HEALTH, ACCIDENT, AND RETIREMENT BENEFITS

CHAPTER 4

(2016)

Types of Health Plans (pg 4-3)

- Traditional health insurance plans
  - Either through 3rd party or self insured
    - Self insured will typically have a “stop-loss” policy which pays from claims after the ER pays a certain amount or a “minimum premium plan” where cost are shared
- HMO – Health Maintenance Organization
  - Two types of HMO – Traditional (Kaiser) or Individual Practice Association
  - Premium is paid to selected medical groups for each member regardless of use
- PPO – Preferred Provider Organization
  - Higher level of service and choice and lower out of pocket costs if net work physicians are use
- ER and EE typically share cost
- New ACA Requirements-Employers with 50 or more employees

Tax Treatment of Contributions and Benefits

(pg. 4-4)

- New ACA Forms required-1094C/1095C, same filing requirement as W2.
- Employer paid premium
  - Excluded from income except for domestic partner coverage and ex-spouse and reimbursements are for medical care as defined under IRC (diagnosis, cure, mitigation, prevention, treatment etc.)
  - EE contributions are after tax unless part of a valid IRC 125 plan at which point they are pre tax.
  - Opt out dollars are taxable income

Tax Treatment of Contributions and Benefits (cont.) (p.4-21)

- To qualify for exclusion for SS, M/C and FUTA:
  - Must be a written plan made known to employee
  - The plan is referred to in an employment contract
  - EEs contribute to the plan
  - ER contributions are made to a fund separate from ER salary Account
  - ER is required to make a contribution

Tax Treatment of Contributions and Benefits (cont.) (p. 4-23)

- Non discrimination required:
  - May not discriminate in favor of highly compensated
    - 5 highest paid officers
    - More than 10% owner of stock
    - Top paid 25% of EEs

Tax Treatment of Contributions and Benefits (cont.)

- To be nondiscriminatory the self insured plan must benefit
  - At least 70% of EE benefit
  - 80% of the 70% are eligible to participate benefit
  - Or a class of EE determined by the Secretary of the Treasury benefit
- If plan is discriminatory, reimbursements made to highly compensated are taxable
- Beginning in 2011, medical loss ratio rebates may be taxable (p. 4-11)
- W-2 reporting of employer-sponsored health coverage – mandatory starting 2012 if over 250 W-2’s filed (p. 4-11)

MEDICAL SAVINGS ACCOUNTS (pg. 4-35)

- Health Insurance Portability and Accountability Act of 1996:
  - Established a pilot project to allow EE of small ERs covered under a high deductible medical plan to make pre tax contributions to a MSA (ER can also make contribution)
  - Employed no more than 50 EEs during either of the two preceding calendar years
  - Deductible – $2,250-$3,350 single and $4,450-$6,700 family. Max out of pocket $4,450 single and $8,150 family
  - No benefits are paid until deductible is met

TAX TREATMENT OF MSA

- Contributions can be made by EE or ER, not both
- Contributions are not subject to taxation with certain limitations
  - Deduction cannot exceed EE earnings
  - Maximum cannot exceed 65% single, 75% family of deductible
  - Excess contributions are included in income
  - ER contributions must be equal for all EEs

TAX TREATMENT OF MSA

- Cannot be part of a cafeteria plan
- Distributions are excluded from income if used for medical expenses for EE or dependents, otherwise taxable
- MSA trustee is not required to determine if used for medical expenses, account holder makes that determination
- ER contributions are reported in box 12 of W2 using code R
- EE reports ER contributions on personal tax return
- EE contributions are not pretax, EE taxes deduction on personal tax return
- Plan trustee reports distributions on form 1099-SA

COBRA (pg. 4-37)

- Under COBRA ERs with 20 or more EEs are required to provide EE and dependents the right to elect continued group health coverage if lost due to a “qualifying event”
- Generally for 18 or 36 months depending on the qualifying event
- Qualifying events include:
  - Death of covered EE
  - Termination except gross misconduct
  - Divorce/separation
  - Dependent loses coverage
  - EE entitlement to Medicare benefits
  - Bankruptcy

COBRA (cont)

- Premiums paid by EE – 102% (includes 2% administration cost)
- 150% for disabled qualified beneficiaries after the 18^{th} month of coverage
- COBRA premiums paid by ER on behalf of new hires is taxable, for terms it is not

HEALTH REIMBURSEMENT ARRANGEMENTS (HRAs)(Pg. 4-42)

- Paid solely by ER and not under section 125
- Reimburses EE and dependents for medical care expenses
- Reimburses to a maximum dollar limit and unused amounts carry forward
- Generally excluded from EEs income if for substantiated medical reimbursements
- Cash cannot be paid to EE or payment for anything other than medical expenses
- Not part of section 125
- Cannot discriminate (p. 4-43)
- Provided under COBRA

