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Compliance Corner

June 17, 2014

HEALTH CARE REFORM

HHS Publishes List of States Delaying Employee Choice Model in SHOP

On May 27, 2014, HHS issued final regulations regarding the employee choice model available through the SHOP. Under those final rules, states with a federally facilitated SHOP (FF-SHOP) have the option to delay the provision an additional year, through 2015, if it was in the best interest of small group market consumers in that state. Of primary concern is the possibility of increased rates to account for adverse selection.

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FEDERAL UPDATES

CMS Publishes Alert on Same-sex Spouse Treatment Under the Medicare Secondary Payer Laws

On June 3, 2014, CMS issued an alert on the treatment of same-sex spouses under the Medicare Secondary Payer (MSP) laws. As background, the MSP laws describe, among other things, the order of medical care claim payment (primary versus secondary) where an individual is covered under both a group health plan

REMINDERS

Form 5500 Filing Deadline for Calendar-year Plans Is July 31

Plan sponsors are required to file Form 5500-series returns on the last day of the seventh month following the end of their plan years. For calendar-year plans, sponsors must file by July 31, 2014 (reporting on the 2013 plan year).

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PCOR Fee Payable by July 31

The deadline to pay the Patient-centered Outcomes Research Institute fee, commonly referred to as the PCOR fee, is July 31, 2014. The fee is generally due by July 31 of the calendar year following the year in which the plan year ends. In other words, for plan years ending in 2013, the PCOR fee is

and Medicare. The MSP laws also prohibit a group health plan from taking into account Medicare entitlement of a current employee or his/her spouse.

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IRS Publishes Model Voluntary Correction Program Submission Documents

The IRS recently published a new series of forms for use in connection with its Employee Plans Compliance Resolution System (EPCRS). EPCRS allows plan sponsors of qualified retirement plans, including 401(k) plans, to correct certain plan errors and avoid plan disqualification. Under the Voluntary Correction Program (VCP) component of EPCRS, a plan sponsor can, before an audit begins, pay a fee and submit corrections to the IRS for approval.

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IRS Begins Audit Program of 409A Deferred Compensation Plans

The IRS is beginning a compliance initiative project (CIP) focused on 409A compliance. Section 409A governs the tax treatment of non-qualified deferred compensation and retirement plans which are often funded by corporate owned life insurance. However, the rules have been interpreted quite broadly to impact almost every type of compensation arrangement.

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IRS Announces Timeline for Qualified Plan Restatements and Updates FAQ on Determination Letters

On March 27, 2014, the IRS announced that employers using pre-approved defined contribution plan documents must adopt the plan document restatements for the 2010 Cumulative List by April 30, 2016. Further, starting May 1, 2014 and ending April 30, 2016, employers can submit applications for individual determination letters for pre-approved defined contribution plans.

is payable annually through 2019.

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FAQ

If I am an applicable large employer with a sizable population of variable hour and seasonal employees, when do I need to start my measurement periods?

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DOL Delays Issuance of Target Date Fund Disclosure Regulation

On June 4, 2014, the DOL announced that it would again reopen the comment period on the proposed target date fund (TDF) disclosure regulation, further delaying the final regulations. The proposed regulation has not been changed since it was released in November 2010, but this is the second time the DOL has reopened the comment period. Both have been in response to actions by the Securities and Exchange Commission (SEC).

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