



## CYBERSECURITY & BUSINESS TAX CLIENT ALERT

February 26, 2016

### Is Credit Monitoring a Taxable Benefit to Employees?

It has become standard for a company that is a victim of a data breach to offer free credit monitoring for a one to three year period to its employees whose information may have been compromised. While this certainly is a commendable practice, paying for this service on behalf of employees generally would result in additional wages, leading to income tax liability and withholding, along with payroll tax liability for both the employer and employee. As a result, the rise of this practice led many employers to ask whether the cost of the credit monitoring was a taxable benefit to their employees which they should include as gross income and report on the employees' W-2s.

In Announcement 2015-22, released last August, the IRS initially determined that the value of credit monitoring and other identity protection services provided by employers following a data breach is not a taxable benefit. Following that determination, many companies expressed further concerns to the IRS that despite efforts to prevent data breaches from occurring, they are inevitable, and companies are often offering credit monitoring and other services to their employees before a data breach occurs. These preventative measures can often help detect problems and mitigate their impact.

As a result of these concerns, the IRS recently released Announcement 2016-02, expanding its decision to include credit monitoring and identity protection services offered before a data breach occurs. With this recent determination, the IRS clarified that credit monitoring and other identity protection services provided by employers to employees is non-taxable and does not need to be reported on the employees' W-2s.

Kaufman & Canoles can help you protect your business before a cyber incident occurs. We are available to help you craft a response plan and review your insurance options. In addition, we remain available, even on short notice, to assist with any breach, cyberattack and HIPAA compliance matters. In the event of a potential breach, attack or upcoming HIPAA audit, or if you have questions regarding security planning, response or compliance, contact our Cybersecurity Response Team. We can be reached by phone on our hotline at (844) 417.3309 or by email at [cyberhotline@kaufcan.com](mailto:cyberhotline@kaufcan.com).

Kaufman & Canoles' Business Tax and Employee Benefits Groups can assist your business in assessing income and employment tax issues as they arise and support the development of the appropriate compliance programs necessary to address federal, state and local employment tax requirements. Contact Rob Johnson at (757) 873-6318 or [rjohnson@kaufcan.com](mailto:rjohnson@kaufcan.com) for additional information.

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