HEALTH SAVINGS ACCOUNTS (HSAs) (pg. 4-49)

- Created under the Medicare Prescription Drug bill
- Allows EEs to save for future medical expenses
- High deductible plan
- Tax-exempt trusts or custodial accounts created exclusively to pay for qualified medical expenses
- EE contributions are deductible
- ER contribution not included in income if ER believes at the time that they will be used for medical purposes
- Max 2016 contribution - $3,350 for individual and $6,750 for family (p. 4-52)
- Contributions in excess of limits are included in income and are subject to a 6% excise tax
- Can be offered as part of a cafeteria plan (deferred comp. Rule in 125 do not apply here)

HEALTH SAVINGS ACCOUNTS (HSAs) (cont.)

- Catch up contributions allowed for those age 55+ until they enroll in Medicare at which point no contributions are allowed
- 2016 catch-up limit is $1,000
- Beginning 2007 EEs can make a one time transfer from an HRA or FSA to an HSA
- Lower paid EEs may receive higher contributions (p. 4-49)
- Distributions for qualified medical expenses are excluded from income. Includable distributions are also subject to an additional 20% tax unless made after death or permanent disability, or Medicare eligibility. (p.4-49)

FAMILY MEDICAL LEAVE (FMLA) (pg. 4-57)

- ER with 50 or more EEs within a 75 mile radius of ER facilities
- 12 weeks of unpaid leave for serious illness, care for ill family member, birth or adoption of child, 26 weeks for ill or injured military
- Guarantees continued employment and health benefits
- To be eligible
  - Must be employed at least 12 months and worked at least 1,250 hours within the previous 12 month period
  - Vacation time, STD and unexcused absences can be used to complete the 12 month employment requirement

FAMILY MEDICAL LEAVE (cont.)

- Intermittent leave allowed (p. 4-64)
  - Only time an exempt EE can have a salary reduction for partial days
- Health benefits continue during leave at the same levels as active staff. Job guarantee upon return from leave (p. 4-67)
- Recordkeeping requirements
  - Enforced by the DOL’s Wage and Hour Division

FAMILY MEDICAL LEAVE (cont.)

- Premiums are EEs responsibility (p. 4-69)
  - Payment options (watch out for crossing tax year)
    - Pre-Pay – pay before leave begins. Advantage is that it can be pre-taxed
    - Pay-as-you-go – after tax
    - Catch-up – pay upon return. Can be pre tax if available taxable compensation or after tax
- Medical FSA must be allowed (not dependent)
- No requirement to continue non health benefits such as life insurance

SICK PAY PLANS (STD/LTD) (pg. 4-67)

- Payments may be made by ER or 3rd party carrier
- Taxability of benefits depends on how they are funded
  - Fully ER funded – benefits are taxable
  - ER and EE (pre-tax) funded – benefits are taxable
  - ER and EE (after tax) funded – benefits are partially taxable based on ratio of contribution
  - EE funded with after tax – benefits not taxable

SICK PAY PLANS (cont).

Example 1		**Example 2**	
coverage annual premium	1,000.00	**coverage annual premium**	1,000.00
EE paid (pre tax)	500.00	EE paid (after tax)	200.00
ER paid	500.00	ER paid	800.00
EE benefit received	2,000.00	EE benefit received	2,000.00
taxable	2,000.00	taxable	1,600.00
		non-taxable	400.00

SICK PAY PLANS (cont.)

- Payments made through ER self insured plan
  - Payments made through payroll as salary replacement or supplement (offset by SDI etc)
- Payments made by agent
  - Self insured but 3rd party administers and makes payments
  - ER pays 3rd party a cost plus fee and retains insurance risk
  - Agent may withhold at supplemental rates
  - ER retains responsibility for ER SS/MC/FUTA unless it agrees with agent to make these payments

SICK PAY PLANS (cont)

- Payments made by 3rd party insurance carrier
  - ER pays a premium, 3rd party bears insurance risk and assumes a greater roll in tax withholding
  - Carrier is not required to withhold taxes unless EE submits form W-4S
  - Carrier is responsible for EEs share of FICA
  - Carrier is also responsible for ER share of FICA and FUTA unless liability is transferred to ER. To transfer liability carrier must
    - Withhold and timely deposit EEs share
    - Notify ER of payments on which FICA is withheld
    - Provide statement to ER by January 15th of the following year with EE name, SS#, amount of sick pay, taxes

SICK PAY PLANS (cont)

