

Holifield Janich & Ferrera

PLLC

WRAPPING UP 2019 AND PLANNING FOR 2020 Year-end Deadlines and Considerations for Employer-Sponsored Retirement and Welfare Benefit Plans



Tina Haley

December 10, 2019

As we move into the final month of 2019, employers should be aware of important year-end deadlines and other considerations related to their employee benefit plans. The following is a summary of items to consider as the end of the year approaches and we go forward into 2020.

Discretionary Plan Amendments – If you made any changes to your retirement or welfare plans during this year, a written plan amendment documenting such changes must be adopted on or before the last day of the plan year. If your plan is operated on a calendar year basis, this deadline is December 31, 2019.

Statutory Plan Limits – Each year the IRS publishes cost-of-living adjustments to certain statutory limits related to retirement and welfare plans. It is important for plan sponsors to be aware of these increases to ensure their plans stay in compliance, particularly where the increases apply automatically or where your plan document incorporates the statutory limit and any periodical increases by reference.

Salary deferral limit for 401(k), 403(b) and 457(b) plans: increases from \$19,000 in 2019 to \$19,500 in 2020.

Age 50 catch-up contribution limit: increases from \$6,000 in 2019 to \$6,500 in 2020.

HSA contribution limits: Single – increases from \$3,500 in 2019 to \$3,550 in 2020
 Family – increases from \$7,000 in 2019 to \$7,100 in 2020
 Age 55 catch-up contribution - \$1,000 (no change)

Health care FSA contribution limit: increases from \$2,700 in 2019 to \$2,750 in 2020

Defined Benefit Plan Restatement – If you sponsor a pre-approved defined benefit plan, your plan must be restated before April 30, 2020. This required restatement applies only to pre-approved plans. These plans are also referred to as “volume submitter” or “master and prototype” plans. The restatement requirement for these types of plans is part of the restatement cycle implemented by the IRS which requires a plan restatement every six years. If this restatement deadline applies to you, please contact us to discuss the restatement of your plan.

403(b) Plan Remedial Amendment Period – The IRS has established a remedial amendment period for 403(b) plans ending on March 31, 2020. During this period 403(b) plan sponsors may self-correct any plan provisions that violate the Internal Revenue Code requirements for 403(b) plans by either amending the plan (for individually designed plans) or adopting a pre-approved 403(b) plan that has a current IRS opinion letter. To take advantage of this remedial amendment period, the plan sponsor must have adopted a written 403(b) plan by December 31, 2009 (or the effective date of the plan, if later). If this requirement is not met, any violations can only be corrected through the IRS’s Voluntary Correction Program, which is part of the Employee Plans Compliance Resolution System. Please contact us to determine whether your 403(b) plan meets the IRS requirements or needs to be amended.

ACA Employer Mandate – Even though the individual mandate under the ACA was repealed in January, the employer mandate under the ACA still requires “applicable large employers” (also referred to as “ALEs”) to offer health insurance to their full-time employees. The IRS has been actively imposing penalties for failure to comply with the employer mandate in the form of proposed “employer shared responsibility payments.” If you receive a notice from the IRS regarding a proposed penalty and need assistance in responding, please contact us. It is important to respond timely to these notices. Generally, an employer has 30 days to provide a response to the IRS.

In addition, the ACA reporting requirements for employers are also still in place. The deadline to provide Form 1095-B or 1095-C, as applicable, to employees was originally set at January 31, 2020. However, last week the IRS issued Notice 2019-63 which extended this deadline to March 2, 2020. Because this filing deadline has been extended, the IRS will not respond to any requests for 30-day filing extensions. The deadline for employers to file Form 1095-C and the 1094-C transmittal form with the IRS has not been extended. These forms must be submitted to the IRS on or before March 31, 2020 (for employers filing 250 or more forms electronically) or February 28, 2020 (if using paper forms).

Department of Labor Audits - We are seeing an increase in the number of Department of Labor audits involving retirement and welfare plans, including a new focus on prohibited transactions. These are transactions between a plan and a disqualified person or entity (known as a “party-in-interest”) or a fiduciary of the plan that is prohibited by law. Many times these transactions appear on the surface to be beneficial to both parties. However, ERISA specifically prohibits certain transactions involving the plan and a party-in-interest, despite the benefit to the plan. These transactions include lending money or extending credit, furnishing goods, services or facilities and the transfer to or use by or for the benefit of a party-in-interest, of plan assets. These rules also prohibit a plan fiduciary from dealing with or using plan assets for their own benefit and acting in any transaction involving the plan on behalf of a party whose interests are adverse to the interests of the plan. The determination of whether or not a transaction is a prohibited transaction is a very fact-specific and complex. If you need assistance in determining whether your plan has engaged in a prohibited transaction, please contact us.

New HRA Options for 2020 - Beginning January 1, 2020, employers have two new options for health reimbursement arrangements (HRAs) – individual coverage HRAs and excepted benefit HRAs. These new options offer employers more flexibility in providing health coverage to employees without the requirement that the HRA be integrated with an employer-sponsored group health plan. The individual coverage HRA allows HRA funds to be used to purchase individual health insurance coverage or Medicare. Under an excepted benefit HRA up to \$1,800 per year may be used to reimburse an employee for excepted benefits such as dental and vision benefits. If you are interested in obtaining more information on these new HRAs, please contact us.

Hardship Distributions – Retirement plans that allow participants to receive hardship distributions may no longer impose a six-month suspension on employee deferral contributions following a hardship distribution. This requirement has been removed for plan years beginning on or after January 1, 2020. Plan amendments removing this requirement are not required until December 31, 2021, however, operational compliance is required beginning January 1, 2020.

The attorneys of Holifield Janich & Ferrera, PLLC are ready to answer any questions you have or to assist you in preparing required documents to maintain your plans’ compliance.

This e-alert is provided by Holifield Janich & Ferrera, PLLC. The material in this e-alert does not, and is not, intended to constitute legal advice. It is provided for general informational purposes only. Users should not act upon information contained in this material without professional legal counseling. This material may be considered advertising in your state.

©2019. Holifield Janich & Ferrera, PLLC. All rights reserved.