Employee Benefits Report

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Compliance June 2016 Volume 14 • Number 6

Compliance Dates, Deadlines and Changes

Employers have compliance requirements to meet or face possible fines. Two of the newest compliance challenges are the employee reporting requirements of the Affordable Care Act and employee classification for overtime pay.

While some of these compliance deadlines have passed for 2016, they should be on your calendar for 2017. Also, changes in employee exemptions are expected to be announced this year.

Employee Reporting Requirements

Applies to: Any employer classified as an applicable large employer (ALE) which employs 50 or more full-time workers or part-time equivalents.

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This Just In

As this issue went to press, Rosemary Collyer, U.S. District Judge for the District of Columbia, was expected to rule on U.S. House of Representatives v. Burwell. Her decision could have a profound effect on the federal insurance exchanges.

House Republicans say the federal government is illegally funding the Affordable Care Act's cost-sharing subsidies without congressional appropriation. The subsidies are being paid to private insurers to keep costs low for the silver-level plans they provide on the federal insurance exchanges.

The federal government says subsidies are necessary to ensure that individuals whose incomes are under 250 percent of the poverty level have access to reduced

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- **What:** Complete **Form 1095-C** for each full-time employee who has been covered under your health plan and is receiving minimum essential health coverage. File the forms with the IRS and send each employee a copy. This form lists the names, addresses and Social Security numbers of all employees and dependents who are covered under your medical plan and the number of months during which they had at least one day of coverage.

  This is a lot of information to track, and employers that wait until the last minute to collect it might be unable to meet the deadline. We suggest employers track employees' coverage consistently throughout the year.
- **When:** By Jan. 31. Please note that the deadline this year was extended to March 31 for 2016.
- **What:** Submit Form **1094-C** to the IRS. This form is basically a cover sheet for the 1095-C and provides information about your company, number of employees, contact person and how many 1095-C forms are being sent.
- **When**: The due date for mailing the 2015 Form 1094-B was changed from February 29, 2016 to May 31, 2016. If filing electronically, the due date was changed from March 31, 2016, to **June 30, 2016.**

  Applies to: Self-insured employers

- **What:** Complete **Form 1095-B**, which is similar to Form 1095C. Forms 1095-B and 1094-B are sent out by the insurance provider rather than the employer. However, if you self-fund your health plan — regardless of the size of the company — you or your third-party administrator should send this form.

  This means self-insured companies with more than 50 employees must send covered workers both a 1095-B and a 1095-C. In such cases, the law allows the employer to combine the information onto a single 1095-C form.
- **When:** The due date for filing the 2015 Form 1095-B was changed from February 29, 2016, to May 31, 2016. If filing electronically, the due date was changed from March 31, 2016, to **June 30, 2016.**
- **What:** Form 1094-B is essentially a cover sheet you or the insurance company use when sending the IRS information about employees who have health coverage that meets the standards of the ACA.
- **When:** The due date for filing was changed from February 29, 2016, to May 31, 2016. If filing electronically, the due date was changed from March 31, 2016, to **June 30, 2016.**

For EVERY form 1095-C or 1094-C that you do NOT file, you will receive a $250 fine — with a maximum total fine of no more than $3,000,000. Failure to provide a correct payee statement has the same fines for each missing form. The good news is that if you missed the deadlines this year, the IRS will not enforce penalties for reporting incorrect or incomplete information as long as you can prove you made a good faith effort to follow the 2015 reporting requirements.

For more information, visit IRS.gov.

Employee Classification for Overtime Pay

Many employers will soon need to review their employee classifications to determine which employees now qualify as exempt from overtime pay requirements.

The U.S. Department of Labor (DOL) proposed changes to the Fair Labor Standards Act (FSLA) overtime rules in June 2015. The proposed changes would make the minimum salary for overtime eligibility equal to the 40th percentile of earnings for full-time salaried workers. Currently, employees who perform certain duties and earn more than $23,660 annually are exempt from overtime pay. The pro-

deductibles, co-pays and coinsurance costs. These subsidies will cost the federal government an estimated $175 billion over 10 years. Almost 60 percent of silver plans are receiving cost-sharing reductions.

Supporters say that without subsidies to insurers, they would have little incentive to stay on the exchanges because of low profit margins. UnitedHealth Group, Inc. recently announced it will exit most of the federal exchanges because it's losing money.

If Judge Collyer rules that subsidies should be eliminated, exchange insurance rates could increase by $1,000 and the federal government will appeal the issue to the U.S. Supreme Court.

