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Rewards Policy Insider
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Upcoming Compliance Reminders for Calendar Year Employee Benefit Plans

September 2025

15th: PBGC premium filing deadline

30th: Summary Annual Report (SAR) deadline

October 2025

14th: Medicare Part D Creditable Coverage Notice

15th: Extended Form 5500 filing deadline (if requested)

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 Releases Guidance Addressing Uncashed Checks Sent to Plan Participants

The Internal Revenue Service ("IRS") released guidance addressing withholding and reporting tax obligations when retirement plan distribution checks are sent to plan participants, but are never cashed, and then are subsequently re-issued. At a high level, the guidance provides that the plan administrator is not required to report or withhold tax on the re-issued check if the amount is no more than the original uncashed check.

Key Takeaway from Guidance on Uncashed Checks

As part of its ongoing effort to provide guidance on the various tax issues that apply to "missing" or unresponsive retirement plan participants, the IRS periodically issues rulings addressing these issues. In the newest piece of guidance as part of this effort, on July 16, 2025, the IRS released Revenue Ruling 2025-15, which addresses withholding and reporting obligations involving retirement plan distribution checks that go uncashed and are subsequently re-issued. As discussed in more detail below, the key takeaway from the ruling is that the plan administrator is not required to report or withhold tax on the re-issued check, as long as the amount is equal to or less than the original check that went uncashed. This appears to be the case even if the check is re-issued in a subsequent tax year.

Deep Dive

The ruling describes the following scenario: "Individual C" has an accrued benefit under "Plan X" of $800, and has not made an election to not withhold taxes with respect to the benefit. The benefit consists of pre-tax amounts. In 2024, "Employer M" made a distribution of the $800 benefit from Plan X (reduced by the amount of federal income tax required to be withheld), remitted the withheld amount to the Treasury Department, and mailed a check for the remainder ("Check 1") to Individual C. After that point, Individual C did not earn any additional accrued benefit under Plan X. Check 1 was not cashed within 6 months, so Employer M cancelled it. Subsequently, Employer M mailed a second check ("Check 2") in the same amount to Individual C. As is typical with Revenue Rulings, the IRS states that its conclusions in the guidance apply only with respect to this very specific set of facts.

Based on those facts, the guidance addresses the following issues:

- <u>Form 1099-R Reporting for Check 1.</u> The ruling states that Employer M must report the distribution of Individual C's accrued benefit at the time that Check 1 is issued on the Form 1099-R for 2024, which reports distributions from retirement plans. Employer M should enter the amount of the distribution ($800) in Box 1 ("gross distribution") and Box 2a ("taxable amount") and enter the federal income tax withheld in Box 4 ("federal income tax withheld"). This rule applies whether or not the check is returned as undeliverable or remains uncashed for another reason.
- <u>Withholding/Reporting for Check 2.</u> The ruling provides that Employer M does not have a withholding or reporting obligation with respect to the distribution of Individual C's benefit at the time Check 2 is issued, as long as the amount of Check 2 is less than or equal to the amount of Check 1. If, however, the amount of Check 2 is greater than Check 1, the excess amount is subject to withholding and reporting under the Internal Revenue Code ("Code").
- <u>No Refunds for Over-Withholding.</u> Under the Code and regulations, a withholding adjustment is available for employers in certain cases where more than the correct amount of tax is withheld and remitted to the Treasury Department. In addition, if such an adjustment cannot be made, a refund may be available to the payor. However, in this case, the ruling concludes that because the correct amount of tax was withheld from Check 1 and remitted to the Treasury Department, Employer M is not entitled to an adjustment, refund, or credit with respect to Check 1.

IRS Releases Updated ACA Employer Shared Responsibility Payment Penalties for 2026

The Internal Revenue Service ("IRS") announced the new inflation-adjusted amounts for employer shared responsibility payments under the Affordable Care Act (ACA), which generally apply to large employers that do not offer health coverage or whose coverage does not meet certain minimum standards. These new amounts will be effective for calendar year 2026.

Background

Under Internal Revenue Code ("Code") section 4980H, applicable large employers ("ALEs") – i.e., employers with at least 50 full-time employees in the previous year – are subject to the Affordable Care Act's employer shared responsibility payment ("ESRP") provision. ESRPs are payable to the IRS if an employer fails to offer minimum essential coverage to at least 95% of their full-time employees and their dependents, and at least one full-time employee receives a premium tax credit for purchasing coverage on an ACA Health Insurance Marketplace (or "Exchange").

ESRPs are also payable if the employer does offer coverage to full-time employees, but the coverage is not "affordable" or does not provide "minimum value." In general, employer-provided coverage is considered "affordable" if the employee required contribution for coverage is no more than a particular percentage of the employee's household income (9.02% for 2025). Employer-provided coverage generally meets the "minimum value" standard if it covers at least 60% of the covered health care expenses for the standard population.

The ESRP penalty amounts are adjusted annually for inflation.

