

Benefits- Approaching 2017 Compliance Tasks and Deadlines

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Labor and Employment

Below is a list of select compliance tasks and deadlines for some of the common defined contribution retirement plan and health & welfare plan responsibilities.

Defined Contribution Plans (assuming a calendar year plan year)

March 15 – general deadline for **corrective refunds due to a failed ADP/ACP test** if you want to avoid 10% excise tax on refunds (extended to June 30 for plans that qualify as an EACA – see below).

April 1 – deadline for **required minimum distribution (“RMD”) payments** for first time payees who turned 70½ during 2016. This is a good time to review your procedures for identifying, locating and notifying retirees who are approaching age 70½, so you can timely begin payments. The DOL has been targeting the RMD issue in recent plan audits.

April 15 – deadline to make **corrective distributions of deferrals in excess of the Code Section 402(g) limit**.

April 30 – deadline to **adopt a prototype or volume submitter document** for plans converting from an individually designed plan on or after January 1, 2016. Plans adopting at this time would have no gap between coverage under a current favorable determination letter and reliance on the prototype opinion letter. However, adoption of a prototype or volume submitter is not suitable for all plans.

June 30 – deadline for **corrective refunds due to a failed ADP/ACP Test** if you want to avoid 10% excise tax for a plan that qualifies as an eligible automatic contribution arrangement (“EACA”). This extended deadline is one of the benefits of qualifying as an **EACA**.

July 31 – **Form 5500** due date. You can extend this deadline 2½ months by filing Form 5558. Form 5558 must be filed by July 31 if a Form 5500 extension is desired. A more limited extension could apply in certain cases if you filed for an extension of your corporate tax return.

Health & Welfare Plans

After January 1 – In June 2016 the EEOC released a model notice to help employers comply with

new rules published under the Americans with Disabilities Act related to employer sponsored wellness programs. The EEOC guidance indicates that a **wellness program notice** (the “Notice”) should be provided to employees before they provide any health information or undergo any medical exams as required by the wellness program. Although the guidance is effective as of January 1, 2017, it is not clear on whether the Notice should be distributed immediately for the 2017 plan year. You may wish to tailor the EEOC’s model notice to your wellness program and distribute the Notice as soon as possible for the 2017 plan year. At a minimum, we recommend that you include this Notice in open enrollment materials provided to employees in advance of the new 2018 wellness program plan year, and in the materials provided to new hires during 2017. In many cases wellness programs have already required participants to provide health information during 2016 in order to obtain certain discounts for the 2017 year - prior to the effective date of this Notice. You can find the model notice here <https://www.eeoc.gov/laws/regulations/ada-wellness-notice.cfm>.

March 2 and March 31 – Although the new presidential administration and Congress are considering changes to the Affordable Care Act (“ACA”), the **2016 ACA reporting requirements** remain in place for employers subject to the employer mandate. The extended due date for employers to provide ACA reporting forms to employees and covered individuals is March 2, 2017. The deadline to file ACA reporting forms with the IRS is March 31 if you file electronically (the deadline was February 28 if you filed on paper). Employers should continue to comply with ACA provisions until official guidance dictates otherwise.

April 1 – During 2016 the DOL published a **new format for the Summary of Benefits and Coverage (“SBC”)** which should be used for health plans years beginning on or after April 1, 2017. If you utilize an open enrollment period, you should use the new format for the SBC that is distributed during the first open enrollment on or after April 1, 2017. If your vendor prepares the SBC, you should confirm they are using the new format going forward.

July 31 – The **Patient Centered Research Institute Fee (“PCORI Fee”)** is due by July 31 following the calendar year in which the plan year ends. For plan years ending between October 1, 2015 and September 30, 2016 the fee is \$2.17 per covered individual per year. For plan years ending on or after October 1, 2016 through September 30, 2017 the fee is \$2.26 per covered individual per year. The PCORI Fee should be paid to the IRS using Form 720. The PCORI Fee is set to expire as of October 1, 2019.

TBD – Repeal, Replace, Remodel? – The news about the repeal and possible replacement of the ACA has been frequent but vague. It appears that any changes to the current law will take more time than expected. It is hard to predict what changes will be passed into law and when such changes will be effective. Changes to the ACA could have far-reaching impacts on your plans, including minimum essential benefits, record keeping, reporting obligations, annual notices and COBRA notices. Look for future benefits alerts from Holland & Hart as the changes to the ACA take shape.

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