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## Tax & Employee Benefits.

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### Wisconsin Adopts Federal Income Tax Treatment Providing Tax-Free Health Benefits To Certain Adult Children

*By Todd M. Cleary and Sven E. Skillrud*

On November 4, 2011, Governor Scott Walker signed legislation that conforms Wisconsin's income tax treatment with the federal income tax treatment of employer-provided health benefits to adult children of employees. This welcomed change is retroactive to January 1, 2011. Now, for federal and Wisconsin income tax purposes, health benefits provided to an adult child of an employee are tax-free if the adult child has not turned age 27 by December 31st of the applicable tax year.

This conforming legislation has been eagerly anticipated by Wisconsin employers. Previously, those employers were saddled with the burden of calculating and imputing to an employee's Wisconsin income the fair market value of any health benefits provided to adult children who did not qualify as "dependents" under the Internal Revenue Code as it existed prior to health care reform. For additional information regarding this burden, please see our Employee Benefits Update - September 2011 located at: <http://bit.ly/s2kr2D>.

#### What Should Employers Do?

Since the change is retroactive to January 1, 2011, employers should immediately stop calculating and imputing the fair market value of any health benefits provided to an employee's adult child who will not turn age 27 before the end of 2011. Additionally, employers should not include any previously imputed Wisconsin income for prior health benefits received by these adult children on an employee's 2011 Form W-2. Finally, it is not necessary to refund any previously withheld Wisconsin income taxes because those taxes will be credited back when the employee files his or her 2011 Wisconsin income tax return.

#### Additional Information

If you have any questions regarding this legislation or your health plan in general, please contact any member of Godfrey & Kahn's Employee Benefits Team.

*The information contained herein is based on a summary of legal principles. It is not to be construed as legal advice. Individuals should consult with legal counsel before taking any action based on these principles to ensure their applicability in a given situation.*