PPACA and FLSA Updates
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Application to employers with 50-99 FTEs- 1/1/16.

- Safe Harbor is 95% of employees working at least 30 hours per week.
- Offering employers will have a penalty of $270 per month ($3,240/yr.) for each month an employee working 30 hours per week is not offered coverage and receives a subsidy for purchasing coverage through a marketplace.
- Non-offering employers subject to $180 per month penalty ($2,160/yr.) for each employee working 30 hours per week, less the first 30 employees.
Maximum out of pocket for 2016 - $6,850 for single and $13,700 for family.

- Includes medical and drug coverage.
PCORI Fee.

- Due on July 31, 2016.
- $2.08 per covered person for plan years ending between October 1, 2014 and October 1, 2015.
Transitional Reinsurance Fee.

- Due by November 15, 2016.
- $27 per covered individual for 2016 calendar year.
New Summary of Benefits.

- Will apply to plans beginning after April 1, 2017.
Cadillac Tax.

- Delayed until 2020.
- Consideration to be given to age and gender impact on the amount.
- Standard besides Blue Cross/Blue Shield federal plan.
Reporting Requirements.

- 1094-B and 1094-C due by February 28, 2017 if by paper and by March 31, 2017 if electronic.
- No good faith standard in 2017.
Affordability.

- Automatic enrollment repealed.
Wellness Rules. ADA and GINA.

- 1630.14- Permits medical inquiries as part of a wellness program. Must be reasonably designed to promote health or prevent disease.
- Voluntary.
- Incentives- Limited to 30% of the total cost of self only coverage.
- If no disability related inquiries, new rules do not apply. Ex. – Attending classes.
- Reasonable accommodation.
- Confidentiality of records.
Final Rule- GINA.

- Regulates the use of genetic related information that is disclosed during wellness process.
- Tax implications for wellness incentives.
The Final Rule will:

– Raise the salary threshold from $455 per week / $23,660 per year, to $913 per week / $47,476 per year for executive, administrative, and professional employees.
  - This constitutes the 40th percentile of full-time salaried workers in the lowest income Census region (currently the South).
– Amends the salary basis test to allow Employers to pay up to 10% of the new standard salary level (approximately $4,747) annually in non-discretionary bonuses, commissions or incentives.

Practical Considerations

Employers should start planning now to be in compliance on December 1, 2016. This includes reviewing and revising employee classifications and job descriptions, agency policies and procedures, performing wage and hour audits, etc.
Exempt Employees

- A white collar employee generally must:
  - Be salaried, meaning they are paid a predetermined and fixed salary that is not subject to reduction because of variations in the quality or quantity of work performed (Salary Basis Test);
  - Be paid more than a specified weekly salary level under the Final Rule (Salary Level Test); and
  - Primarily perform executive, administrative, or professional duties, as defined by the Regs. (the Duties Test).
Executive Exemption

To qualify for the executive employee exemption, all of the following criteria must be met:

– Salary Basis Test: The Employee must be compensated on a salary basis (as defined in the Regs.);
– The Employee’s primary duty must be managing the enterprise, or managing a customarily recognized department or subdivision of the enterprise;
– The Employee must customarily and regularly direct the work of at least two or more other full-time employees; and
– The Employee must have the authority to hire or fire other employees, or have “particular weight” given to his/her suggestions to hire, fire, advance, promote or any other change of status of other employees.
Administrative Exemption

- DOL Wage & Hour Division, Fact Sheet #17(C): To qualify for the administrative employee exception, all of the following criteria must be met:
  - Salary Basis Test: The Employee must be compensated on a salary basis (as defined in the Regs.);
  - The Employee’s primary duty must be the performance of office or non-manual work directly related to management or general business operations of the Employer or the Employer’s customers; and
  - The Employee’s primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.
Professional Exemption

- DOL Wage & Hour Division, Fact Sheet #17(D): To qualify for the learned professional exemption, all of the following criteria must be met:
  - Salary Basis Test: The Employee must be compensated on a salary basis (as defined in the Regs.);
  - The Employee’s primary duty must be the performance of work requiring advanced knowledge;
  - The advanced knowledge must be in a field of science or learning.
IF YOU HAVE ANY QUESTIONS, PLEASE ASK!

THANK YOU!

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