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MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMITTEE MEMORANDUM

TO: Finance & Citywide Projects Committee Members

FROM: Kathie G. Brooks, Interim City Manager

DATE: January 24, 2013

SUBJECT: **DISCUSSION REGARDING A RECOMMENDATION BY THE GLBT COMMITTEE TO ADDRESS THE ISSUE OF BENEFITS TAX INEQUALITY FOR CITY EMPLOYEES WITH REGISTERED DOMESTIC PARTNERS VERSUS LEGALLY MARRIED SPOUSES**

BACKGROUND

At its June 12, 2012 meeting the Miami Beach GLBT Business Enhancement Committee ("BEC") members held a discussion regarding the heavier tax burden for City of Miami Beach ("the City") employees with domestic partners who elect to receive family medical and dental coverage through the City over that of their married counterparts. A motion was passed to refer the discussion to the Finance and Citywide Projects Committee regarding reimbursing employees who pay a heavier tax burden because they have enrolled their domestic partners in the City's health plans.

A referral to the Finance and Citywide Projects Committee for a discussion regarding a recommendation made by the BEC to address the issue of tax inequality for city employees with registered domestic partners versus legally married spouses was placed on the March 13, 2012 City Commission meeting agenda by the Mayor, Matti Herrera Bower.

On November 30, 2012, Commissioner Michael Gongorra made a similar referral to the same committee.

ANALYSIS

Exclusions from taxable compensation for benefits provided by an employer are governed by the Internal Revenue Code. Those requirements provide that, to be excluded from paying said taxes on insurance benefits, the benefits have to be provided to an employee and dependents as defined by the Internal Revenue Service (IRS), which include the employee's legal spouse or children. For federal tax purposes, domestic partners (same or opposite sex) are not included in the definition of a "spouse" and therefore tax benefits at the federal level do not exist for domestic partners (except in rare instances where the domestic partner might qualify as the employee's dependent). Therefore (unless the domestic partner is the employee's dependent), the premium paid by an employer for health care benefits for an employee's domestic partner benefits is considered income and, therefore, must be included in the employee's taxable income.

The City offers health benefits coverage for domestic partners, both same and opposite sex. The City's contributed share of the premium cost of any health benefit provided to an employee and his or her domestic partner is considered income and is therefore subject to

tax withholding. This liability is considered imputed income and is reported on the employee's annual W-2 earnings statement. In addition, as the domestic partner is not considered a "spouse" under the IRS code, the contributions for the coverage provided the domestic partner is taken after-tax. Therefore, an employee who enrolls his or her domestic partner for health benefits has two (2) medical deductions, one for the employee's before-tax premium payment and one for the domestic partner's after-tax premium payment, which is the difference between the employee only contribution and the contribution for family coverage. This after-tax premium payment for their domestic partner's health care coverage is in addition to the income tax paid on the value of the City's premium payment for the domestic partner's coverage.

The City has five medical plans. The chart below reflects the monthly premium costs to the City and the monthly and annual taxable income to the employee who has elected to provide health coverage to a domestic partner (see Chart 1 below). This taxable income is referred to as imputed income and is calculated by deducting the total value of a single/employee only coverage from the total value of the family coverage (as the City currently has only two premium tiers, the premium for family coverage is used), the balance is the imputed income. The same formula applies for the dental insurance. (see Chart 2 below) For consideration, the employee's imputed income is based on the medical plan they have elected and the plan's associated premium cost to the employee and the City. Attached is a copy of the letter provided to City employees enrolling his or her domestic partner in the City's health insurance plans, explaining the tax liability (Exhibit A).

