Up and Coming HR

Health Care Benefits and Related Issues

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AFFORDABLE CARE ACT AND TAX REFORM

Employer obligations remain the same, but liability could be reduced.

- The employer mandate to offer affordable minimum essential coverage remains in effect, as does 1094 and 1095 reporting.
- Individuals no longer have a mandate and penalty.
- Many believe fewer individuals will go to the exchange for coverage.
- If that happens, there could be a reduced penalty because fewer people are receiving the credits that trigger penalties.

AFFORDABLE CARE ACT LETTERS

The IRS is issuing a lot of letters to companies claiming employer shared responsibility penalties are due.

- Receiving a letter does not mean something is wrong, but it does require prompt and careful attention.
- The penalty amount can be seem disproportionately high, well into the six and seven figures.
- Careful documentation is the best way to resolve the penalty assessments.

AFFORDABLE CARE ACT: DOCUMENTING COMPLIANCE

With the rise of penalty letters and other audits, documentation is more important than ever.

- Affordability
- Minimum Essential Coverage
- When and how each employee received an offer of coverage
- How you determine which employees are eligible
- Waivers of coverage

HSA CONTRIBUTION LIMITS

- Earlier this year, contribution limits for 2018 were $3,450 for individuals and $6,900 for families.
- Earlier this week, the IRS retroactively lowered the amount.
- Now 2018 limits are $3,450 for individuals and $6,850 for families.
- This may not seem like a significant change. It is for those who have already contributed over $6,850 or will during the year.

DISABILITY APPEALS

- ACA created the first significant changes to claims procedures in years.
- Most changes are already in effect.
- Disability appeals language needs to be changed.
- The changes are primarily to avoid conflict of interest.
- If you have a fully insured plan, you may already be OK, but confirm with your insurance company and administrator.

TRANSPORTATION BENEFITS

What are transportation benefits? Paying for public transportation, commuter rail, parking and biking subsidies.

What changed?

- Other than biking subsidies, employers can no longer deduct these costs.
- Bike subsidies are deductible for the next eight years.
- Schools are not off the hook, these benefits are now considered unrelated business taxable income, creating parity with for-profit companies.
- Use of athletic facilities are also subject to UBIT.
- Making the benefits taxable will avoid the UBIT problem.
- Consider increasing normal pay rather than provide a benefit with no real financial gain to you or the employees.

MOVING EXPENSES

- Moving expenses are an uncommon benefit, especially in schools.
- They are no longer excludable from employee income.
- No change in the tax treatment for the school.
- Consider offering a gross-up or additional taxable compensation rather than the benefit.

EMPLOYEE ACHIEVEMENT AWARDS

Employee Achievement Awards are tangible property for length of service of safety achievements.

- Still permissible with more clarity.
- The tangible property cannot be cash, gift card, tickets to entertainment, vacations, meals, transportation or investments.
- Make sure the Employee Achievement Awards satisfy the newly clarified rules.
- Consider a de minimis benefit, which would not be a problem or sticking to things like watches, pens, plaques and the like.
- Other awards are permitted, but are treated as ordinary income.

UNREIMBURSED BUSINESS EXPENSES

This is one of the more significant issues for schools, or at least their employees.

- Employees cannot deduct reimbursed business expenses.
- This includes school supplies purchased by teachers at their own expense and without reimbursement.
- Independent contractors (which would include some substitutes) can still deduct these expenses.
- Consider whether pay and benefit allocation should be adjusted to reflect the loss of tax savings to teachers.
- Alert teachers and staff to this change to ensure they are aware of it before filing taxes.

STUDENT LOAN ASSISTANCE

- This is an increasingly common benefit.
- Providing it requires careful consideration and should be implemented only after the eligible employees understand the tax and loan implications.
- This should be a voluntary benefit.
- It will be taxable to the employee as ordinary income.
- Providing this benefit can cause problems with or cancel other benefits of student loans, such as forgiveness.

