United States | Human Capital | 5 December 2025

# Rewards Policy Insider
2025-25

## In this Issue:

# Upcoming Compliance Reminders for Calendar Year Employee Benefit Plans

**December 2025**

*7th: Medicare Open Enrollment Ends*

*31st: Gag Clause Prohibition Compliance Attestation Due*

*Note: This is meant to be a reminder of certain upcoming compliance deadlines for employee benefit plans operating on a calendar year basis. It is not an exhaustive list of compliance obligations. Specific plans may be subject to different obligations and deadlines depending upon a variety of factors, including the plan type, plan year, and whether or not the plan is subject to ERISA, among other things.*

# IRS Issues Guidance on New Deductions for Qualified Tips and Overtime Compensation

Because employers will not be responsible for separately accounting for qualified tips and qualified overtime compensation for the 2025 tax year on employees' Forms W-2, the Internal Revenue Service ("IRS") has issued Notice 2025-69 to provide guidance for individuals to calculate these amounts for purposes of the new deductions established by the One Big Beautiful Bill Act ("OBBBA" or "H.R. 1").

### Background

For tax years beginning after December 31, 2024 and before January 1, 2029, H.R. 1 amends the Code to provide tax deductions for "qualified tips" and "qualified overtime compensation." The term "qualified tips" generally includes cash tips from certain specified occupations, and that meets various other requirements. Similarly, "qualified overtime" generally includes any compensation in excess of an individual's regular rate of pay – such as the "half" portion of "time-and-a-half" pay – that is required by the federal Fair Labor Standards Act.

The maximum annual deduction for qualified tips is $25,000, and the maximum annual deduction for qualified overtime is $12,500. Both deductions begin phasing out for single filers with modified adjusted gross incomes of more than $150,000 ($300,000 for joint filers).

In general, employers are required to file information returns with the IRS and furnish statements to employees showing the amount of qualified tips and qualified overtime compensation they received for a taxable year. Earlier this year, the IRS issued Notice 2025-62 to provide penalty relief for employers who fail to meet these reporting obligations for the 2025 tax year. The IRS also will not be updating the 2025 Form W-2 or other relevant forms to include specific line items for this information.

### Notice 2025-69

In the absence of any employer reporting of these amounts, individuals who might be eligible for these deductions will be responsible for calculating their qualified tips and qualified overtime compensation, among other things, for the 2025 tax year. The guidance in Notice 2025-69 is, therefore, designed for these individuals, and not for their employers. Nonetheless, employers should be aware of the guidance and may want to encourage their employees to leverage it as a resource if they have questions.

In particular, the Notice has a number of useful examples that help to illustrate how the deductions work. There is also an IRS fact sheet with summaries of key examples and other helpful information.

## IRS Releases Ruling Addressing Retiree Medical Benefits

The Internal Revenue Service ("IRS") released a ruling confirming that 401(h) accounts may pay for retiree health expenses of former participants whose pension payments have been transferred to an annuity provider in a pension risk transfer transaction.

### Background

Employers set up 401(h) medical retiree accounts to help employees pay for eligible medical expenses, and, once the employee dies, to pay for the medical expenses of the surviving spouse and any dependents. Internal Revenue Code ("Code") section 401(h) permits pension plans to provide for the payment of benefits for the medical expenses of retired employees, their spouses, and their dependents, if certain requirements are met.

### Ruling Addresses Retiree Medical Benefits in the Context of Pension Risk Transfers

The IRS's most recent ruling on 401(h) accounts involved an employer with a defined benefit plan from which certain assets and liabilities were spun off to establish a second pension plan. After the spin-off, the employer entered into an agreement with an insurance company to purchase an annuity contract to transfer some of the liabilities of both plans to the insurer. The insurer then assumed responsibility for making pension payments in the form of annuities to affected retirees in both plans, all of whom apparently were in pay status at the time of the transfer. This transaction, which is commonly called a pension risk transfer ("PRT"), included retirees whose medical benefits were paid, in part, with 401(h) account assets.

The employer asked the IRS to rule on whether it could continue to use 401(h) account assets under the plans for the retirees whose benefits were transferred to the annuity provider to pay their retiree medical benefits without violating the rules of the tax code.