Chart 1-City Medical Plans

Domestic Partner Imputed Income					
Employee's tax liability for medical and/or dental coverage					
Medical					
Plan	Coverage Tier	Medical Premium	Monthly Premium City Share	Imputed Income Taxable Amount Monthly	Imputed Income Taxable Amount Annually
Premium HMO					
	Employee	\$763.47	\$381.74	\$564.66	\$6,775.92
	Family	\$1,892.80	\$946.40		
Standard HMO					
	Employee	\$464.55	\$329.83	\$349.76	\$4,197.12
	Family	\$1,151.85	\$679.59		
Premium PPO					
	Employee	\$1,527.79	\$763.90	\$1,110.55	\$13,326.60
	Family	\$3,748.90	\$1,874.45		
Standard PPO					
	Employee	\$902.42	\$640.72	\$665.92	\$7,991.04
	Family	\$2,214.64	\$1,306.64		
POS					
	Employee	\$850.10	\$425.05	\$629.82	\$7,557.84
	Family	\$2,109.73	\$1,054.87		
Dental					
DHMO	Employee	\$12.34	\$6.17	\$4.64	\$55.68

	Employee + 1	\$21.61	\$10.81		
	Family	\$33.95	\$16.98		
PPO	Employee	\$37.54	\$18.77		
	Employee + 1	\$72.35	\$36.18	\$17.41	\$208.92
	Family	\$110.95	\$55.48		

Chart 2-Imputed Income Examples

Standard HMO		
Employee Only Coverage		
EE Pays	City Pays	Premium Total
\$ 67.36	\$ 164.92	\$ 232.28
Family Coverage		
EE Pays	City Pays	
\$ 236.13	\$ 339.80	\$ 575.93
Imputed Income		\$ 343.65

Dental PPO		
Employee Only Coverage		
EE Pays	City Pays	Premium Total
\$ 9.99	\$ 9.99	\$ 18.78
Employee Plus One Dependent		
EE Pays	City Pays	
\$ 18.09	\$ 18.09	\$ 36.18
Imputed Income		\$ 17.40

ADMINISTRATION DUE DILIGENCE

A benefits attorney of the City's benefits consultant, Gallagher Benefits Services, was consulted regarding the "grossing up" (term used to reference the reimbursement of tax on domestic partner benefits) of income tax for the value of domestic partner coverage.

According to the Gallagher benefits attorney, adjusting an employee's earnings to offset the extra tax liability is not an issue as we (the City) would still be in compliance with the IRS code as we would continue to tax the employee for the value of the benefit. However, the adjusted earning amount is taxable to the employee as it would be considered income. The adjustment is just that, a taxable adjustment to the employee's pay – it is not a refund.

Since the imputed income is a fixed bi-weekly cost based on the selected medical insurance plan, the tax liability can be calculated for a dollar-to-dollar reimbursement.

FINANCIAL IMPACT

As of January 17, 2012, the City has 1,938 active full-time and part-time employees, 68 employees which are registered with the City's Human Resources Department as having a Domestic Partner. Of the 68 registered employees, thirteen (13) active and two (2) retirees have elected to enroll in the City's medical and/or dental coverage and six (6) have elected coverage in the International Association of Fire Fighters (IAFF) Health Trust plan.

The following is the calculated fiscal impact of implementing a bi-weekly tax reimbursement to the aforementioned currently registered domestic partner receiving City health benefits.

Current City registered domestic partners and annual tax liability							
	Status	Medical Election	Medical Imputed Income	Dental Election	Dental Imputed Income	Total Imputed Income	Federal Income Tax Liability*
1	Active	N/A	\$0.00	PPO	\$208.92	\$208.92	\$27.16
2	Active	PHMO	\$6,775.92	PPO	\$208.92	\$6,831.60	\$888.11
3	Active	SHMO	\$4,197.12	DHMO	\$55.68	\$4,406.04	\$572.79
4	Active	SHMO	\$4,197.12	PPO	\$208.92	\$4,252.80	\$552.86
5	Active	SHMO	\$4,197.12	DHMO	\$55.68	\$4,252.80	\$552.86
6	Active	SHMO	\$4,197.12	DHMO	\$55.68	\$4,252.80	\$552.86
7	Active	SHMO	\$4,197.12	DHMO	\$55.68	\$4,252.80	\$552.86
8	Active	SHMO	\$4,197.12	DHMO	\$55.68	\$4,406.04	\$572.79
9	Active	SHMO	\$4,197.12	PPO	\$208.92	\$4,252.80	\$552.86
10	Active	SHMO	\$4,197.12	DHMO	\$55.68	\$4,252.80	\$552.86
11	Active	SHMO	\$4,197.12	DHMO	\$55.68	\$4,252.80	\$552.86
12	Active	SHMO	\$4,197.12	DHMO	\$55.68	\$4,406.04	\$572.79
13	Active	SHMO	\$4,197.12	PPO	\$208.92	\$4,406.04	\$572.79
14	Retiree	SHMO	\$4,197.12	PPO	\$208.92	\$4,406.04	\$572.79
15	Retiree	SHMO	\$4,197.12	PPO	\$208.92	\$4,197.12	\$545.63
16	Fire-Active	IAFF	\$18,267.36	N/A	\$0.00	\$18,267.36	\$2,374.76
17	Fire-Active	IAFF	\$1,839.36	N/A	\$0.00	\$1,839.36	\$239.12
18	Fire-Active	IAFF	\$1,839.36	N/A	\$0.00	\$1,839.36	\$239.12
19	Fire-Active	IAFF	\$9,120.48	N/A	\$0.00	\$9,120.48	\$1,185.66
20	Fire-Active	IAFF	\$9,120.48	N/A	\$0.00	\$9,120.48	\$1,185.66
21	Fire-Active	IAFF	\$1,839.36	N/A	\$0.00	\$3,747.24	\$487.14
Total			\$103,364.88		\$1,907.88	\$106,971.72	\$13,906.32

