



EMPLOYEE BENEFITS UPDATE

November 11, 2016

2016 Year-End Compliance Checklist

With the results of the Presidential election just behind us, it is likely that the landscape of employee benefit plans—and the regulations that govern them—will change. For the time being, however, there are still some important compliance deadlines quickly approaching, so we wanted to remind plan sponsors of these key compliance actions as 2016 comes to a close:

DEADLINE	REQUIRED ACTIONS
November 15, 2016	<p>Transitional Reinsurance Report and Fee for Self-Funded Group Health Plans: If you sponsor a self-insured group health plan, you (or your third-party administrator (“TPA”), on behalf of the plan) must report your enrollment count, calculate your reinsurance fees of \$27 per covered life for 2016, and schedule the required reinsurance payment. The reinsurance payment can be made in one payment no later than January 15, 2017, or in two payments, with the first payment of \$21.60 per covered life due no later than January 15, 2017, and the second payment of \$5.40 per covered life due no later than November 15, 2017. You can register and complete the enrollment and scheduling online through www.pay.gov. If your TPA will file the report and pay the fee, you should confirm that the filing is complete because the plan is ultimately responsible.</p> <p>If you previously elected to split the 2015 reinsurance fee into two payments, your second payment of \$11 per covered life is also due by November 15, 2016.</p>
	<p>SBCs and Required Health Plan Notices: Distribute a Summary of Benefits and Coverage (“SBC”) for each group health plan option that you offer. In addition, to if these documents have not already been provided to employees (or other required recipients) during your open enrollment period or at some other time this Fall, provide:</p> <ul style="list-style-type: none">• An updated CHIP Notice• The annual notice required under the Women’s Health & Cancer Rights Act• A Medicare Part D Notice• A notice of “grandfathered plan status” (if applicable)• A HIPAA Privacy Notice (or a statement describing the availability of the HIPAA Privacy Notice and where participants can access it)• The new ADA wellness notice (if applicable)• The new notices required under ACA Section 1557 (if applicable)

DEADLINE	REQUIRED ACTIONS
December 1, 2016	401(k) Plan Safe Harbor Notice: If you sponsor a safe harbor 401(k) plan, prepare and distribute a notice describing the safe harbor matching or nonelective contributions that you will make to the plan in 2017 to avoid ADP/ACP nondiscrimination testing requirements.
	401(k) Plan Automatic Enrollment Notice: If your 401(k) plan automatically enrolls employees in the plan, prepare and distribute a notice describing the level of contributions that will be taken from each employee’s paychecks automatically, unless the employee makes an affirmative election otherwise.
	Qualified Default Investment Alternative Notice for Defined Contribution Plans: If your defined contribution plan provides that participants will have their plan accounts invested in a “qualified default investment alternative” unless they direct otherwise, prepare and distribute a notice describing the qualified default investment alternative.
December 15, 2016	Summary Annual Report: Prepare and distribute a Summary Annual Report for each calendar year defined contribution retirement plan or health and welfare plan that filed a 2015 Form 5500 on extension by October 15, 2016. (Note that there are some limited exceptions to the Summary Annual Report rules.)
December 31, 2016	Required Minimum Distributions from Retirement Plans: Verify with your retirement plan TPA/recordkeeper that annual required minimum distributions have been paid.
	Corrective Distributions from 401(k) Plans: If your 401(k) plan failed ADP/ACP nondiscrimination testing in 2015, process the corrective distributions and report the 10% excise tax on Form 5330.
	Correction of Failed Nondiscrimination Tests: Process corrections if your cafeteria plan or dependent care flexible spending accounts failed nondiscrimination tests under Code Sections 125 or 129 in 2016.
	Amendments for Retirement and Health Plans: For calendar year retirement and health plans, adopt amendments reflecting any discretionary changes made to the plan’s terms or design that were implemented in 2016 but have not been memorialized in writing, or that will take effect in 2017 but need to be adopted before implementation.

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	<p>Maximum Out of Pocket Limits: Review your health plan’s out of pocket (“OOP”) limits for compliance with the maximum limits that are permissible under the ACA:</p> <ul style="list-style-type: none"> • For in-network essential health benefits for 2017, the OOP limits are \$7,150 for self-only coverage and \$14,300 for other coverage options (but because the OOP limits for individuals are embedded with other than self-only coverage, the maximum OOP limit for in-network essential health benefits cannot exceed \$7,150 per covered individual). • For high deductible health plans that may be offered with an HSA, the OOP limits for 2017 are unchanged from 2016: \$6,550 for self-only coverage and \$13,100 for family coverage.
	<p>Work with TPA/Recordkeeper and Payroll Services to Program COLA-Adjusted Limits for Retirement Plans: Confirm with your TPA/recordkeeper and payroll provider that they have adjusted their systems to reflect the modest changes affecting retirement plan limits in 2017:</p> <ul style="list-style-type: none"> • The Section 415 annual contribution limit to a defined contribution plan has increased to \$54,000. • The limit on includible compensation has increased to \$270,000.
	<p>Work with TPA/Recordkeeper and Payroll Services to Program COLA-Adjusted Limits for Medical Flexible Spending Accounts and Health Savings Accounts: Confirm with your FSA or HSA recordkeeper and payroll provider that they have adjusted their systems to reflect the modest changes affecting certain contribution limits for these programs for 2017:</p> <ul style="list-style-type: none"> • The maximum amount of employee contributions to a medical FSA has increased to \$2,600. • The maximum amount that can be contributed to an HSA for a person with individual-only coverage has increased to \$3,400.

Please let us know if you have any questions about implementing year-end items or planning for compliance for 2017.

IslerDare PC
1945 Old Gallows Road, Suite 650
Vienna, Virginia 22182
703-748-2690

411 East Franklin Street, Suite 203
Richmond, Virginia 23219
804-489-5500

Andrea I. O’Brien
aobrien@islerdare.com

Vi D. Nguyen
vnguyen@islerdare.com

Ashlie Lawton
alawton@islerdare.com