In Private Letter Ruling 202547007, the IRS confirmed that 401(h) accounts can be used to pay for retiree health expenses for former participants for whom an annuity has been purchased in a PRT. In coming to this conclusion, the IRS explained that the regulations under Code section 401(h) provide that an employee is eligible to receive medical benefits from a 401(h) account if they are eligible to receive retirement benefits under the associated pension plan. In this case, the IRS concluded that the annuitized retirees met the regulations' definition of "retired" because they were eligible to receive retirement benefits both before and after the PRT.

### Takeaways

The IRS's latest ruling on 401(h) accounts provides helpful confirmation that 401(h) account assets may be used for retiree health expenses even if the retirees' benefits are transferred to an annuity provider. This confirmation is especially useful in light of the uptick of PRTs in recent years among many employers. As a reminder, IRS private letter rulings can only be relied upon by the employer who requested the ruling. However, private letter rulings are generally a good indicator of the IRS's thinking on a particular matter.

## Reports on Health Savings Accounts Highlight Congressional Divide over Health Care

Health Savings Accounts ("HSAs") have recently found themselves at the center of the ongoing health care debate in Congress. As Republicans have proposed expanding the use of HSAs to pay for health care in lieu of extending the enhanced premium tax credits ("PTCs"), Democrats have used the release of two recent reports on HSAs to assert their support for extending the enhanced PTCs.

### Background

The issue that was at the heart of this year's government shutdown was the Affordable Care Act's ("ACA") enhanced PTCs, which are currently set to expire on December 31, 2025. PTCs are refundable tax credits that help eligible individuals cover premiums for health insurance purchased through the ACA marketplace. To be eligible for PTCs, individuals must meet a number of conditions, including that their household income falls within a certain range. Beginning in 2021, Congress temporarily enhanced – through 2025 – eligibility for PTCs by making the subsidy amount more generous and eliminating the rule that an individual is not eligible for PTCs if their income is above 400% of the Federal Poverty Line.

Extending PTCs is a major point of contention between Democratic and Republican lawmakers.  As an alternative to extending the enhanced PTCs, several Republican lawmakers have proposed expanding the use of HSAs to help individuals pay for health care.  Under these proposals, ACA marketplace enrollees generally would receive direct payments to their HSAs.  As described below, Democratic lawmakers have voiced concerns that HSAs are not a suitable replacement for PTCs.

## GAO Report on HSAs

In November, the Government Accountability Office ("GAO") released a report on HSAs, which was requested by Representative Richard Neal (D-MA). In general, the report provides an overview of HSA marketing, features, and accountholder characteristics.  For instance, the report found that in 2022, an estimated $43.6 billion was received in contributions to HSAs, and $25.4 billion was withdrawn from such accounts.  The report also found that HSAs and similar medical expense accounts were more common among those with higher incomes.

Rep. Neal used the release of the GAO report as an opportunity to emphasize his opposition to the Republican proposal to expand the use of HSAs as an alternative to extending the enhanced PTCs.  In a press release accompanying the release of the report, he commented that "[Republicans are] pretending HSAs can do the job [of replacing health coverage].  But as evidenced in a new GAO report, HSAs are no substitute for robust health insurance—they're just another tax break for the wealthy."

## Senate Finance Committee Report on HSAs

Also in November, Senate Finance Committee Ranking Member Ron Wyden (D-OR) released a report entitled "Health Tax Accounts: The Big Republican Giveaway to Banks and Big Insurance," which was drafted by the Democratic staff on the Senate Finance Committee.  The report, which is meant to serve as a rebuttal to the Republican HSA proposal, states that HSAs, FSAs, and HRAs can sometimes be useful tools for consumers, but provide "vastly insufficient funds to be a viable replacement for health insurance."

## Takeaways

These two recent reports highlight the ever-growing divide in Congress on how to address health care affordability.  With the enhanced PTCs set to expire in mere weeks, this issue will likely be a top priority for lawmakers on both sides of the aisle as the year comes to an end.

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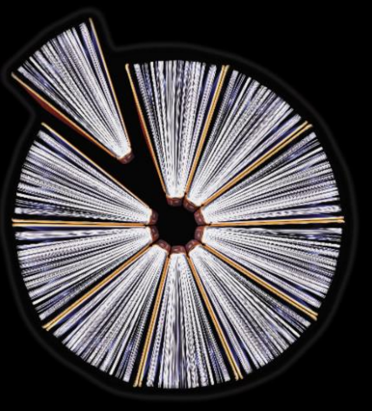

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