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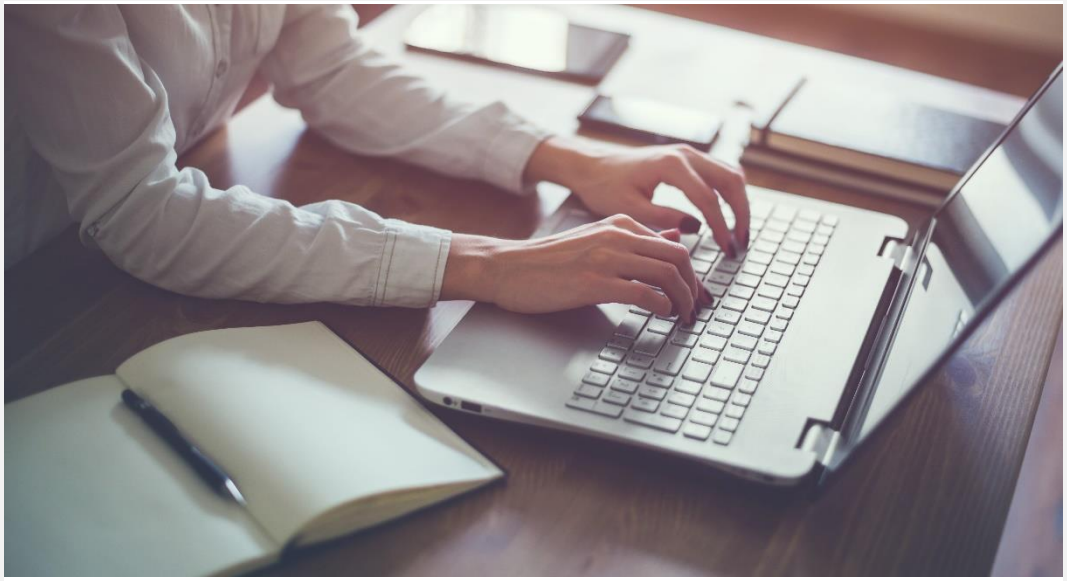

In this Issue:

Upcoming Compliance Reminders for Calendar Year Employee Benefit Plans

March 2026

2nd: Form 1095-C must be made available for employees

31st: Forms 1094-C and 1095-C due to IRS

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 Provides Guidance on HSA Changes

The One, Big, Beautiful Bill Act (OBBBA), which Congress enacted last summer, amends Code section 223 to make certain changes relating to health savings accounts (HSAs) and high-deductible health plans (HDHPs). The IRS issued Notice 2026-5 to provide guidance on these provisions, including the permanent, retroactive extension of the telehealth safe harbor for HDHPs.

Permanent Extension of Telehealth Safe Harbor

During the COVID pandemic, Congress allowed for HSA-compatible high-deductible health plans (HDHPs) to provide below-the-deductible coverage for certain telehealth and remote care services. The special safe harbor expired on January 1, 2025, but the OBBBA retroactively and permanently extended it, effective for plan years beginning after December 31, 2024.

Notice 2026-5 confirms that even though the OBBBA was enacted on July 4, 2025, an eligible individual who was enrolled in an HDHP that provided telehealth and remote care services below-the-deductible prior to July 4, 2025 can still fund an HSA for 2025. It also clarifies that the IRS will treat telehealth services included on an annual list published by the Department of Health and Human Services for Medicare purposes as telehealth services for purposes of the HDHP telehealth safe harbor.

Bronze and Catastrophic Plans as HDHPs

Beginning in 2026, the OBBBA amends Code section 223 to provide that bronze level and catastrophic plans that are available as individual coverage on an Affordable Care Act (ACA) Exchange are treated as HSA-compatible HDHPs,

even if they do not technically satisfy all the HDHP requirements. This special rule includes bronze level plans with actuarial values that exceed 60%, according to the Notice.