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posal increases the minimum salary for exemption to $47,892 a year based on 2013 data, and is estimated to become $52,440 a year in 2016.

The DOL is expected to issue its final rule changing overtime pay exemptions this year. Employers covered by the FSLA include:

- Federal, state, or local government agencies
- Hospitals or institutions primarily engaged in the case of the sick, the aged, and the mentally ill or mentally retarded who live on the premises
- Pre-school, elementary or secondary school or institution of higher learning (e.g. College) or a private or public school for mentally or physically handicapped or gifted children
- A company/organization with annual sales volume or receipts of $500,000 or more.

Employers should analyze their employee classifications because it's expected these changes could make almost 5 million workers eligible for overtime pay as early as this year.

Five Retirement Plan Problems and What You Can Do About Them

Low enrollments and low contributions not only mean that you're not getting your money's worth out of your administrative dollars, they can also translate into decreased employee loyalty and failure of nondiscrimination tests. Following are five common retirement plan problems and how you can solve them.

Problem 1: Lack of Participation

Younger workers and low-income workers are less likely to participate in retirement plans.

Solution: Automatic Enrollment

The Pension Protection Act of 2006 made it easier for employers to adopt an automatic enrollment arrangement. You can decide which classes of employees will be subject to auto-enrollment: for example, you can auto-enroll all employees, all full-time employees or only non-union employees. Plans must adopt an amendment and provide affected employees with proper notice describing the features of the plan, including default elective deferrals, or the percentage of the employee's pay that will be contributed to his/her account. Your plan must also give participants an opportunity to make (or change) a cash or deferred election at least once during each plan year.

Other Solutions: Information and Education

Do you promote participation in your DC plan? Do employees have easy access to information on the plan, as well as to general information on retirement savings, such as retirement calculators? If not, please contact us for suggestions.

Problem 2: Inadequate Contributions

Pension experts say it takes contributions between 12 and 20 percent of pay to achieve adequate retire-

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ment income from a DC plan. However, many workers contribute much less.

Solution: Automatic Escalation of Contributions

Combining automatic enrollment in DC plans with automatic escalation of contribution rates can help solve this problem. Without automatic escalation, automatic enrollment may lead to insufficient retirement income because employers may set a low default contribution rate for workers, such as 3 percent or less, and many workers will remain at the default level.

As with automatic enrollment, plan sponsors implementing automatic escalation provisions must provide notice to employees and give them adequate opportunities to opt out or change contribution percentages.

Problem 3: Inadequate Investment Returns

In a DC plan, the employer must provide participants with a range of investment options. Workers allocate funds among those options according to their individual situations. If investments do not perform well, workers will have less money in their DC plans to provide retirement income.

Solution: Use Life Cycle Funds as a Default Investment

Standard financial theory recommends that individuals shift investments from riskier assets, such as stocks, to more stable assets, such as bonds, as they near retirement. A sharp drop in the stock market, such as the 37 percent fall in the S&P 500 in 2008, can be devastating for these workers, who have few years before retirement to recoup losses.

Life cycle funds automatically adjust the allocation of stocks and bonds according to the individual's age and expected retirement date. However, experts caution they are not a complete solution and are still evolving.

Problem 4: Overinvestment in the Employer's Stock

FINRA, the independent securities firm regulator, says, "…an adequately diversified portfolio should have no more than 10 to 20% of total investment assets in company stock. If you concentrate much more than that in company stock, especially in a 401(k) plan where there are trading restrictions, you may expose yourself to more company risk that it is wise to incur."

Solution: Education

While the Employee Retirement Income Security Act of 1974 (ERISA), restricts DB plans from investing more than 10 percent of assets in company stock, there is no similar restriction on 401(k) plans. Employees can benefit from education that alerts them to these and other investment risks.

Problem 5: High Fees

Investment fees, charged by companies managing mutual funds and other investment products, account for the largest portion of 401(k) plan fees. Workers typically pay these fees.

Administrative fees, which cover the cost of various administrative activities to maintain participant accounts, generally account for the next largest portion of plan fees. Although employers often pay the administrative fees, workers bear them in a growing number of plans.

Over the course of a worker's career, fees may significantly decrease retirement savings by lowering the net investment returns. Although seemingly insignificant, a 1 percentage point difference in fees can substantially reduce the amount of money saved for retirement. An individual 45 years old who leaves $20,000 in a 401(k) account for 20 years would have a balance of about $70,500 with an average annual investment return of 7 percent minus a 0.5 percent charge for fees. However, if returns remain 7 percent but fees increase to 1.5 percent annually, that $20,000 will grow to only about $58,400—a difference of about 17 percent over 20 years.

