

From: [Bill Anspach](#)
To: [HHS HealthInsurance \(HHS\)](#)
Cc: [DeSanto, Lisa](#); hneniff@crateandbarrel.com; cmergl@crateandbarrel.com
Subject: Waiver
Date: Wednesday, December 01, 2010 2:14:02 PM
Attachments: [Request for Waiver.pdf](#)
[Plan Highlights.pdf](#)
[Summary Plan Description.pdf](#)
[Plan.pdf](#)
[Certification.pdf](#)

<<Request for Waiver.pdf>>
<<Plan Highlights.pdf>>
<<Summary Plan Description.pdf>>
T <<Plan.pdf>> o: <<Certification.pdf>> James Mayhew
HHS, Office of Consumer Information and Oversight
Office of Oversight
Room 737-F-04
200 Independence Avenue, SW
Washington, D.C. 20201

Re: Waiver Request for the Crate and Barrel Health Reimbursement Account Plan

Mr. Mayhew,

On behalf of Crate and Barrel, we are submitting a waiver request regarding the implementation of section 2771 of the PHSA under interim final regulations. Attached are the following document:

1. Request for Waiver;
2. Plan Highlights;
3. Summary Plan Description;
4. Health Reimbursement Account Plan; and 5. Certification.

If you need additional information or have any questions, please contact the undersigned.

Bill Anspach
MUCH SHELIST
Much Shelist Denenberg Ament & Rubenstein, P.C.
191 N. Wacker Drive, Suite 1800
Chicago, IL 60606
Direct Dial 312.521.2406
Fax Number 312.521.2306
wanspach@muchshelist.com
Visit our website at www.muchshelist.com

Associated with International ALLIANCE of Law Firms

Please consider the environment before printing this email

The information contained in this email communication is intended only for the personal and confidential use of the designated recipient named above. This message may be an Attorney-Client communication, and as such is privileged and confidential. If the reader of this message is not the intended recipient, you are hereby notified that you have received this communication in error, and that any review,

dissemination, distribution, or copying of the message is strictly prohibited. If you have received this transmission in error, please notify us immediately by telephone and/or reply email.

Circular 230 Notice.

To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. Federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (I) avoiding penalties under the Internal Revenue code or (II) promoting, marketing or recommending to another party any transaction or matter addressed herein.

**REQUEST FOR WAIVER
FROM RESTRICTED ANNUAL LIMITS
SET FORTH IN INTERIM FINAL REGULATIONS**

Euromarket Designs, Inc., d/b/a Crate and Barrel (the "**Company**"), sponsors the Crate and Barrel Health Reimbursement Account Plan (the "**Plan**"). The plan year is the calendar year. The Plan covers all full-time employees who complete at least 12 months of service and are not covered under a Health Savings Account. This Plan is not integrated with other coverage as part of a group health plan because participation in this Plan is not conditioned upon whether the employee is a participant in a Company group health plan. The number of individuals covered by the Plan is (b)(4). The Plan is funded (b)(4) by the Company. The Company contributes funds to the Plan to pay certain medical expenses not otherwise covered by insurance. Employees are classified into three groupings. The annual dollar amount contributed by the Company varies for each grouping and ranges from (b)(4). Attached to this waiver request are the following documents: (1) Plan document; (2) Summary Plan Description; (3) Plan Highlights; and (4) Certification by the plan administrator.

The interim final regulations implementing Section 2711 of the Public Health Service Act provides that the restricted annual limits may be waived by the Secretary of Health and Human Services if compliance would result in a "significant decrease in access to benefits" or a "significant increase in premiums." Due to the current cap placed on reimbursement by the Company, unless the waiver is obtained, it will no longer be financially feasible for the Company to maintain the Plan. As a result, there will be a significant decrease in access to benefits.

Pages 4 through 6 redacted for the following reasons:


(b)(4)

**CERTIFICATION
TO WAIVER REQUEST
FROM THE RESTRICTED ANNUAL LIMITS**

The Plan Administrator for the Crate and Barrel Health Reimbursement Account Plan (the "**Plan**") is Euromarket Designs, Inc, d/b/a Crate and Barrel (the "**Company**"). The undersigned is the Senior Director of Human Resources. As provided in Section 6 of the Plan, he has the authority to act on behalf of the Plan Administrator. The undersigned hereby certifies that (1) the Plan was in force prior to September 23, 2010; and (2) the application of the restricted annual limits to the Plan would result in a significant decrease in access to benefits under the Plan.

This certification is made under penalty of perjury.

Dated: December 1, 2010



Michael Silverman
(847)-239-6332

Pages 8 through 22 redacted for the following reasons:

(B)(4)

From: Habit, Sandra (HHS/OCIIO)

Sent: Thursday, December 30, 2010 10:44 AM

To: 'wanspach@muchshelist.com'

Subject: Euromarket Designs, Inc., d/b/a Crate and Barrel Approval Letter for a Waiver of the Annual Limits Requirements 12-21-2010

Importance: High

Attachments: Updated Jan 1 Approval Letter .pdf

Good Afternoon,

Thank you for submitting an application for a Waiver of the Annual Limits Requirements of the PHS Act Section 2711 for **Euromarket Designs, Inc., d/b/a Crate and Barrel**. HHS has reviewed your application and made its determination. Please see the attached letter.

Please confirm receipt of this letter by replying to this e-mail.

Please let me know if I can be of further assistance.