Updated ESRP Amounts

On July 22, 2025, the IRS released Revenue Procedure 2025-26, which provides updated inflation-adjusted ESRP amounts for 2026, based on data provided by the Department of Health and Human Services. The ESRP amounts that will be effective for the 2026 calendar year are as follows:

- The updated ESRP under Code section 4980H(a)(1) is $3,340 per full-time employee (an increase of $440 from 2025). This penalty applies to employers that fail to offer minimum essential coverage to 95% of full-time employees and their dependents.

- The updated ESRP under Code section 4980H(b)(1) is $5,010 per full-time employee (an increase of $660 from 2025). This penalty generally applies with respect to each full-time employee who opts-out of the employer's coverage because it is not affordable or fails to provide minimum value.

To avoid paying ESRPs, ALEs should regularly ensure that all full-time employees are offered minimum essential coverage *and* confirm that such coverage meets the "affordable" and "minimum value" standards. The IRS has answered a series of FAQs on ESRPs, available here.

Senator Introduces Bill to Enhance Gig Workers' Access to Retirement Savings

In July, Senator Bill Cassidy (R-LA) introduced the Independent Retirement Fairness Act, a bill to enhance the ability of independent contractors to become covered by a retirement plan. The legislation is intended to address the retirement savings gap for gig workers, who do not have access to employer-sponsored retirement plans.

Background

"Gig workers" face unique challenges in accessing the same retirement savings opportunities available to traditional employees. Because gig workers operate as independent contractors, they do not have access to an employer-sponsored retirement savings plan. Gig workers can technically set up their own retirement plans, but this can be a difficult process. As the gig economy has developed rapidly in recent years, these hurdles have created concerns that gig workers are ill equipped to save for retirement.

One potential solution to this issue is to allow gig workers to join pooled employer plans ("PEPs") or defined contribution groups ("DCGs"). In a PEP, multiple unrelated employers participate in a single plan, and the administrative burdens and liabilities of operating the plan are delegated to plan services professionals. In a DCG, small employers have their own retirement plans but share the same trustee, named fiduciary, administrator, and investment menu, which reduces costs. Under current law, gig workers may join PEPs and DCGs because they are their own employers, but it can be expensive to include them in the plan.

Gig Worker Bill Seeks to Expand Retirement Savings Opportunities

On July 9, 2025, Senator Bill Cassidy (R-LA) introduced the Independent Retirement Fairness Act (S. 2217), which is intended to make it easier for gig workers to access a retirement plan. Highlights of the bill include:

- Reducing Audit Costs for PEPs. Under current law, if a plan has at least 100 participants, it must pay for an annual audit by an independent accountant, which is typically very expensive. A PEP is considered a single plan for this purpose, so if the entire PEP crosses the 100-participant threshold, the audit requirement is triggered, even for employers with less than 100 participants. The bill would modify this rule so that an audit of a PEP must only take into account participating employers that would be required to have an annual audit if they sponsored their own plan. In effect, this would remove the "penalty" under current law for very small employers – such as gig workers – that join a PEP and are subjected to the cost of an audit.
- Reducing Audit Costs for DCGs. Department of Labor guidance provides that each employer in a DCG with 100 or more participants must have a separate annual audit. This requirement has made it difficult for DCGs to attract mid-sized and large employers, which in turn hurts small employers in DCGs because economies of scale are more difficult to achieve. The bill would allow all employers with 100 or more participants in a DCG to be subject to a consolidated audit, rather than individual audits. The intent of this change would be to facilitate more larger employers joining a DCG, thereby helping the small employers in a DCG.
- Allowing Companies to Set Up PEPs for Gig Workers. The bill would allow companies to facilitate the provision of PEPs to their independent contractors without classifying such workers as employees of the company. This is intended to address potential concerns from companies that setting up a PEP could be seen as evidence that the gig workers are employees, not independent contractors (and would therefore be entitled to the protections and benefits available to employees).
- Allowing Companies to Set Up SEPs for Gig Workers. The bill would permit companies to set up simplified employee pensions ("SEPs") for their gig workers. A SEP is a traditional IRA that provides employers with a simplified method to contribute toward employees' retirement.

Outlook

It is still early on in the legislative process and therefore difficult to predict whether the bill will eventually be signed into law. In terms of next steps, the bill has been referred to the Senate HELP Committee, and Senator Cassidy, in his position as Chairman of the Committee, may prioritize the bill moving forward.

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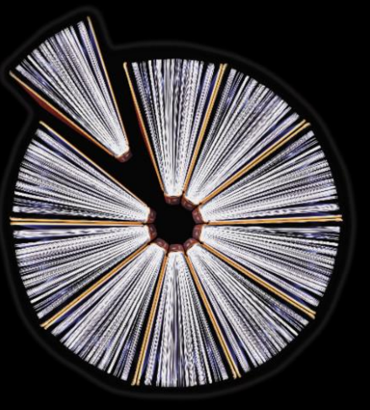

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