*Based the Federal Income Tax liability currently withheld on the Citywide average annual earnings of \$57,042, creating a Tax liability withholding will be higher or lower based on the individual employee's actual annual earnings. Federal Income Tax withholding liability of 13% of individual Federal Income.

PHMO=Premium HMO

SHMO=Standard HMO

IAFF=International Association of Fire Fighters

Based on the above schedule, the City's total annual fiscal impact for grossing up the City's employee with domestic partner tax liability is \$13,906.32 Even if enrollment in domestic partner coverage increased by 40% as a result of the passage of this ordinance to create tax equality, the City's annual cost for the reimbursement would be under \$20,000, based on the current medical and dental premium costs.

GOVERNMENT AGENCIES THAT ARE GROSSING UP

According to the Legislative Counsel of the Human Rights Campaign, Cathryn Oakely, two other municipalities offer reimbursement of the employee's income tax liability for domestic partner coverage; Cambridge, Massachusetts and City of Hallandale Beach, Florida. Additionally, and most recently, the Palm Beach Property Appraiser's Office enacted a

“grossing up” policy, making it the first known county agency in Florida to adopt such a policy. Their adopted policies are as follows:

CAMBRIDGE, MA

Effective July 1, 2011, Cambridge, Mass. employees who have same-sex spouses received an additional payment to cover federal taxation of the benefits coverage the city provides those spouses.

The Cambridge action was in response to a Jan. 10, 2011 City Council resolution ordering a study of how the federal tax treatment of spousal benefits affects the benefits the city provides its employees and their spouses. It also ordered that the city find a way to ameliorate the effect of the different tax treatment on city employees with same-sex spouses.

On May 23, 2011, Cambridge City Manager, Robert W. Healy issued a letter stating that the city’s remedy for the disparity was to provide a quarterly stipend that is equal to 20 percent of reported taxable income imputed to the employee for health and dental coverage. This program began July 1, 2011 for non-union and management employees; for employees who belong to unions, the city could implement the stipend as part of new contracts when they are negotiated.

CITY OF HALLANDALE BEACH, FLORIDA

At its November 7, 2012 City of Hallandale Beach Commission meeting, a resolution was adopted by the Mayor and City Commission, approving a tax equity reimbursement program for domestic partnerships, authorizing the City Manager to take the necessary action to implement the program. The tax equity solution offers City of Hallandale Beach employees who enroll their domestic partners under the City’s health insurance plan a \$500 tax equity reimbursement to mitigate the impact of the additional imputed income tax. A tax equity reimbursement application is required to be filed with its Human Resources Department on May 1st of every year that that the additional tax was deducted.

City of Hallandale Beach was the first City on the State of Florida to implement a tax equity reimbursement program.

PALM BEACH COUNTY PROPERTY APPRAISER GARY R. NIKOLITS, FLORIDA

The Palm Beach Property Appraiser’s Office implemented a policy to offset the additional taxes paid by employees who elect to provide health insurance to their domestic partners. The action was taken upon the request of the Palm Beach County Human Rights Council.

