

Employee Benefits Update

November 15, 2019

2019 Year-End Compliance Checklist

As 2019 comes to an end, we wanted to remind employers of some key year-end compliance deadlines for their retirement, health and welfare plans.

NOVEMBER

- (15th)** Confirm that your 401(k) plan record keeper has provided 3rd quarter benefit statements to participants, including fee disclosure information.
- (15th)** Distribute Summary of Benefits and Coverage (“SBC”) for each group health plan option that you offer. Also, provide the following documents if you haven’t already: updated CHIP notice; annual notice required under the Women’s Health & Cancer Rights Act; Medicare Part D notice; notice of “grandfathered plan status” under ACA (if applicable); HIPAA notice of privacy practices for self-funded plans, or a statement describing the availability of the HIPAA notice of privacy practices; the ADA wellness plan notice (if applicable); and notices required under ACA Section 1557 (if applicable).
- (15th)** File Form 990 returns for tax-exempt trusts or VEBAs, assuming Form 8868 was filed to extend due date.
- (30th)** Prepare and distribute a 401(k)/403(b) Plan Safe Harbor Notice describing the safe harbor matching or nonelective contributions that will be made in 2020. The annual notice is required to avoid the ADP/ACP nondiscrimination testing requirements.
- (30th)** Prepare and distribute a 401(k)/403(b) Plan Automatic Enrollment Notice if your defined contribution plan includes an automatic enrollment feature. The notice must describe, among other items, the level of contributions that will be automatically deducted from each employee’s paycheck unless the employee makes an affirmative election to do otherwise.
- (30th)** Prepare and distribute a Qualified Default Investment Alternative (“QDIA”) Notice describing the QDIA, if your defined contribution plan provides that participants’ accounts will be invested in a QDIA unless they direct otherwise.

DECEMBER

- (15th)** Prepare and distribute the Summary Annual Report for each calendar year defined contribution retirement plan and health and welfare plan that filed a 2018 Form 5500 by October 15, 2019. (Note that there are limited exceptions to the SAR rules.)
- (31st)** Confirm with the TPAs/recordkeepers for your retirement plans that annual Required Minimum Distributions have been paid.
- (31st)** If your 401(k) plan failed ADP/ACP nondiscrimination testing for 2018 and you did not process all corrective distributions by March 15, 2019, process all remaining corrective distributions and report the 10% excise tax on Form 5330.
- (31st)** Confirm that all necessary remedial actions to address and correct any operational errors identified during the 2019 plan year have been fully implemented, funded and memorialized with appropriate documentation.
- (31st)** Process corrections if your cafeteria plan, healthcare flexible spending accounts or dependent care flexible spending accounts failed nondiscrimination tests under Code Sections 125 or 129 for 2019.
- (31st)** For calendar year retirement plans and health and welfare plans, adopt amendments reflecting discretionary changes to the plans’ terms or design that were implemented in 2019, but have not yet been memorialized in writing, or other changes that will take effect in 2020, but that must be adopted before being implemented.
- (31st)** Confirm that your health plan’s out-of-pocket (“OOP”) limits for 2020 comply with the limits that are permissible under the ACA:
 - For in-network health benefits for 2020, the *maximum* OOP limits are \$8,150 for self-only coverage and \$16,300 for other coverage options. However, because the OOP limits for individuals are embedded with other coverage, the maximum

OOP limit for in-network essential health benefits cannot exceed \$8,150 per covered household.

- For high-deductible health plans that may be offered with a health savings account, the *maximum* OOP limits for 2020 are \$6,900 for self-only coverage and \$13,800 for family coverage. The *minimum* deductible levels for high-deductible health plans for 2020 are \$1,400 for individual coverage and \$2,800 for family coverage.

(31st) Confirm that your healthcare FSA and HSA recordkeepers, and your payroll providers have adjusted their systems to reflect changes affecting 2020 contribution limits.

- The maximum amount that can be contributed to an HSA for a person with self-only coverage is \$3,550, and for a person with family coverage is \$7,100. Employees who are age 55 or older can contribute an additional \$1,000 regardless of coverage tier.
- The limit on employee contributions to a healthcare flexible spending account in 2020 is \$2,750, up from \$2,700 in 2019.

(31st) Confirm that the TPAs/recordkeepers for your retirement plans, and your payroll providers, have adjusted their systems to reflect the changes affecting retirement plan limits in 2020:

- The annual elective deferral contribution limit for 401(k), 403(b) and 457(b) plans has increased to \$19,500.

- The limit on eligible compensation that can be taken into account for retirement plan contributions and benefits has increased to \$285,000.
- The annual benefit limit under a defined benefit plan has increased to \$230,000, and the annual contribution limit to a defined contribution plan has increased to \$57,000.

MISCELLANEOUS ACTIONS TO BE COMPLETED

Prepare and distribute an annual fee disclosure to all participants in your defined contribution retirement plan. This must be furnished to participants (and other recipients) at least every 14 months. If you are unsure of when fee disclosures were last distributed, consider sending a fee disclosure with your year-end 401(k) and 403(b) notices.

The IRS notifies employers of shared responsibility tax penalties in the form of a Letter 226J. If you receive a Letter 226J, you will have the opportunity to respond before the IRS assesses the penalty. The Letter 226J includes instructions on how to respond; however, keep in mind that the response is due within 30 days of the date of the Letter 226J, unless an extension is requested and approved.

The monthly limits for tax-exempt parking benefits and transit passes/van pool service benefits increases to \$270 each in 2020. Confirm that your payroll providers have adjusted their systems to reflect these changes.



If you have questions about any of the above year-end compliance items or about 2020 compliance planning, please feel free to contact any member of our Employee Benefits and Executive Compensation Group below:

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