



TROUTMAN SANDERS

Employee Benefits for Small Non-Profits

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 - ✓ Serve low-income or disadvantaged individuals.
 - ✓ Be unable to afford legal services.
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Employee Benefits In General

➤ Compensation

➤ Welfare

➤ Retirement

➤ Internal Revenue Service

➤ Department of Labor/ERISA

➤ Health and Human Services (CMS/CIIO)



Welfare Benefits

**Affordable Care Act
Cafeteria Plans
COBRA**



Affordable Care Act (ACA): Employer Shared Responsibility Requirement

- Applies to employers with 50 full-time/FTEs
 - ✓ Provide affordable health care coverage that provides minimum value to substantially all full time employees, **or**
 - ✓ pay shared responsibility payment
- Full-time = 30 hours per week
 - ✓ Part-time employee are added together to count as full time equivalents (FTEs)
 - 2 employees each working 15 hours a week count as 1 FTE



Affordable Care Act (ACA): Individual Shared Responsibility Requirement

- Individuals required to
 - obtain health insurance (minimum essential coverage) **or**
 - pay individual shared responsibility payment
- Penalty depends upon income/family size
 - ✓ Up to \$1,000 for single person with \$50,000 income or less (2015)
- Exchange premium subsidies available 100 – 400% FPL



No Reimbursement of Employee Individual Policies

- Employers may not reimburse employees for health insurance policies purchased individually
 - ✓ Irrespective of after-tax/pre-tax treatment
- reimbursement arrangement is itself considered a group health plan subject to ACA
 - ✓ A reimbursement plan won't meet ACA group health plan rules
 - ✓ Potential \$100/day excise tax per applicable employee



SHOP

- Employers with 50 or fewer FTEs can use the SHOP to purchase coverage
- 70% of employees must enroll (employees that enroll in other coverage do not count against you)
- Must offer to all full-time employees



Small Business Health Care Tax Credit

- Maximum of 2 consecutive years only
- Tax credit up to 35% of premium costs for tax-exempt employers (Form 8941)
- Requirements
 - ✓ Insurance purchased on the SHOP
 - ✓ less than 25 FTEs
 - ✓ Average employee salary is approx \$50,000 or less
 - ✓ Employer pays at least 50% of premium costs
 - ✓ All full-time employees eligible



COBRA

- Requirement to continue health coverage post-employment
 - ✓ No requirement to pay employer portion of premium
- Federal rules apply if 20 employees or more
- Georgia rule applies if less than 20 employees



Cafeteria Plan/POP

- If you offer health insurance, POP generally should be offered (POP = premium only plan)
 - ✓ Allows employees to pay their portion of a premium pre-tax
 - ✓ Written plan is required
- Other optional cafeteria plan benefits
 - ✓ Health flexible spending account (very limited employer contributions)
 - ✓ Dependent care account
 - ✓ Small employers need to be wary of non-discrimination



Health Insurance Reporting – W2

- Box 12, Code DD
- Employer portion of a premium is reported – only if employee otherwise receives a W-2
- Informational purposes only

Self-Insured Benefits

- Self-insured benefits
- Patient- Centered Outcomes Research Trust
Fund fees apply
 - ✓ Does apply to an HRA integrated with an insured plan
- Non-discrimination rules apply



Other Welfare Benefits

- **Short/long-term Disability Insurance**
 - ✓ Plans can be set up so that they are employer/employee paid and funded with pre-tax (benefits are taxable income) or post-tax (benefits are not taxed) contributions
- **Life Insurance**
 - ✓ Up to \$50,000 of group-term life insurance coverage is excluded from employment taxes



ERISA/DOL

- Applies to any employer sponsored welfare benefit plan
- Plan document, summary plan description and notice requirements
- No 5500 required if
 - ✓ Less than 100 participants
 - ✓ Unfunded, fully insured, or a combination of unfunded and fully insured



Retirement Benefits

IRA-based plans

403(b) Plans

401(k) Plans



Retirement Benefits

- Recommendations
 - ✓ Start small
 - ✓ Less complex tends to be better for small groups
- IRA-based plans have substantially less employer involvement/administration
 - ✓ No annual 5500 filing
 - ✓ Non non-discrimination testing



myRA

- No fees/No deductions for the employer
- Roth (post-tax) contribution
- Investments are tied to the Government Securities Fund (earned 2.31% in 2014)
- up to \$5,500 per year (\$6,500 per year for individuals 50 years of age or older at the end of the year)
- Once reach \$15,000 transfer to a private-sector Roth IRA



Traditional/Roth IRA

- Contribution limits; lesser of:
 - ✓ \$5,500 (\$6,500 if you're age 50 or older), or
 - ✓ taxable compensation for the year
- Roth IRA has other limits depending on income/filing status
- No deductions for the employer



SEP

- Established by Form 5305-SEP
- Traditional IRA
- Only employer contributions; limit is lesser of
 - ✓ 25% of the employee's compensation, or
 - ✓ \$53,000 (for 2015 and 2016)
- No other retirement plans
- Limited age/service exclusions



SIMPLE IRA

- Establish with IRS Form 5304/5-SIMPLE
- No more than 100 employees and no other retirement plan
- Employees may contribute up to \$12,500 (\$3,000 catch-up)
- Employer contributions
 - ✓ Matching contribution up to 3% of compensation (not limited by the annual compensation limit), or
 - ✓ 2% nonelective contribution

403(b)

- Can be set-up as non-ERISA -- Use caution!
 - ✓ No employer contributions
 - ✓ Very limited employer involvement
 - No signing off on/approving distributions, transfers, QJSA, QDROs
 - OK to verify employment status/salary
 - ✓ Ensure multiple investment options available
- If non-ERISA, no 5500 filing required
- If no employer contributions, no discrimination testing required

401(k)

- Discrimination testing generally required
 - ✓ Safe harbor designs can be used with required employer contributions
- 5500 reporting required



For More Information:

If you would like more information about the services of Pro Bono Partnership of Atlanta, contact us at:

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