

Compliance Alert

IRS Issues Notice 2021-58 Regarding COBRA Premium Payment Deadlines

On October 6, 2021, the IRS issued Notice 2021-58, which clarifies emergency COBRA extensions enacted due to the COVID pandemic. Notice 2021-58 explains the application of the one-year extension to COBRA continuation coverage premium payments, election, and interaction with the subsidy available under the American Rescue Plan Act (“ARPA”). Here are a few helpful examples to apply Notice 2021-58:

- 1) If Howard has a qualifying event and receives a COBRA election notice on Oct.1, 2020 and elects COBRA on Oct 15, 2020 retroactive to Oct. 1, 2020, he has until November 29, 2021 (one year plus 45 days) to make an initial payment. The initial payment will only include the October 2020 premium payment. The November 2020 premium payment is not due until December 1, 2021, extending each month subsequently. Barring an end to the COVID National Emergency, Howard’s coverage could end on March 30, 2022.
- 2) If Jane has a qualifying event and receives a COBRA election notice on Oct.1, 2020, she has until Nov 30, 2021 to elect COBRA. She elects COBRA on Apr 1, 2021, retroactive to Oct. 1, 2020, outside the initial 60-day window. The initial COBRA payment is due Jan 14, 2022 (one year and 105 days after the initial notice date of October 1, 2020), and must include October 2020 through December 2020, extending each month subsequently. The January payment is due by Feb 1, 2022. If Jane does not make the February payment by Mar 3, 2022, she will only be covered for COBRA from October through January 2022 because timely payment was not made for February.
- 3) On May 1, 2020, Allen has a qualifying event, receives an election notice, and elects COBRA on October 1, 2020 retroactive to May 1, 2020, outside the initial 60-day window. He has until November 15, 2021 to make the initial premium payment, even though that is more than one year and 105 days after the notice date of May 1, 2020. The November 15, 2021 is within the one year and 45 days following the election date. The transition period applies.