

IslerDare_{PC}

Employee Benefits Update

November 16, 2022

2022 Year-End Compliance Checklist

As 2022 comes to an end, we want to remind you of some key year-end compliance deadlines for retirement, health, and welfare plans.

✓	DECEMBER	
	1 st	Distribute a 401(k)/403(b) Plan Safe Harbor Notice if safe harbor matching contributions will be made in 2023. The annual notice is required to avoid the ADP/ACP nondiscrimination testing requirements.
	1 st	Distribute notice to participants if a 401(k) Safe Harbor plan providing for a 3% nonelective contribution was adopted for 2022.
	1 st	Distribute a 401(k)/403(b) Plan Automatic Enrollment Notice if your defined contribution plan will include an automatic enrollment feature in 2023. 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.
	1 st	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.
	15 th	Distribute the Summary Annual Report ("SAR") for each calendar year defined contribution plan and health and welfare plan that filed a 2021 Form 5500 by October 15, 2022. (Note that there are limited exceptions to the SAR rules.)
	27 th	Submit Prescription Drug Data Collection (RxDC) report to the Centers for Medicare & Medicaid Services detailing prescription drug usage under group health plans for the 2020 and 2021 calendar years, as required by the Consolidated Appropriations Act, 2021.
	31 st	Adopt amendments to calendar year cafeteria plans to reflect 2021 plan year changes implemented pursuant to the Consolidated Appropriations Act, 2021 allowing either carryover of unused health and dependent care flexible spending accounts from 2021 to 2022 or extending the grace period for incurring claims for the 2021 plan year through December 31, 2022.
	31 st	Process corrections if your cafeteria plan, health care flexible spending accounts or dependent care flexible spending accounts failed nondiscrimination tests under Code Sections 125 or 129 for 2022.

✓	DECEMBER	
31 st		Confirm with the TPAs/recordkeepers for your retirement plans that annual Required Minimum Distributions (“RMDs”) have been paid.
31 st		If your 401(k) plan failed ADP/ACP nondiscrimination testing for 2021, process corrective distributions and report the 10% excise tax on Form 5330.
31 st		Confirm that all necessary remedial actions to address and correct any operational errors identified during the 2022 plan year have been fully implemented, funded, and memorialized with appropriate documentation.
31 st		For calendar year retirement plans and health and welfare plans, adopt amendments reflecting discretionary changes that were implemented in 2022, but not yet memorialized in writing, or changes that will take effect in 2023, but that must be adopted before implementation.
31 st		Unless the IRS extends the deadline (as it has done for 401(k) and 403(b) plans), adopt amendment for SECURE Act requirements for non-governmental 457(b) plans

✓	ITEMS THAT MAY REQUIRE ACTION	
		Prepare and distribute an annual fee disclosure to all participants in your defined contribution retirement plan. This must be furnished to participants (and eligible non-participants, beneficiaries with account balances, and alternate payees) 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) plan notices.
		The IRS notifies employers of shared responsibility tax penalties under the Affordable Care Act 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 typically due within 30 days of the date of the Letter 226J, unless an extension is requested and approved.
		The IRS now requires plan sponsors of defined contribution plans with discretionary matching contributions to provide a notice to participants who receive the match with sufficient details for the matching contribution. If the discretionary match is funded annually, the notice must be provided within 60 days after the match has been deposited to the plan for the plan year; if the discretionary match is funded more frequently than on an annual basis, the notice must be provided within 60 days after the last match has been deposited to the plan for the plan year.
		<p>Confirm that your payroll department, or your third-party payroll provider, has adjusted their systems to reflect changes in various wage and benefit limits for 2023, including the following:</p> <ul style="list-style-type: none"> • The Social Security wage base increases to \$160,200. • The maximum contribution to a Health Savings Account increases to \$3,850 for individual coverage, and \$7,750 for employee +1 coverage. • The maximum contribution to a health care flexible spending account increases to \$3,050, and carryovers of unused health FSA amounts are permitted, the maximum carryover amount rises to \$610, up from \$570. • The maximum contribution to a dependent care flexible spending account remains the same at \$5,000 for single taxpayers and married couples filing jointly and \$2,500 for married individuals filing separately.

- The maximum elective deferrals contributions that can be made to a 401(k) or 403(b) plan increases to \$22,500, with age 50+ “catch-up” contributions increasing to \$7,500.
- The annual compensation limit for qualified retirement plans increases to \$330,000.
- The total amount of combined employee and employer contributions that can be made on behalf of an employee under a defined contribution plan increases to \$66,000.

Reminder: Order Your Isler Dare 2023 Mousepad with Updated IRS Limits

If you would like to receive an Isler Dare mousepad with the updated 2023 dollar limits on benefits, please email Piero Quiroz at <mailto:pquiroz@islerdare.com> or click on [this link](#) and let us know where you would like your 2023 mousepad to be sent in January.

If you have any questions about the above year-end compliance items, or about 2023 compliance planning, please contact any member of our Employee Benefits and Executive Compensation Practice Group listed below.

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Connect with us! 