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DATA PROTECTION

- Employers can now provide credit monitoring as a tax free benefit.
- It should be provided on a voluntary basis.
- Explaining the scope of the benefit and what (if any) information the employer receives.
- Can only be provided tax free if no data breach has already occurred.
- Popular with employees who do not want to worry about lapses in protection from other providers.

RETIREMENT PLAN LOAN REPAYMENT

- Plan loans are repaid through salary reductions, much like other contributions.
- When an employee terminates, there is normally a default, but if a rollover occurs repayment may continue.
- The old rule was the rollover had to occur 60 days after termination.
- The new rule is the rollover can occur anytime before the income tax due date, with extensions.
- Review your loan policy and decide how you want to address this.
- Plan amendment should not be necessary, but training and revision of the procedures may be.
- If you have standard paperwork provided to terminated employees, it should be reviewed.
- Coordinate with third-party processors.

RETIREMENT PLAN HARDSHIP DISTRIBUTIONS

- Most plans permit hardship distributions using a Treasury Regulation safe harbor.
- Hardship distributions are fairly restrictive, requiring loans to be taken first and other means of addressing the financial need are taken.
- If a hardship distribution was taken, contributions to the plan were ceased for six months.
- Hardship distributions have been made much easier to obtain.
- Employees no longer need to take plan loans before taking a hardship distribution.
- Treasury will be amending the Regulations to eliminate the requirement for contributions to cease for six months.
- The changes apply to 401(k) and 403(b) plans starting with the next plan year (2019) and will likely require a plan amendment. Plan now to avoid compliance issues.

TAX LEVY

- Previously, when an employee withdrew funds to pay a tax levy, the withdrawal was taxable, even if the levy turned out to be in error.
- Beginning this year, individuals are permitted to recontribute the assets taken out because of a tax levy that was determined to be in error.
- By allowing employees to recontribute, they are made whole for IRS errors.
- Applies to 401(k), 403(b), 457(b) plans and IRAs.
- Changes go into effect this year and may require a plan amendment. Discuss implementing this change at your next board or benefits committee meeting.

AUTO-ENROLLMENT AND AUTO-ESCALATION

These are not new matters, but they do require annual attention.

- If employees are being automatically enrolled, they should be provided with notice (including how to opt out), how to cancel or cease enrollment and other relevant information.
- Auto-escalation is not as popular, but can be very useful to you and your employees.
- Even in 403(b) plans, there should be a default investment selected.

MULTIEMPLOYER PLANS

- Multiemployer plan solvency has become increasingly concerning, especially for governmental entities.
- A Joint Select Committee has been appointed with 16 members of Congress with equal representation by party and house.
- The goal is to provide recommendations and proposed language to help the PBGC and plan solvency.

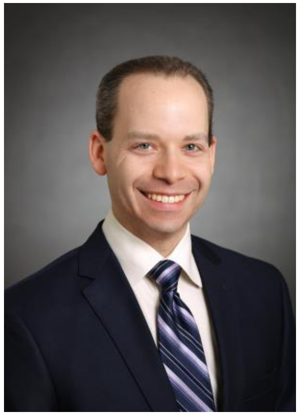
RECHARACTERIZATION OF ROTH CONVERSIONS

- This is not an employer or school issue, but it is was increasingly common for individuals.
- You can still convert a Roth IRA to a Traditional IRA and a Traditional IRA to a Roth IRA.
- However, you can no longer switch back and forth.

WITHHOLDING

- Tax Reform created new tax brackets that will impact many employees and their withholding.
- The IRS recently released a new W-4 to reflect these changes.
- There is also an updated calculator on the IRS website to use for determining the right amount of withholding.
- A new W-4 is not required, but changes to your withholding should occur as soon as possible, if not already in effect.
- Notify employee that due to tax changes they may want to change their withholding election (depending on their circumstances) and that if they want a change, to complete a form (available at the IRS website) and submit it to you.
- 22% is now the default withholding rate on supplemental wages.

THANK YOU!



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