- Depositing withheld taxes (p. 4-69)
  - Generally rules are the same as with other employment taxes, however liability for depositing may vary depending on who is responsible
  - Deposits made by 3rd party should be under their FEIN. Deposits made by ER should be under their FEIN
- ER makes payment
  - ER reports all in the same manner as with other compensation on 941, lines 2, 5a, 5c and 5d
  - Taxable amounts are reported on the W2 in boxes 1, 3, and 5 with non taxable amounts reported in box 12 with code J; withholding in boxes 2, 4 and 6
  - All payments are reported on form 940 in part 2 line 3 with exempt payment in part 2 line 4; box 4e should be checked

SICK PAY PLANS (cont)

- ER's agent makes payment
  - Generally ER makes payments and uses its FEIN to report 3rd party administers payments. If tax responsibility shifts to 3rd party their FEIN should be used.
  - To shift responsibility for tax reporting form 2678, "Employer/Payer Appointment of Agent", must be filed with the IRS
- LTD in excess of 6 months not subject to SS or M/C

SICK PAY PLANS (cont)

- 3rd party insurer makes payment
  - If liability for ER taxes is not transferred to ER by the 3rd party
    - 3rd party files forms 941, 940 and W2, and reports non taxable amounts in box 12 code J
    - Checks box “third-party sick pay” in box 13 of form W2
  - If the 3rd party transfers liability to ER
    - ER files forms 941, 940 and W2 (mark box 13)
    - 3rd party must provide information to ER

PERMANENT DISABLITY BENEFITS (pg. 4-76)

- How premiums are paid determine taxation (EE/ER, A/tax vs. P/tax)
- Amounts paid under a defined plan on or after termination due to death or disability retirement are not subject o SS, M/C or FUTA

WORKERS' COMPENSATION INSURANCE (pg. 4-77)

- Benefit payment
  - Not included in income
  - Supplemental payments in excess of WC benefits payment are taxable
- Premium payments
  - Premiums are based on payroll dollars, type of business and Uniform Classification Code (UCC)
  - Laws are determined by state
  - National Council states (34)
    - Use UCC

WORKERS' COMPENSATION INSURANCE (cont.)

- Non-National Council states (12)
  - Do not use UCC but use similar codes
- Monopolistic states (4)
  - WC is solely through a state fund
- Competitive state funds (14)
  - Allows private carriers to compete with state fund
- Classification Codes
  - Assigned based on type of business, manufacturing, mining, construction etc. with different codes used for certain employees
  - % value is assigned to code and multiplied by the total payroll cost for that code, less certain payments such as overtime premium.

CAFETERIA PLANS (pg. 4-79)

- Offers a menu of choices of cash compensation and nontaxable benefits. Also referred to as "flexible benefit plans" which is authorized by IRC 125
- Deferred compensation plan (p. 4-81)
  - Cannot be offered as part of a cafeteria plan with the exception of 401(k)
  - Vacation buy
    - Accrued vacation must be used before purchased vacation
    - Purchased days cannot be carried over to subsequent year
    - Unused purchased days must be paid out before the end of the plan year

CAFETERIA PLANS

- Funded through “flex dollars” or “flex credits” (p. 4-82)
- Salary reduction (pre tax deduction)
- “Negative election” OK (p. 4-83)
- Mid year changes only allowed due to qualifying event
  - Marital status changes
  - Change in number of dependents
  - Employment status changes
  - Change in dependent status
  - Residence change
  - Adoptions
  - And only if status change results in gain/loss of coverage

CAFETERIA PLANS (cont.)

- Non-discrimination testing (p. 4-90)
  - Highly compensated or key EEs
  - Eligibility test
  - Contributions and benefits test
  - Concentration test
  - And special health benefits test
- Must be performed at year end
- Union contract exception – no discrimination testing

FLEXIBLE SPENDING ARRANGEMENTS (pg. 4-92)

- Health care FSA
  - Election for full plan year, made before plan year begins
  - 2016 salary reductions capped at $2,550
  - Special carry over of $500 for 2014
  - No deferred compensation – must have use-it-or-lose-it provision
  - If the plan experiences a gain it must be returned to EEs
  - “grace period” may be allowed for up to 2 ½ months after the end of the plan year. Expenses during the grace period can be paid with the prior years contribution before amounts are lost
  - Full years election amount must be made available for use (p. 4-94)
  - No revoking or changing elections once plan year begins unless there is a qualifying event

FLEXIBLE SPENDING ARRANGEMENTS

- Reimbursements must be for qualified medical, dental or vision expenses/copays not covered by insurance (no premiums)
- Claims must be substantiated

- Dependent care FSA (p. 4-103)
  - Not subject to uniform coverage rule requiring full election amount be made available
    - Reimbursements cannot be made until contribution is made
  - $5,000 annual limit

