

JANUARY 2018 COMPLIANCE UPDATE

IRS FORM 1094 AND IRS FORM 1095

Large employers (i.e. those with 50 or more full-time and full-time equivalent employees) and all employers (regardless of size) sponsoring self-funded health plans have to prepare, distribute and file IRS Form 1094 and IRS Form 1095. The deadline for distributing the forms to the employee has been extended.

[Information Reporting Requirements
IRS Again Extends Distribution Deadline](#)

Note that the deadline for filing the forms with the IRS has **NOT** been extended. There are penalties for distributing the forms to the employees late as well as filing the forms late with the IRS.

VARIOUS PENALTIES ADJUSTED FOR INFLATION

The statute imposes penalties for noncompliance and those amounts are indexed each year to account for inflation.

[2018 Adjusted Penalties](#)

The amounts listed are the maximum assessable penalty and the government rarely assesses the maximum amount. However, the goal should be to comply with all the rules and avoid the penalties altogether.

INDIVIDUAL MANDATE REPEALED – 2019

The Republican-controlled Congress was able to pass and President Trump signed into law sweeping tax reform. One of the provisions under the new law is the repeal of the individual mandate under Obamacare.

[What Repealed Mandate Means for Employers](#)

It is important to note that (1) the employer mandate has not been repealed and (2) the effective date of the individual mandate repeal is January 1, 2019, which means the individual mandate still is in effect for this year.

NEW ASSOCIATION HEALTH PLAN RULES

President Trump and Congress were unable to pass legislation to repeal and replace Obamacare last year. So President Trump signed an executive order in October of last year that, in part, encouraged the formation of association health plans as a way for individuals and small employers to band together to secure health coverage. The executive order directed certain government agencies to draft guidance to carry out the President's intent.

[Association Health Plan Proposal
Sweeping Changes Would Expand Availability](#)

The Department of Labor issued those proposed rules on January 4, 2018. As required by law, the public has 60 days to comment on the proposed rules before they can become effective. It remains to be seen how the carriers and others will respond to the new rules. That is, just because entities can now sponsor association health plans does not necessarily mean they will become popular.

HSAs FIRST

Health saving accounts or HSAs have been around for some time and are becoming more popular with employers all the time. This article suggests that employers and employees should fund HSAs even before 401(k) plans.

[When HSA-First Strategy Makes Sense](#)

Strictly from a tax standpoint, there is nothing better than an HSA. The contributions to the HSA are tax deductible, the earnings are tax-free and the distributions, if used for qualifying medical expenses, are not taxable income.

TAX CREDIT FOR PAID FAMILY LEAVE

The Family and Medical Leave Act or FMLA requires larger employers to provide up to 12 weeks of unpaid leave to some employees under certain circumstances. The recently enacted tax bill provides, at least for this year and next, a tax credit if the employer voluntarily provides **paid** leave.

[Tax Credit for Paid FMLA
Requirements for FMLA Tax Credit](#)

The amount of the credit varies depending on the percentage of wages paid to the employee while on leave and the amount of compensation used to calculate the tax credit is capped.

DISABILITY PLANS NEW CLAIMS PROCEDURES

The government has issued rules governing the claim procedures applicable to disability plans. The rules become effective April 1, 2018.

[New Rules for Disability Claims May be Delayed](#)

The rules are intended to provide participants more rights when it comes to filing claims under a disability plan. The new claims procedures more closely follow the rule governing claims procedures under a group health plan.

TAX REFORM CHANGES

The tax reform bill repealed the individual mandate under Obamacare starting next year. However, the law made some other changes to employer-sponsored benefits.

[Tax Reform Impact on Employee and Fringe Benefits](#)
[Tax Law Changes to Employee Fringe Benefits](#)
[Tax Reform Law Benefit and Compensation Provisions](#)

The focus of the Newsletter is on various employer provided welfare benefits (i.e. non-retirement benefits). The new tax law is sweeping but the impact on welfare benefits is rather minimal.

A CARRIER'S PERSPECTIVE ON ACA

I found this article pretty interesting. It goes through the economic realities of the Affordable Care Act from a carrier's perspective.

[Carrier's Economist on ACA Impact](#)

The author takes the position the Affordable Care Act has had a negative impact on carriers and one of the reasons is that the law is politically driven rather than based on economics.

IRS FORM W-2 REPORTING RE: HEALTH COVERAGE

This is not a new requirement. If you issued at least 250 IRS Forms W-2 for **2016** then you have to report the value of the employer provided health coverage on the 2017 Forms W-2.

[Reporting the Value of Health Coverage](#)

Again, this is not a new requirement. Note that the value of the coverage is not taxable; it simply has to be reported on the IRS Form W-2.

IRS ASSESSING EMPLOYER MANDATE PENALTY – NOT SO FAST

Obamacare requires large employers (i.e. those with 50 or more full time and full time equivalent employees) to offer quality/affordable health coverage or potentially pay a penalty. The IRS has started the collection process for penalties attributable to the 2015 calendar year.

[Employer Mandate Penalty Assessment
Responding to IRS Letter](#)

However, this article takes the position the government did not follow all the steps required for the government to assess the penalty.

[Why IRS May be Unable to Assess Penalty](#)

This is an interesting article but you should not take the position you do not owe the penalty due solely to the government's missteps. In other words, you are in a far better position to avoid the penalty if you offered the full-time employees quality/affordable coverage than trying to argue the government cannot collect the penalty.

WAGES AND BENEFIT COSTS

There are a million surveys out there and I always am concerned about the legitimacy of the findings based on who is paying for the survey.

[Wages and Benefit Costs by Region](#)

This survey is from the US Department of Labor Bureau of Labor Statistics from September of last year. It is pretty easy to read so I included it in this newsletter.

LIFE INSURANCE UNDER EXECUTIVE BONUS PLANS

These programs offer an innovative way small employers can reward and motivate key employees.

[Bonus Plan Basics](#)

This article outlines the rules governing these types of programs. You may want to review this article with your advisor if you think such a program may make sense for you and some of your employees.

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