The Notice also provides this special treatment is not limited just to bronze level and catastrophic plans acquired through an ACA Exchange. It also extends to bronze level and catastrophic plans purchased "off-Exchange" if "the same plan is available as individual coverage through an Exchange." Furthermore, "[t]his includes plans sold exclusively off-Exchange without a cost-sharing reduction load that are otherwise identical to plans sold on-Exchange with a cost sharing reduction load."

The Notice also points out that bronze plans offered as Small Business Health Options Program (SHOP) coverage will not automatically be treated as HDHPs under this rule. The reason is that SHOP coverage is group coverage, and not individual coverage. Of course, SHOP coverage can qualify as HDHPs as long as the applicable requirements relating to deductibles and out-of-pocket maximums, etc., are satisfied.

Direct Primary Care Service Arrangements

The OBBBA amends Code section 223 to provide that "Direct Primary Care Service Arrangements" (DPCSAs) are not "health plans" that would otherwise prevent someone covered by an HSA-compatible HDHP from being eligible to fund an HSA. Additionally, the OBBBA also provides that fees for participating in a DPCSA can be reimbursed by HSAs on a tax-favored basis. Both changes are effective beginning in 2026.

To be a DPCSA, the arrangement must charge a fixed periodic fee and provide medical care "consisting solely of primary care services provided by primary care practitioners." The fixed periodic fee also must be the sole compensation for those services. As the Notice points out, this means the DPCSA may not offer additional services to members that are paid for separately, either by insurance or otherwise.

The term "primary care services" for this purpose does not include "(1) procedures that require the use of general anesthesia, (2) prescription drugs other than vaccines …, and (3) laboratory services not typically administered in an ambulatory primary care setting." The statute and the Notice do not otherwise define the term "primary care services," other than to acknowledge that "vaccines are permitted primary care services."

The aggregate fees for all DPCSAs for an individual for a month cannot exceed $150 (or $300 if the arrangement covers more than one individual) in 2026. These thresholds will be indexed for inflation beginning in 2027. According to the Notice, the periodic fees do not have to be billed monthly if they are "fixed, periodic, and do not exceed the monthly limit (on an annualized basis)." Thus, in 2026 an $1,800 annual fee or a $450 quarterly fee would be acceptable. The fee cannot be billed for a period of more than a year.

Significantly, the Notice clarifies that this limit does not apply to the amount of fees that an HSA can reimburse on a tax-favored basis.

The Notice also addresses a specific question about whether an HSA-compliant HDHP could offer primary care benefits through a DPCSA – for example, by paying the DPCSA fee or otherwise providing membership in the DPCSA – as a way to indirectly provide coverage for services that the HDHP otherwise could not offer below the deductible. The Notice confirms this is not permitted. Similarly, the Notice also confirms that individuals who are enrolled

in both a DPCSA and an HDHP may not have the periodic DPCSA fees count against the HDHP's deductible or out-of-pocket maximum.

If the DPCSA fee is paid by an employer, then the fee is not an expense incurred by the account holder and thus may not be reimbursed from their HSA on a tax-favored basis.

IRS Releases 2025 Required Amendments List for Retirement Plans

In December, the Internal Revenue Service ("IRS") released the 2025 Required Amendments List ("RA List"), which outlines changes in the law that require retirement plans to amend their plan documents. For items appearing on the 2025 RA List, plans generally have until December 31, 2027 to incorporate the required amendments.

Background

At the end of each year, the IRS releases its Required Amendments List, which sets forth the legislative or regulatory changes that require retirement plans to amend the plan. The RA List is the IRS's way of ensuring the plans have enough time to draft and adopt amendments. The RA List applies to individually designed and pre-approved qualified and 403(b) plans.

The RA List is divided into three parts. Relevant to the 2025 RA List, Part A covers requirements that require an amendment to most plans, and Part B covers requirements that might require an amendment to some plans that have an unusual plan provision.

Once a change in the law appears on the RA List, plans have until the end of the second full calendar year following the appearance to adopt the amendment.

