and the subsidy by paying the premium within the later of 60 days from the date of enactment, or 30 days from notification. This also extends to those individuals who lost eligibility for the subsidy but retained their COBRA coverage by paying the full premium;
- New and updated notification requirements, including providing a notification within 60 days of enactment that describes the new subsidy provisions to those individuals who were assistance eligible individuals (AEIs) or became AEIs on or after October 31, 2009. In the case of a qualifying event that occurs after enactment, this notice will be provided as part of the COBRA election notice; and
- Treating the new requirements as having been included as part of the original language contained in the American Recovery and Reinvestment Act of 2009.

As you well remember, the implementation of the COBRA subsidy was a challenge for many employers, and any such extension will also provide similar obstacles. In particular, the timing of the extension and the availability for the Internal Revenue Service and Department of Labor to provide guidance will be extremely short. Further, the Jobs for Main Street Act includes additional enhancements to the COBRA subsidy, such as lengthening the eligibility period for the subsidy to qualified events that occur on or before June 30, 2010. At this point, it is unlikely the Senate will consider the Jobs for Main Street Act until after the first of the year, but it is possible that we will see additional amendments to the COBRA subsidy provisions in 2010.

We will continue to monitor developments as they unfold and keep you updated with the latest information, including if and when these provisions are enacted.

Disclaimer Statement:
These materials are produced by Kibble & Prentice for educational purposes only. Certain information contained in these materials is considered proprietary information created by Kibble & Prentice and/or their licensed and appointed insurance carriers. Such information shall not be used in any way, directly or indirectly, detrimental to Kibble & Prentice and/or their affiliates.

Neither Kibble & Prentice nor any of its respective representatives or advisors has made or makes any representation or warranty, expressed or implied, as to the accuracy or completeness of these materials. Neither Kibble & Prentice nor their respective representatives or advisors shall have any liability resulting from the use of these Materials or any errors or omission therein. These materials provide general information for the use of our clients, potential clients, or that of our clients' legal and tax advisors.

IRS Circular 230 Disclosure: Kibble & Prentice Holding Co. and its affiliates do not provide tax advice. Accordingly, any discussion of U.S. tax matters contained herein (including any attachments) is not intended or written to be used, and cannot be used, in connection with the promotion, marketing or recommendation by anyone unaffiliated with Kibble & Prentice Holding Co. of any of the matters addressed herein or for the purpose of avoiding U.S. tax-related penalties. Also, the information contained in this document should not be construed as medical or legal advice.

Copyright © 2009 Kibble & Prentice Holding Company. All Rights Reserved.