



November 15, 2014

## **Holiday Season Gifts**

This is the busiest time of the year for a lot of HR people but I am pleased to say there is one less thing to worry about. Trying to get the perfect gift for your spouse or significant other this time of year other can weigh heavily on your mind. I am pleased to announce that the latest edition of my book is hot off the presses.

<http://tmsnrt.rs/1zPPnDw>

This two-volume set makes the perfect gift for anyone. For those on a budget you can give one book to one person and the other book to someone else. In short, my book can be turned into two gifts!!!!!!

## **Skinny Plans Just Got Fatter**

There are two separate penalties applicable to large employers under health care reform. One penalty applies if the employer fails to offer coverage to a sufficient number of employees. The other penalty applies if the coverage offered does not offer minimum value or is too expensive. Some employers were offering health plans that did not cover hospital stays or physician visits but still offered minimum value. The government has just released statements that these plans will not comply with the statute.

<http://bit.ly/1BgeKzN>

The government is saying employers offering these types of plans will be subject to the penalty for not offering minimum value plans.

## **Government Again Says “No Means No” When Reimbursing Premiums**

Some employers are dropping their health plans and want to give the employees money to go out and buy individual policies either through a health care exchange or private marketplace. The government has been very clear that employers cannot provide employees tax-favored money to buy individual policies. However, the government recently issued additional rules that say employers cannot give employees post-tax money to buy individual policies.

<http://bit.ly/1BgeP6L>

<http://1.usa.gov/1oQAZaa>

On one hand, the government cannot tell employers how much to pay employees. On the other hand, the government is saying that the employer's involvement by giving money to employees (either pre-tax or post-tax) creates a group health plan under health care reform if the money is given to only those that buy individual health policies. As such, that "group" health plan fails to comply with all the rules. The bottom line is that employers can probably drop the group health and give all the employees a raise without violating the rules. However, if the employer only gives the raise to those that buy individual policies, or in any way conditions the additional money on the employee buying individual policies, the employer is probably running afoul of the rules and the penalty could be up to \$100 per day per employee!

### **US Supreme Court to Speak Again on Affordable Care Act**

The US Supreme Court has already ruled twice on the Affordable Care Act. First, the Court ruled that the individual mandate was constitutional. Next, the Court held that certain private employers need not offer or pay for certain types of contraceptives. Now the Court is going to decide whether government subsidies are available to low-income individuals who receive coverage through federally run health care exchanges or marketplaces.

<http://bit.ly/1GSmnNh>

<http://bit.ly/1pUWx6g>

The subsidies are a major component of the statute. Low-income individuals receive subsidies to help pay the premiums and reduce the out-of-pocket expenses. The statute says those subsidies are available to those that get coverage through state-run exchanges. However, a number of states failed to set up their own exchanges so the Federal government stepped in and set up the exchanges for those states. Therefore, the US Supreme Court will have to decide if the subsidies are available under the federally run exchanges. It will be a major blow if the US Supreme Court rules the subsidies are not available to those who get coverage under an exchange run by the Federal government.

### **Dumping People on the Exchange**

One way to reduce your health care costs is to get sick people off the employer's group health plan. There are a number of statutes designed to preclude this practice. For example, the Medicare Secondary Payer Rules preclude an employer from offering employees financial incentives to sign up for Medicare and drop the employer's group health plan. The government has just issued a rule that says employers cannot offer employees with high claims risk a choice between enrollment in its standard group health plan or cash.

<http://bit.ly/1zPQ7Zh>

<http://1.usa.gov/1oQAZaa>

The government is trying to close various loopholes in health care reform so that employers and others will not “game” the system.

### **6 Year-End To-Do List**

The following is a nice year-end checklist for those sponsoring health and welfare benefit plans.

<http://bit.ly/1wrX5gw>

So after you do your holiday shopping (i.e. buy several copies of my book – see first article) you should turn your attention to this checklist.

### **Top Considerations for 2015**

The immediately preceding article talks about things to consider before year’s end. This article talks about the top compliance issues for 2015.

<http://bit.ly/1upLiCv>

Basically, we are covering all the bases: what to do before the end of this year and what to worry about for next year.

### **Severance Plans & ACA**

Oftentimes employers offer severance plans to key employees when their employment terminates. Some of those severance plans provided that the employer would pay all or part of the former employee’s COBRA coverage. With health care reform and the establishment of the health care exchanges, this practice may not be the best for both the employer and former employee.

<http://bit.ly/1pUWOWM>

This short article talks about the ramifications of the employer paying all or part of the former employee’s COBRA coverage and why that might not be a good thing.

### **Government Was Kidding About HPID**

We sent out a flash update earlier this month telling you that you need not apply for a health plan identifier or HPID. It is really frustrating learning the rules and jumping through the hoops to comply and then the government waits until the last minute to postpone or delay implementation.

<http://go.cms.gov/1pgMsQR>

Look under the part of the announcement titled “Statement of Enforcement Discretion regarding 45 CFR 162 Subpart E - Standard Unique Health Identifier for Health Plans” which says the requirement has been postponed until further notice.

### **IRS Increases Various Limits**

There are several provisions in the Internal Revenue Code that allow for the government to increase certain limits based on inflation. The government just released those numbers.

<http://bit.ly/1wWYuzU>

Health care reform limited the maximum annual amount an employee could contribute on a pre-tax basis to his or her Health FSA to \$2,500. The IRS just raised that number to \$2,550 for 2015. Again, another example of the government waiting until the last minute.