

NEW ADMINISTRATION, NEW RULES? AN EMPLOYEE BENEFIT LAW UPDATE

Presented by:

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HEALTH CARE: STATUS OF THE AFFORDABLE CARE ACT

- ▶ Health care reform was top priority of new Administration
- ▶ Repeal and Replace efforts
 - ▶ American Health Care Act; Better Care Reconciliation Act; Health Care Freedom Act; Graham-Cassidy Bill
- ▶ ACA remains law of the land
- ▶ Employers **must comply** with all coverage and administrative requirements, including reporting

TAX REFORM

- ▶ Passed through budget reconciliation process
- ▶ Reduces ACA individual mandate penalty to \$0, effective January 1, 2019
- ▶ Tax credit for employers voluntarily providing paid family and medical leave for employees (up to 25% of the cost of each hour of paid leave)
- ▶ Extends time frame for repayment of a retirement plan loan upon separation from service or plan termination
- ▶ Repeals employer deduction for moving expenses, onsite gyms, meals provided at employer's convenience, and entertainment expenses

TAX REFORM: COMMUTING BENEFITS

Mass Transit	Parking	Biking
<ul style="list-style-type: none"> • 2018 Limit: \$260 • Eliminates employer deduction <ul style="list-style-type: none"> • Unless necessary for ensuring employee's safety • Remains tax exempt for employees 	<ul style="list-style-type: none"> • 2018 Limit: \$260 • Eliminates employer deduction <ul style="list-style-type: none"> • Unless necessary for ensuring employee's safety • Remains tax exempt for employees 	<ul style="list-style-type: none"> • 2018 Limit \$20 • Suspends exclusion from gross income and wages • Reimbursements are taxable and subject to payroll taxes and income withholdings

TAX REFORM: UNCHANGED PROVISIONS

- ▶ No change to Code §§ 409A, 457(b), 457(f), 401(k), 415, 414(d), 414(h), or 401(a)
- ▶ No Roth mandate
- ▶ No change to ACA Employer Mandate or reporting
- ▶ No change to cafeteria plans under code § 125
- ▶ No change to FSAs, health plans, dental plans, vision plans, AD&D, or life insurance plans (for employers or employees)

EXECUTIVE ORDER

- ▶ October 12, 2017
- ▶ Directed the Departments of Treasury, Labor, and Health and Human Services (“Departments”) to consider proposing regulations on the following:
 - ▶ allowing more employers to form **Association Health Plans** (AHP);
 - ▶ allowing **Short-Term, Limited-Duration Insurance** (STLDI) to cover longer periods; and
 - ▶ Increasing the usability of **Health Reimbursement Arrangements** (HRA), expanding employer’s ability to offer HRAs to employees, and allowing HRAs to be used in conjunction with non-group coverage.
- ▶ Departments proposed rule extending the duration of STLDI policies to a period of less than 12 months (pre-Obama rule)
- ▶ Be on the lookout for further guidance from the Departments on other two topics

OVERTIME RULE

- ▶ May 2016 Obama Administration proposed expansion of the overtime rule
 - ▶ Increase the minimum salary required to qualify for exemption from \$23,600 annually (\$455 per week) to \$47,476 annually (\$913 per week) to be automatically adjusted every 3 years.
- ▶ Various lawsuits by states and business organizations (consolidated in Texas)
 - ▶ Court held that the government had overreached
- ▶ September 2017 Justice Department announced it would not appeal the court decision, formally ending that expansion
- ▶ DOL plans to propose a new overtime regulation in January 2019

PAID LEAVE

- ▶ No Federal requirement (yet)
 - ▶ But see tax credit in Tax Reform slides
- ▶ Many states and localities are adopting paid leave rules
 - ▶ No Tennessee rules (yet)
- ▶ Paid Family Leave
- ▶ Paid Sick Leave
- ▶ Keep an eye out for changes!

MINIMUM WAGE

- ▶ No Federal increase (remains \$7.25)
- ▶ 18 states increased the minimum wage in 2018
 - ▶ No increase in TN (remains \$7.25)
- ▶ 30 states now have minimum wages in excess of the Federal minimum wage
- ▶ Keep an eye out for changes!

SEXUAL HARASSMENT

- ▶ Increase compliance efforts
- ▶ Update policies!
 - ▶ Follow procedures
- ▶ Provide employee training
 - ▶ Include executives and board members (if any)

About your presenter:

Ashley N. Trotto focuses her practice on Affordable Care Act (ACA) compliance, including employer reporting, employer mandate requirements, employer shared responsibility payment assessment, and other employer health and welfare plan issues. As part of the Firm's pension and employee benefits group, Ashley also assists private, governmental, and nonprofit clients in the design, implementation, and maintenance of their employee benefit plans and also helps those clients navigate the complicated landscape of the FLSA, HIPAA, COBRA, FMLA, ADA, and other employment-related legislation

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