2025 RA List Includes Select RMD Rules

In December, the IRS released Notice 2025-60, which contains the 2025 RA List. Plans will need to be amended to incorporate the changes on the 2025 RA List by December 31, 2027 (unless the plan is eligible for a later deadline, such as the deadline for governmental plans).

While the 2025 RA List is relatively short, it contains some important plan amendments:

- RMD Amendments. Part A of the 2025 RA List – i.e., changes that generally require an amendment to most plans – includes one entry this year: sections 114 and 401 of the SECURE Act of 2019, which amended the required minimum distribution ("RMD") rules to increase the age at which an individual must start taking RMDs to age 72 and modify the after-death RMD rules. In connection with these statutory

changes, the RA List also includes the final RMD regulations that the IRS issued in July 2024.

The RA List notes that the proposed RMD regulations – which were released in 2024 in conjunction with the final regulations and which incorporate additional changes to the RMD rules made by the SECURE 2.0 Act of 2022 – will be included on a future RA List once they are finalized. Thus, plans are not required to be amended to reflect the proposed regulations by the 2027 deadline.

- Partnership/Trust Attribution Rules. Part B of the 2025 RA List – i.e., requirements that might require amendments to some plans that have an unusual plan provision – includes one entry this year: the regulations issued by the IRS in December 2024 extending the partnership and trust attribution rules to the determination of whether a parent-subsidiary controlled group exists under section 414(c) of the Internal Revenue Code.

IRS Provides Refresher on RMD Rules

At the end of December, the Internal Revenue Service ("IRS") published as part of its Employee Plans newsletter a reminder of the required minimum distribution ("RMD") rules. The reminder, which is summarized below, provides a helpful refresher on the RMD rules as we begin the new year and as tax season approaches.

General RMD Rules

RMDs are minimum amounts that must be withdrawn from an IRA or retirement plan account when an individual reaches age 73. Account owners are *not* required to take withdrawals from Roth IRAs or designated Roth accounts in a 401(k) or 403(b) plan while they are alive.

RMDs from an IRA

Account owners can meet their RMD requirements by taking a withdrawal from one or more of their IRAs or simplified employee plan ("SEP"), SIMPLE, and salary reduction SEP ("SARSEP") IRAs. While an account owner is not required to take a withdrawal from each of their IRAs, the total taken across all IRAs must be at least equal to the total RMD due for the taxable year.

RMDs from a Retirement Plan

To satisfy the RMD requirements in a retirement plan, the account owner must take RMDs separately from each of their retirement plans. If an individual reached age 73 in 2025, then their RMDs must begin by the later of: (1) April 1, 2026; or (2) April 1 following the year the individual retires, if the individual is employed by the plan sponsor and the plan permits delaying RMDs.

RMDs for Beneficiaries

The RMD rules also apply to the beneficiaries of IRA and retirement plans. Beneficiaries must take RMDs or be subject to a 25% excise tax on the amount that the beneficiary failed to take.

RMD Regulations

As a separate reminder, the IRS published regulations implementing the RMD rules as amended by the SECURE Act of 2019 and the SECURE 2.0 Act of 2022. Those rules went into effect at the beginning of 2025. Plan sponsors should review the regulations to ensure that they are in compliance. An overview of what employers need to know about the RMD regulations is available in Rewards Policy Insider 2024-18.

More information on the RMD rules is available at IRS.gov/rmd and IRS Publication 590-B.

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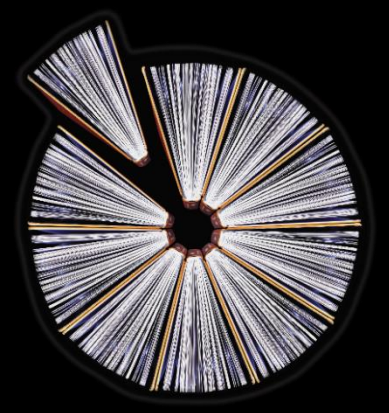

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