Solution: Opt for Low-Fee Plans

The fee information employers are required to disclose is limited and does not provide workers with easy comparisons between fees charged for different investment options. Employers can assist their employees by comparison shopping and selecting a plan provider that charges low administrative fees and a variety of low-fee investment options. Other solutions include educating employees on the impact high fees can have on their account balances.

For an evaluation of your company's retirement benefit plan administration, please contact us.

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The Case for Disability Benefits and What You Can Do About it

The majority of workers in this country have employer-sponsored health insurance, but only 30 percent of American workers in private industry have employer-sponsored disability insurance, according to a recent survey conducted by the U.S. Department of Labor.

Disability insurance can replace a portion of pre-disability income if an employee is unable to work. The benefits a disabled employee receives can cover bills, such as food, mortgage payments or college expenses. Employers can offer short- or long-term disability coverage or a combination. Short-term disability insurance typically lasts six months or fewer, and long-term disability insurance lasts for the length of the disability or until age 65.

What Disability Insurance Means to Employers

Obviously, when employees can't work due to disability, it will affect their finances. It can also affect the employer financially. A study by the Work Loss Data Institute revealed that hiring replacement workers (a direct cost) or dealing with lost productivity (an indirect cost) can exceed medical insurance costs for a business. "For U.S. employers in 2000, direct disability lost time costs were $91,360 per 100 workers; total disability lost-time costs (including direct costs) were $458,150 per 100 workers; and medical costs were $268,539 per 100 workers," the study stated. For small companies, these costs could have a profound effect.

A key finding from the U.S. Department of Labor's National Compensation Survey of Employee Benefits in Private Industry (March 2006) showed that few small business owners have made arrangements to protect themselves and their families from disability. By making this coverage available to employees, the small business owner also has access to coverage at group rates, which can be lower than individual rates.

A 50-year-old nonsmoking female earning $100,000 annually could pay approximately $4,125 per year for an individual disability policy. In contrast, a group policy could run $300 to $450 per employee in annual premiums.

Employers can pay the entire premium or share costs with employees. Employers also can fund a basic plan to protect employees, and employees may then purchase supplemental coverage to better address their needs.

What It Means to Employees

The 2005/2006 MetLife Study of Employee Benefits Trends report indicates that 47 percent of employees live paycheck to paycheck. Many of these employees are service workers, the lowest-paid occupational group and the group least likely to be covered by employer-provided short- or long-term disability plans.

Participating in an employer's plan is an easy option for many employees, since they don't have to request quotes from multiple insurers. One advantage of obtaining disability insurance through an employer is that it requires no medical exam, unlike an individual disability insurance policy. Unhealthy workers might find their request for coverage denied if they try to purchase individual coverage.

Group disability coverage often has more exclusions than an individual policy. Most long-term group disability policies due not cover employees who have pre-existing conditions.

For more information on disability insurance plans, please contact us

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The Long and Short of Disability Benefits

If you're interested in offering a disability plan to your employees, but aren't sure whether to choose a short- or long-term plan, consider these additional facts:

Short-term

The short-term plan is the most popular. According to the United States Department of Labor, 93 percent of private industry workers are covered by a short-term plan — also known as a fixed-duration plan.

Short-term disability plans are intended to replace lost wages for a short time — usually for six months after sick leave is exhausted. The policy might pay a large percentage of lost salary at first, but payments are often reduced to 60 percent of pre-disability salary or less after a few weeks. However, many of the conditions that lead to the need for short-term disability benefits — pregnancies, strains and sprains — usually do not need the full 26 weeks to heal.

To qualify for short-term disability, an employee must complete six months of continuous employment and have used all paid leave, including vacation, personal days and sick leave.

Long-term

A long-term disability plan offers protection for catastrophic illness or injury, including heart disease, musculoskeletal and connective tissue conditions, hypertension and diabetes. These payments pick up where a short-term disability plan stops, often lasting five to 10 years or until age 65 or longer.

A long-term disability plan pays benefits averaging 60 percent of annual earnings. Most long-term plans have a maximum monthly payout. In 2014, that amount equaled $8,000 per month.

Disability benefits are taxable if the employer pays the premium or the employee pays the premium from pre-tax income.

For more information, please contact us. ▪

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