

## **SUMMARY OF TAX TREATMENT OF HEALTH COVERAGE PROVIDED FOR DOMESTIC PARTNERS AND SAME SEX SPOUSES**

### **Domestic Partners Eligible for Health Coverage**

Coverage under the Superior Court of California, County of Kern's Health and Welfare Plan (the "Plan"), including Medical, Dental, Vision and Prescription Drug benefits, is available for domestic partners of eligible employees under the Plan. In addition, coverage under the Plan is available for legally married spouses, including same-sex spouses. Please refer to the applicable summary plan description (SPD) and enrollment materials for a definition of domestic partner and the procedures you must follow to enroll your domestic partner for coverage.

### **Tax Consequences of Domestic Partner Coverage**

Under federal tax law, if your (non-spouse) domestic partner or same sex spouse (collectively, "your partner") does not qualify as your tax dependent for health coverage purposes (as defined below), then you will be unable to pay for your partner's coverage on a pre-tax basis under the Flexible Benefits Plan. The value of your partner's coverage, less the amount you pay for the coverage on an after-tax basis, will be included in your gross income, subject to federal income tax withholding and employment taxes, and will be reported on your Form W-2. This includes any portion of the premiums that the Company pays for your partner's health coverage. (The value of coverage varies, depending on the coverage options you elect.) You will also be unable to claim expenses for your partner under the Health FSA.

If your partner qualifies as your tax dependent for health coverage purposes, then you will be able to pay for your partner's coverage on a pre-tax basis under the Flexible Benefits Plan and no portion of the premiums paid by the Company will be included in your income or be subject to federal withholding or employment taxes. You will also be able to claim eligible medical expenses for your partner under the Health FSA.

Note that if your partner fails to qualify as your tax dependent for health coverage purposes for the entire year because of a change of abode, household, or support during the year, the value of your partner's coverage for the portion of the year prior to the change will be included in your gross income and related income tax and employment tax withholding will be charged to your pay as rapidly as possible. The catch-up on withholding will reduce your take-home pay for some periods.

You should also note that state tax treatment of health coverage for domestic partners and/or same sex spouses may differ. For example, some states including California exclude domestic partner coverage from gross income for state income tax purposes, even if the domestic partner is not a tax dependent for health coverage purposes.

### **Is Your Partner a Tax Dependent for Health Coverage Purposes?**

The following conditions must be met in order for your same-sex or opposite-sex partner to qualify as your tax dependent for health coverage purposes under federal tax law:

- you and your partner have the same principal place of abode for the entire calendar year;
- your partner is a member of your household for the entire calendar year (the relationship must not violate local law);
- during the calendar year you provide more than half of your partner's total support;
- your partner is not your (or anyone else's) "qualifying child" under Code Section 152(c); and

- your partner is a U.S. citizen, a U.S. national, or a resident of the U.S., Canada, or Mexico.

Your partner could be your federal tax dependent for health coverage purposes even if you do not claim an exemption for him or her on your Form 1040. If your tax year is a year other than the calendar year, use the other year instead. The Court will also consider your partner to be your federal tax dependent for health coverage purposes if he or she meets the above requirements for the first portion of the year, then you marry, and he or she remains your legal spouse for the remainder of the year.

To determine whether you provide more than half of your partner's total support, you must compare the amount of support you provide with the amount of support your partner receives from all sources, including Social Security, welfare payments, the support you provide, and the support your partner provides from his or her own funds. Support includes food, shelter, clothing, medical and dental care, education, and the like. If you believe you might provide more than half of your partner's support, you should use the support worksheet in IRS Publication 501 (Exemptions, Standard Deduction, and Filing Information) before you complete the Certification described below.

### **Filing a Certification of Dependent Status for Domestic Partners and Same Sex Spouses**

If your partner qualifies as your tax dependent for health coverage purposes, you can avoid having the value of your partner's health coverage treated as taxable income. To avoid taxation, you must complete and return the attached Certification of Dependent Status for Domestic Partners and Same Sex Spouses, indicating that your partner qualifies as your federal tax dependent for health coverage purposes. Because the determination of whether a person is a tax dependent for health coverage purposes turns on facts solely within your knowledge, the Court cannot make this determination for you. You will be asked to complete a Certification each year at open enrollment. For any year in which the Company does not receive a Certification from you, the Company will assume that your partner does not qualify as your federal tax dependent for health coverage purposes for that year.

### **Coverage for Your Partner's Children**

A child of your partner may be eligible for coverage under the Plan if he or she is considered your child for purposes of the Plan. Under the Plan, the term "child" includes your natural child, legally adopted child or a child placed with you for legal adoption, legal stepchild and any other child who is under your legal guardianship. An adopted child is any person under the age of 18 as of the date of adoption or placement for adoption. Placement for adoption means that you have assumed and retain the legal obligation for the total or partial support of a child to be adopted. Placement ends whenever the legal support obligation ends.

Although coverage under the Plan may be available for children of your partner, a domestic partner's child is unlikely to qualify as an employee's tax dependent for health coverage purposes. Thus, the value of the employer-provided portion of the cost of such coverage generally must be included in gross income and you will not be permitted to pay your portion of the cost of such coverage on a pre-tax basis. You should contact Human Resources if you believe your partner's child may qualify as your tax dependent for health coverage purposes.

### **Further Information**

If you have any questions regarding this summary, please contact Kristin Bush, Human Resources Analyst, at (661) 868-6173 (or e-mail your questions to: [CourtBenefits@kern.courts.ca.gov](mailto:CourtBenefits@kern.courts.ca.gov))