Sincerely,

Sandy Habit

Department of Health and Human Services

Office of Consumer Information and Insurance Oversight

301-492-4175

Sandra.Habit@hhs.gov

INFORMATION NOT RELEASABLE TO THE PUBLIC UNLESS AUTHORIZED BY LAW: This information has not been publicly disclosed and may be privileged and confidential. It is for internal government use only and must not be disseminated, distributed, or copied to persons not authorized to receive the information. Unauthorized disclosures may result in prosecution to the full extent of the law.


EUROMKT:000007



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Consumer Information and
Insurance Oversight
Washington, DC 20201

Date: October 2010

From: Steve Larsen, Director, Office of Oversight 

Subject: Application for Waiver of the Annual Limits Requirements of PHS Act Section 2711

Dear Waiver Applicant:

Section 2711(a)(2) of the Public Health Service Act (PHS Act), as added by the Patient Protection and Affordable Care Act (Affordable Care Act), requires the Secretary to impose restrictions on the imposition of annual limits on the dollar value of essential health benefits (as defined in section 1302(b) of the Affordable Care Act) for any participant or beneficiary in a new or existing group health plan or a new policy in the individual market for plan or policy years beginning on or after September 23, 2010 and prior to January 1, 2014. Specifically, the Secretary is granted the authority to determine what constitutes a "restricted annual limit" that can still be imposed under such plans or policies prior to January 1, 2014.

The interim final regulations published on June 28, 2010 (codified at 26 CFR § 54.9815-2719T; 29 CFR § 2590.715-2719; and 45 CFR § 147.126) established such restricted annual limits. The regulations also provided that these restricted annual limits may be waived by the Secretary of Health and Human Services (HHS) if compliance with the interim final regulations would result in a significant decrease in access to benefits or a significant increase in premiums. Pursuant to the regulation, HHS issued guidance on September 3 regarding the scope and process for applying for a waiver.

The Office of Consumer Information and Insurance Oversight, Office of Insurance Oversight received and processed your application for the plan(s) or policy(ies) year beginning January 1, 2011. We have determined that your application has met the criteria to obtain a waiver of the restricted annual limits requirements because compliance with the interim final regulations would result in a significant decrease in access to benefits for those currently covered by such plans or policies, or a significant increase in premiums paid by those covered by such plans or policies. To the extent you make any change to your benefit package after March 23, 2010, you must determine whether the change(s) will trigger loss of grandfathering status pursuant to 45 CFR § 147.140(g)(1).

An approval of your request for waiver of the restricted annual limits requirements granted under this process applies only to the annual limit(s) provided in your application for the plan or policy year beginning between September 23, 2010 and September 23, 2011. This waiver only applies to the annual limits requirements in Section 2711 of the ACA and does not apply to any other requirement of the Affordable Care Act, ERISA, the IRS Code or the PHS Act. Further, a group

health plan or health insurance issuer must reapply for any subsequent plan or policy year prior to January 1, 2014 when this waiver expires in accordance with future guidance from HHS. HHS may modify this waiver approval process memorandum and other relevant information.

If you have any questions regarding this letter, please email OCIIOOversight@hhs.gov.

From: Bill Anspach [wanspach@muchshelist.com]

Sent: Monday, January 03, 2011 9:09 AM

To: Habit, Sandra (HHS/OCIIO)

Subject: RE: Euromarket Designs, Inc., d/b/a Crate and Barrel Approval Letter for a Waiver of the Annual Limits Requirements 12-21-2010

I'm confirming receipt of your letter.

Thank you.

Bill Anspach
Much Shelist
Much Shelist Denenberg Ament and Rubenstein, P.C.
191 North Wacker Drive, Suite 1800
Chicago, IL 60606
Phone 312.521.2406
Fax 312.521.2306
wanspach@muchshelist.com
www.muchshelist.com

Associated with International ALLIANCE of Law Firms

Please consider the environment before printing this email.

The information contained in this email communication is intended only for the personal and confidential use of the designated recipient named above. This message may be an attorney-client communication, and as such is privileged and confidential. If the reader of this message is not the intended recipient, you are hereby notified that you have received this communication in error, and that any review, dissemination, distribution, or copying of the message is strictly prohibited. If you have received this transmission in error, please notify us immediately by telephone and/or reply email.

Circular 230 notice

To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (I) avoiding penalties under the Internal Revenue code or (II) promoting, marketing or recommending to another party any transaction or matter addressed herein.

From: Habit, Sandra (HHS/OCIIO) [mailto:Sandra.Habit@hhs.gov]

Sent: Thursday, December 30, 2010 9:43 AM

To: Bill Anspach

Subject: Euromarket Designs, Inc., d/b/a Crate and Barrel Approval Letter for a Waiver of the Annual Limits Requirements 12-21-2010

Importance: High

Good Afternoon,

Thank you for submitting an application for a Waiver of the Annual Limits Requirements of the PHS Act Section 2711 for **Euromarket Designs, Inc., d/b/a Crate and Barrel**. HHS has reviewed your application and made its determination. Please see the attached letter.

Please confirm receipt of this letter by replying to this e-mail.

Please let me know if I can be of further assistance.

Sincerely,

Sandy Habit
Department of Health and Human Services
Office of Consumer Information and Insurance Oversight
301-492-4175
Sandra.Habit@hhs.gov

EUROMKT:000010

INFORMATION NOT RELEASABLE TO THE PUBLIC UNLESS AUTHORIZED BY LAW: This information has not been publicly disclosed and may be privileged and confidential. It is for internal government use only and must not be disseminated, distributed, or copied to persons not authorized to receive the information. Unauthorized disclosures may result in prosecution to the full extent of the law.

EUROMKT:000011