NEW YORK ADDS NEW REPORTING REQUIREMENTS FOR DEPENDENT HEALTH BENEFITS

The Low Income Support Obligation and Performance Improvement Act (the Act) now requires employers of individuals working in New York state to provide information on the availability of dependent health insurance benefits to their employees.

As of July 15th, the Act requires employers to report additional employee information on two different forms regularly provided to the New York State Department of Taxation and Finance (Department of Taxation):

- the new hire report submitted 20 days from the hiring date of all new or rehired employees working in New York; and
- the quarterly wage withholding report on Form NYS-45 (Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return).

A summary of the new reporting requirements for each form is below.

NEW HIRE REPORTING

Additional Reporting Requirements

The Act adds new hire reporting requirements for all new or rehired employees working in New York state. Before the Act became effective, all employers who hired or rehired a person working in New York state were required to report the new employee’s name, address and Social Security number within 20 calendar days of the employee’s hiring date. Now, all employers, including for-profit, not-for-profit, government and household employers, must include additional information regarding:

- the availability of dependent health insurance benefits to the new employee; and
- the date the employee is eligible for these benefits.

Reporting Mechanisms

This new hire information may be reported via a variety of mechanisms, including:

- online (at www.nynewhire.com),
- the employer’s completion of the Form IT-2104 (Employee’s Withholding Allowance Certificate) or Form IT-2104-E (Certificate of Exemption from Withholding), or
- submission of all required information in another written format (e.g., a computer-generated report produced by an employer’s outside payroll provider).

Note that previously an employer could also report new hire information using federal Form W-4; however, since this form does not require information with respect to dependent health insurance benefits, an employer may no longer submit new hire information solely via the federal W-4. Instead, the employer must supplement or replace the Form W-4 with the Form IT-2104.

THE BOTTOM LINE

Employers of any individuals working in New York state should review their recordkeeping systems and ensure that the proper protocols are in place to report New York employees’ eligibility for dependent health insurance benefits in both the new hire and quarterly wage withholding reports submitted to the New York State Department of Taxation and Finance. If an employer’s outside payroll provider is responsible for submitting these reports, employers should coordinate with third-party providers to ensure the required information is properly captured and in compliance with these new reporting requirements.

>> continues on next page
Penalties
If an employer’s new hire reports do not include the required dependent health insurance benefits information, the Commissioner will assess a penalty of $20 per number of incomplete reports filed. If an employer fails to file a timely report, the employer will be subject to a penalty of $20 per the number of employees not reported.

QUARTERLY WAGE withholding FORM (FORM NYS-45)
Additional Reporting Requirements
Separately, any employer liable for New York state unemployment insurance contributions or who withholds New York state income tax from an employee’s wages must file Form NYS-45. In accordance with the Act’s new requirements, when submitting Form NYS-45 each quarter, an employer must report if dependent health insurance benefits are available to any employees working in New York state. This requires the employer to check a box on Form NYS-45 indicating either “yes” or “no” in regards to the availability of these benefits.

Beginning with the third quarter of 2011, Form NYS-45 will be updated to accommodate this information, and submissions covering the period July 1 through September 30 are not due until October 31, 2011.

Penalties
In the event an employer fails to provide complete and correct quarterly wage withholding information, and subsequently fails to file a corrected Form NYS-45 within 30 days of receipt of a written request to do so from the Commissioner, a penalty equal to the greater of $1,000 or $50 times the number of employees shown on the last Form NYS-45 (up to a maximum of $10,000) may be assessed. There is no penalty if the employer files a corrected return within 30 days.

FOR MORE INFORMATION
Mark E. Bokert
Partner/Chair
212.468.4969
mbokert@dglaw.com

Alan Hahn
Partner
212.468.4832
ahahn@dglaw.com

A. Derek Nelson
Counsel
212.468.4887
anelson@dglaw.com

Allegra C. Wiles
Associate
212.468.4948
awiles@dglaw.com

or the D&G attorney with whom you have regular contact.