

IRS Provides Guidance for Claiming COBRA Premium Subsidy Credit for Small and Agricultural Employers

On its website, IRS has amended one of its questions and answers (Q&As) explaining the COBRA continuation premium subsidy provided to former employees and their families under the American Recovery and Reinvestment Act of 2009 (ARRA, P.L. 111-5). Specifically, IRS provides guidance for small and agricultural employers claiming their COBRA credit. (*IRS, COBRA: Answers for Employers: Form Preparation, [Fact Sheet 20090604, 6/4/2009](#), FP-1, 12/23/2009*)

Under the COBRA continuation premium subsidy provided to former employees and their families under ARRA, eligible individual beneficiaries are entitled to a 65% premium subsidy. The employer to whom the premiums are payable gets reimbursed by way of a federal payroll tax credit for laying out that 65% of the individual's COBRA continuation premium. Under IRS guidance, an employer would usually use the quarterly Form 941 to claim that credit.

IRS has now provided advice for employers that do not file Form 941. According to IRS, small employers that file Form 944, the employer's annual federal tax return—generally employers with an estimated employment tax liability of \$1,000 or less in the calendar year—may claim their COBRA credit on Form 944. In addition, agricultural employers may claim their COBRA credit on Form 943, the employer's annual federal tax return for agricultural employees.

Form 944 for 2009 has been revised to include Line 11 for entering information about the amount of the COBRA premium assistance payments the employer has made, and the number of individuals provided such assistance. Similarly, Form 943 for 2009 has been revised so that Line 13 now is included for providing this information.