

What Should We Know About Employer-Provided Pet Insurance?

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QUESTION: Our company is considering offering pet insurance to our employees. What tax and ERISA issues should we be aware of?

ANSWER: Pet insurance is on a growing list of benefits that employers may consider offering to make their overall benefit packages more enticing to existing and prospective employees. Pet insurance can cover expenses such as preventive care, accidents and illnesses, medications, and even emergency room care that can quickly become very costly to employees. This benefit is typically offered on a fully voluntary basis, with employees paying the entire cost through after-tax payroll deductions. The employer facilitates the insurer's access to employees and collects and remits premiums from employees who choose to participate. Employees may find the arrangement attractive if it provides access to group rates, higher coverage levels, reduced underwriting requirements, or other terms that are more favorable than would be available on the individual market. Insurance products offered in this manner are usually referred to as "voluntary benefits," though they sometimes go by other names, including "worksite benefits," "elective benefits," or "integrated benefits."

If your company pays or contributes to the cost of the pet insurance, the value of the benefit would be fully taxable to employees under federal law because there is currently no federal income tax exclusion for pet insurance. Any federal tax withholding (including relevant employment taxes) would ordinarily be collected by reducing employees' other pay. Your company could choose to "gross up" employees' pay to cover the taxes due, but that would likely increase the cost and administrative burden of the benefit.

Whenever your company offers a new benefit, you must determine whether the benefit is subject to ERISA. There is currently no guidance regarding ERISA's potential application to pet insurance. While ERISA's welfare benefit plan definition does cover medical, surgical, or hospital care or benefits, or benefits in the event of sickness, it seems doubtful that those terms encompass veterinary benefits. In any event, it appears that a pet could not be an ERISA beneficiary, as a pet would not be considered a "person" under ERISA.

For more information, see EBIA's Fringe Benefits manual at Sections II.A.4 ("Voluntary Benefits") and XXIV.G. ("Pet Insurance"); see also EBIA's ERISA Compliance manual at Sections VI.L ("Table: ERISA Status of Common Fringe Benefits") and VII ("Voluntary Plans—When Are They Subject to ERISA?").

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