

COMPLIANCE UPDATE DECEMBER 2017

TAX REFORM UP IN THE AIR

The Republican controlled Congress was unable to pass health care reform but it seems as though they may be able to enact tax reform. Both the House and Senate passed legislation but there are differences between the two bills. So the next step is to reconcile the differences into one version that both the House and Senate can pass. The first article is a chart listing the current rules governing benefits and then the differences between the House and Senate version. The second article discusses the impact of the proposals on various employee benefits.

[Comparison Of House And Senate Tax Reform Bills](#)

[What The Tax Bills Mean To Employers](#)

Assuming the House and Senate can agree, it is very likely President Trump will sign it into law. There seems to be political pressure for the Republicans to pass something before the end of this year and before the mid-term elections next year.

IRS COLLECTING EMPLOYER MANDATE PENALTIES

It is no secret the Trump administration is anti-Obamacare. It seems the government is starting to enforce some of the statute's more unpopular provisions and the employer mandate is towards the top of that list.

[Employer Mandate Payment Information](#)

[Watch Out For IRS Letters](#)

[Read This Before Submitting Form 14765](#)

The IRS is sending out letters listing the proposed penalty that is going to be assessed against the employer. The employer has thirty (30) days to appeal the penalty. If you do nothing or do not meet the thirty (30) day appeal deadline, the IRS will then assess the penalty. Therefore, you need to keep your eyes open and respond immediately if (1) you are contacted by the IRS and (2) you want to appeal some or all of the penalty. If you have multiple offices you need to tell the other offices to be on the lookout for any letters from the IRS because it is possible the letter could go to one of your other offices.

HSA's ARE THE BEST THING FROM A TAX STANDPOINT

The Internal Revenue Code provides favorable tax treatment for a number of items but none are better than the tax rules applicable to HSAs. Contributions to HSAs are tax deductible, the earnings accumulate tax-free and the distributions for qualified medical expenses are not taxable income.

[HSA Tax Benefits](#)

There are very few items that receive that type of treatment under the Internal Revenue Code. For example, contributions to a 401(k) plan are tax deductible and the earnings are tax-free **BUT** the distributions are taxable income. So, as you can see, HSAs are a better tax play.

MEDICARE FOR ALL

Bernie Sanders has started a movement, which has gathered some Democratic support, that we should adopt a single payer health system, which is basically Medicare for everyone. This is really socialized medicine.

[The Value Of Employer-Sponsored Benefits](#)

This piece talks about the unique value employer-sponsored programs bring to the workplace. It is impossible to predict the future but for the foreseeable future it does look like employer-provided benefits will continue to be the preferred choice of the American public.

GOVERNMENT ANNOUNCES 2018 MEDICARE PREMIUMS

Medicare is composed of three parts – Part A which covers hospital and skilled nursing, etc., Part B which covers physician charges and Part D which covers prescription drugs. The premiums are adjusted each year and can vary depending on the person's income.

[CMS Releases 2018 Medicare Values](#)

Remember the Medicare Secondary Payer Rules preclude most employers from encouraging employees (and their family members) to decline coverage under the employer-sponsored group health plan and to enroll in Medicare.

DISABILITY PLAN CLAIM PROCEDURES DELAYED AGAIN

The Department of Labor issued new claim procedures for disability plans. The rules are more closely aligned to the claims procedures applicable to health plans. The intent is to provide more disclosure to plan participants.

[DOL Delays Revised Disability Claims Procedures](#)

The new rules were scheduled to kick in January 1, 2018, but have now been delayed until April 1, 2018.

GEARING UP FOR 2017 IRS FORM 1094 AND IRS FORM 1095

The second article in this newsletter talks about the IRS starting to assess the employer mandate for the 2015 calendar year. Employers need to remember the deadline for getting 2017 IRS Form 1095 to the employees is January 31, 2018.

[ACA Reporting Will Keep Employers Busy](#)

In the past, the government has been hesitant to impose penalties for missing the filing deadline. However, that may not be the case this year.

[ACA Reporting Less Forgiving For 2017](#)

Clearly, President Trump is anti-Obamacare and enforcing the unpopular parts of the law will help garner public support to repeal the statute. However, it is unclear whether Congress will be able to pass legislation that President Trump can sign to actually repeal the law.

SPECIALTY DRUGS CONTINUE TO INCREASE COSTS

Few will argue that prescription drugs play an important part in enhancing the quality of life for many people. However, the increase in the cost of certain drugs, called specialty drugs, has outpaced other inflationary benchmarks.

[The Specialty Drug Challenge](#)

This article explores the challenges facing employers when it comes to trying to tame specialty drug costs.

2017 FORM 5500S RELEASED

The ERISA filing requirements (i.e. Form 5500s) are due seven months after the close of the plan year. The government has released the 2017 forms.

[2017 Form 5500 Annual Report](#)

This means the 2017 Form 5500s for the plan year ending December 31, 2017, will be July 31, 2018. Employers can request a 2½-month extension by filing IRS Form 5558 before the original filing deadline. Failure to file the forms on time can result in a potential penalty of over \$2,000 per day!!!

COBRA – NO HARM, NO FOUL

It does not look like COBRA is going away any time soon. It is never easy to fix a COBRA screw-up. In other words, it is much better to spend the time and money to comply with the rules than skimping and trying to fix mistakes later.

[Play It Safe, Follow COBRA Rules](#)

In this case the employer “dodged a bullet” and was not assessed a penalty even though it failed to send out a COBRA notice because the employer provided the former employee free coverage. Even though the Court did not assess a penalty, the employer ended up incurring legal fees that would have been avoided had it followed the rules.

PULLING THE STRING ON OBAMACARE

Some people love it and some people hate it **BUT** almost everyone will agree that Obamacare is complicated. President Trump is one of the biggest critics of the law.

[Commentary: ACA Doesn't Hinge On Mandate](#)

Congress is trying to repeal the individual mandate, which penalizes most individuals if they do not have health coverage. The trouble with repealing the individual mandate is the law is so intertwined that repealing one part impacts other parts of the law. This article takes the position the whole statute will not fall apart if the individual mandate is repealed.

2018 Checklist

It seems appropriate to end this year’s newsletter with a checklist for 2018. Congress was unable to pass comprehensive legislation replacing and repealing Obamacare. It remains to be seen if there is major legislation next year.

[2018 Planning for Health and Welfare Benefit Plan Operations](#)

However, do not underestimate the impact President Trump can have on the law through executive orders and directing the various government agencies to issue rules and regulations. Stay tuned. Finally, we want to wish everyone a safe and happy Holiday season!!!!!!!!!!!!

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