the Timberland Group
Employee Benefits & Consulting

Timber Alert

ACA/Compliance - December 2017

BENEFITS BULLETIN

President

Joseph A. King
jaking@timberlandgroup.com

Senior Benefits Consultants

Karen Borowy
kborowy@timberlandgroup.com

Bob Crisan
bcrisan@timberlandgroup.com

Steve Hardin
shardin@timberlandgroup.com

Senior Account Managers

Maura Carpenter
mcarpenter@timberlandgroup.com

Jill Tocco
jtocco@timberlandgroup.com

Account Manager

Nicole Keele
nkeele@timberlandgroup.com

For more information, please contact:

1.800.695.2921

1707 W. Big Beaver Road
Troy, Michigan 48084

www.timberlandgroup.com

Employee Benefit Plan Limits Updated for 2018

Many employee benefits are subject to annual dollar limits that are periodically updated for inflation by the IRS. The IRS typically announces the dollar limits that will apply for the next calendar year well in advance of the beginning of that year. This gives employers time to update their plan designs and make sure that their plan administration will be consistent with the new limits.

The following commonly offered employee benefits are subject to inflation-adjusted dollar limits:

- High deductible health plans (HDHPs)
- Health savings accounts (HSAs)
- Health flexible spending accounts (FSAs)
- 401(k) plans
- Transportation fringe benefit plans

Although some of the limits will remain the same, many of the limits will increase for 2018.

Increased Limits

- HDHP minimum deductible
  - Self-only: $1,350 (up $50)
  - Family: $2,700 (up $100)
- HDHP out-of-pocket maximum (OOPM)
  - Self-only: $6,650 (up $100)
  - Family: $13,300 (up $200)
- HSA contribution limit
  - Self-only: $3,450 (up $50)
  - Family: $6,900 (up $150)
- OOPM on essential health benefits (non-grandfathered plans)
  - Self-only: $7,350 (up $200)
  - Family: $14,700 (up $400)
- Health FSA
  - $2,650 (up $50)
- Transportation fringe benefits (monthly limits)
  - Transit pass and vanpooling (combined): $260 (up $5)
  - Parking: $260 (up $5)
- 401(k) contributions
  - Employee elective deferrals: $18,500 (up $500)

Unchanged Limits

- HSA catch-up contributions*: $1,000
- Dependent care FSA*
  - Tax exclusion: $5,000 ($2,500 if married and filing taxes separately)
- 401(k) catch-up contributions: $6,000

Prepare for ACA Health Plan Reporting

The Affordable Care Act (ACA) created reporting requirements under Internal Revenue Code (Code) Sections 6055 and 6056. Under these rules, certain employers must provide information to the IRS about the health plan coverage they offer (or do not offer) to their employees.

Returns are due in early 2018 for health plan coverage offered or provided in 2017. Returns generally must be filed with the IRS by February28 (or March 31, if filed electronically) of the year after the calendar year to which the returns relate.

Continued

For the 2017 calendar year, returns must be filed by February 28, 2018, or April 2, 2018 (March 31, 2018, being a Saturday), if filed electronically. Written statements generally must be provided to employees no later than January 31 of the year following the calendar year in which coverage was provided. For the 2017 calendar year, individual statements must be furnished by January 31, 2018.

What reporting requirements apply to my organization?
Section 6055 applies to health insurance issuers, self-insured plan sponsors, government agencies that provide government-sponsored coverage and other providers of minimum essential coverage.

Section 6056 applies to applicable large employers—the employers subject to the employer shared responsibility rules (those with at least 50 full-time employees, including full-time equivalents).

What forms are used for reporting?
Under both Sections 6055 and 6056, each reporting entity must file all of the following with the IRS:

- A separate statement for each individual; and
- A single transmittal form for all of the returns filed for a given calendar year.

Under Section 6055, reporting entities will generally file Forms 1094-B (a transmittal) and 1095-B (an information return). Under Section 6056, entities will file Forms 1094-C (a transmittal) and 1095-C (an information return) for each full-time employee for any month. Entities that are reporting under both Sections 6055 and 6056 will file using a combined reporting method on Form 1094-C and Form 1095-C.