TAX TREATMENT OF CAFETERIA PLANS (pg. 4-106)

- ER contributions to a qualified plan not taxable
- EE pre tax contribution not included in taxable income, after tax contributions are
- GTL taxation for benefits over $50,000 apply
- Cash always taxable
- Discriminatory plans – key and highly compensated EEs lose tax benefit
- Watch out for state tax regulations

QUALIFIED PENSION AND PROFIT-SHARING PLANS (pg. 4-109)

- Pension plans are categorized as either defined benefit plan or defined contribution plans
  - Defined benefit plan
    - Benefit provide at retirement are generally based on age, compensation, length of service
    - ER contributions are actuarially determined
    - Certain benefits insured by federal government through the Pension Benefit Guaranty Corp.
    - Contributions and benefits forfeited reduce ERs future contributions

QUALIFIED PENSION AND PROFIT-SHARING PLANS (cont.)

- Defined contribution plans
  - Funds are in individual accounts with ER contributing a set amount
  - Benefit amounts are based on account balance
  - ER contributions are usually made annually
  - Plan is easier to understand due to individual accounts
  - No actuarial calculations
  - Annual reports must be filed with the IRS and DOL

QUALIFIED PENSION AND PROFIT-SHARING PLANS (cont.)

- Profit sharing plans
  - Defined contribution plan to which company agrees to make "substantial and recurring" contributions but may be discretionary to some degree
  - Contributions are invested and eventually distributed, either at retirement or death, disability or separation of employment
- Annual compensation limits apply
  - Benefit accruals cannot be made on compensation in excess of $265,000 for 2016
  - Total EE and ER contribution cannot exceed the lesser of $53,000 in 2016 or 100% of EEs compensation

  Page 4-111 for chart

  - Taxation of qualified vs. non-qualified plans (p. 4-115)
  - State tax treatment based on residency (p. 4-116)

401(k) CASH OR DEFERRED ARRANGEMENTS (pg. 4-116)

- EE contribution limit for 2016 is $18,000
- IRC 415 limits, lesser of $53,000 (2016) or 100% of the employee's compensation for that year
- Eligible compensation for 2016 is $265,000
- Catch up contribution – 2016 is $6,000
- Holding period for elective deferrals is 15th business of the month following the month the deferral is made
- Nondiscrimination testing – must not discriminate in favor for highly compensated
  - 5% owner of stock or capital during the current or proceeding year or annual compensation of $120,000 during the preceding year
- Default elections allowed

401(k) CASH OR DEFERRED ARRANGEMENTS (cont.) (p. 4-125)

- EE contributions are deferred from FIT and SIT but not SS/MC/FUTA
- ER matching contributions are not subject to SS/MC/FUTA
- Report deferred amount (including catch up) in Box 12 with code "D" and mark box 13 "Retirement plan"
- Excess deferrals – report on Form 1099-R
- Early distribution penalty – may be subject to additional 10% excise tax
  - Some exceptions at least age 59 ½ , permanently disabled etc.
- Veterans can make deferrals while in the military
  - ER must allow the deferrals with the reemployment and lasting 3 times the period of military service but no longer than 5 years
  - Deferrals are not subject to elective deferral or contributing limits for the year they are made but are for the year they relate
  - Based on earnings that would have been had he/she not been in the military

ROTH IRA (pg. 4-126)

- Contributions are after tax
- Combination of 401(k) pre-tax and catch up, and Roth contribution cannot exceed $24,000 for 2016
- Phase out when adjusted income limit is exceeded
- Distributions are not taxable income
- No matching contribution allowed
- 403(b) Tax-Sheltered Annuities - $18,000 limit for 2016 (p. 4-129)
- 457(b) Deferred Comp for Public Sector and Tax-Exempt Groups – not subject to FIT, but are subject to SS/MC/FUTA (p. 4-133)

NONQUALIFIED DEFERRED COMPENSATION PLANS (pg. 4-145)

- Not restricted by nondiscrimination requirements or contribution or compensation limits (bonus)
- Distributions are reported on W2 not 1099-R
- Funded or unfunded – typically unfunded
- ER contributions are subject to FICA when there is no longer a risk of forfeiture
- SIMPLE plans – for employers with no more than 100 employees (p. 4-141)
- 409A, if not compliant included in gross income. (p. 4-153)
  - All amounts deferred and other vested amounts and their earning are subject to FIT and additional 20% tax on the amount included in income
  - Report taxable amounts in box 1 and box 12 code Z
  - Deferred amounts in excess of $600 report in box 12 code Y, not required for 2016 Form W2
  - If grossed up taxes are subject to additional 20% tax and interest