The policy, which went into effect in January 2013, provides employees who elect to insure their domestic partners with a tax equity reimbursement of \$20 on bi-weekly basis, aimed at mitigating the impact of the additional imputed income tax.

Palm Beach County Property Appraiser Gary R. Nikolits is the first elected constitutional officer in Florida to implement a tax equity program. His office has offered domestic partnership health insurance since 2004.

Currently no state agencies offer grossing up. However, two (2) other Florida government agencies are in the process of implementing grossing up policies, City of West Palm Beach and Palm Beach County Tax Collector’s Office.

PRIVATE SECTOR POLICIES

As of December 2012, TD Bank announced that it will begin offsetting the tax burden that its employees pay for domestic-partner benefits. Other private employers who have implemented similar programs include American Express, Apple, Bank of America Corp., Cisco Systems Inc, Corning, Biogen Corp., Facebook, Goldman Sachs, Google, Kimpton Hotels, Microsoft, Morgan Stanley and Yahoo!.

CONCLUSION

Passing such an ordinance, correcting an inequality imposed by the Federal Government, will enhance our City's message of embracing and welcoming equality, diversity and no tolerance for discrimination. Employers who offer the reimbursement also do so to attract the most talented labor pool for their workforce. The estimated annual fiscal impact of grossing up is \$13,906.32 based on current enrollment and insurance premium costs.

KGB/PDW/RA/CD/SR

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EXHIBIT A



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HUMAN RESOURCES AND RISK MANAGEMENT DEPARTMENT

Tel: (305) 673-7000 ext. 6542, Fax: (305) 604-2452

Date

Addressee's Name

Address

City, State, Zip

RE: Domestic Partner Health Coverage
Your Tax Liability

Dear Addressee,

When employers provide health care benefits for the employee's spouse and/or dependents, the Internal Revenue Code allows the premium paid by the employer for these benefits to be excluded from the employee's gross income. No such exclusion exists for benefits given to an employee for their domestic partner. Therefore, the premium paid by an employer for health care benefits for an employee's domestic partner is considered income and therefore taxable by the IRS.

Who is responsible for paying the tax?

The employee who has elected domestic partner coverage is responsible for paying the tax on these benefit premiums. To the extent the law requires the employer to withhold tax on the income paid to employees, the tax on domestic partner benefit premiums must also be withheld.

How is this tax calculated?

Private letter rulings issued by the IRS require that an employer withhold income and Medicare taxes from their employee's income for the fair market value of the health benefit paid in excess of the amount paid by the employee and the amount paid by the employer for the benefit.

The "fair market value" of domestic partner medical and/or dental coverage is considered taxable to you as income by the Internal Revenue Service. This taxable amount is reported on you payroll check as imputed income. The "imputed income" is the premium paid by the City and the employee for the domestic partner coverage.

EXHIBIT A

For example, City employee Parks Beach has enrolled in the Premium HMO with coverage for himself and his domestic partner. He pays the bi-weekly family premium of \$238.89 before tax.

• Employee cost - bi-weekly family coverage	\$
• City cost - bi-weekly family coverage	\$
• Total bi-weekly cost – family coverage	\$
Less	
• Employee cost - employee only	-\$
• City cost - employee only	-\$
• Total bi-weekly cost – employee only coverage	-\$
Equals Imputed Income amount	
The bi-weekly “fair market value” of domestic partner coverage considered taxable income by the IRS. This is the amount to be reported on each payroll check as taxable income.	\$

Beginning with your payroll check dated DATE ; a taxable amount of \$xxxxx will be reflected on your payroll check as “imputed income domestic partner”. This amount will increase or decrease at the beginning of each plan year, based your healthcare election and the bi-weekly premium costs for the new plan year.

We understand these tax liabilities may have significant impact on your take home pay. Should you wish to cancel your domestic partner healthcare coverage, please contact Employee Benefits at ext. 7456 to arrange an appointment to make the appropriate changes to your healthcare coverage.

Should you have questions regarding your tax liability for your domestic partner coverage, please contact Sue Radig at ext. 6542.

Sincerely,

Name of Sender

Title of Sender