Do I have to file electronically?
Any reporting entity that is required to file at least 250 returns under Section 6055 or Section 6056 must file electronically. The 250-or-more requirement applies separately to each type of return and separately to each type of corrected return. Entities filing fewer than 250 returns during the calendar year may choose to file in paper form, but are permitted (and encouraged) to file electronically. Electronic filing will be done using the ACA Information Returns (AIR) Program. More information on the AIR Program is available on the IRS website.

What are the penalties for failing to report coverage?
A reporting entity that fails to comply with the Section 6055 or Section 6056 reporting requirements may be subject to the general reporting penalties for failure to file correct information returns (under Code Section 6721) and failure to furnish correct payee statements (under Code Section 6722). Penalties may be waived if the failure is due to reasonable cause and not to willful neglect, or may be reduced if the failure is corrected within a certain period of time. Also, lower annual maximums apply for reporting entities that have average annual gross receipts of up to $5 million for the three most recent taxable years. The penalty amounts for failures related to returns and statements required to be filed or furnished in 2018 are as follows:

- General penalty:
    - $260 per violation
    - $3,218,500 annual maximum
    - $1,072,500 annual maximum for employers with ≤$5 million in gross receipts
- Corrected within 30 days:
    - $50 per violation
    - $536,000 annual maximum
    - $187,500 annual maximum for employers with ≤$5 million in gross receipts

Continued

- Corrected after 30 days, but before August 1:
  - $100 per violation
  - $1,609,000 annual maximum
  - $536,000 annual maximum for employers with ≤$5 million in gross receipts
- Intentional disregard*:
  - $530 per violation

*For failures due to intentional disregard, the penalty is equal to the greater of either the listed penalty amount or 10 percent of the aggregate amount of the items required to be reported correctly.

Proposed Notice of Benefit and Payment Parameters for 2019

On October 27, 2017, the Department of Health and Human Services (HHS) released its **proposed Notice of Benefit and Payment Parameters for 2019.** This proposed rule describes benefit and payment parameters under the Affordable Care Act (ACA) that would be applicable for the 2019 benefit year. Proposed standards included in the rule relate to the following:

- Annual limitations on cost sharing
  - The ACA requires the out-of-pocket maximum to be updated annually based on the percent increase in average premiums per person for health insurance coverage. Under the proposed rule, the out-of-pocket maximum would increase for 2019 to $7,900 for self-only coverage and $15,800 for family coverage.
- The individual mandate's affordability exemption
  - Under the proposed rule, the required contribution percentage would increase in 2019. The proposed rule provides that, for 2019, an individual would be exempt from the individual mandate penalty if he or she must pay more than 8.3 percent of his or her household income for minimum essential coverage.
- Special enrollment periods (SEPs) in the Exchange
  - The 2019 proposed rule would establish a new SEP, which would allow pregnant women who are receiving health care services through Children's Health Insurance Program coverage for their unborn child to qualify for a loss of coverage SEP upon losing access to this coverage.

The proposed rule would also establish new options for states in selecting their essential health benefits benchmark plans and make changes to certain standards for enrollment in the Small Business Health Options Program Exchange. Finally, the rule would eliminate standardized plan options in the federally facilitated Exchanges and, instead, look for ways to encourage value-based insurance design. In particular, HHS would like to encourage the use of high deductible health plans that can be paired with a health savings account.

Pay or Play Enforcement Guidance

On November 2, 2017, the IRS updated its Questions and Answers (Q&As) on the employer shared responsibility rules under the ACA to include information on enforcement. Specifically, these Q&As include guidance on the following:

- How an employer will know that it owes an employer shared responsibility penalty
- How an employer can appeal a penalty assessment
- How an employer can pay any penalties owed

The IRS also maintains a website on understanding Letter 226-J, as well as a sample letter, which will be used to inform employers of their potential penalty liability.

Source: Zywave