

NIXON BENEFITS

Industry Notes, August 2016

■ Should Employees on Disability be Counted as Full Time Employees under ACA?

Recent IRS guidance makes clear that no hours of service are counted once an employee's employment is terminated. So, the first question is whether and when your employee on disability leave terminated employment.

If his or her employment has not been terminated, you need to determine the source of the payments the employee is receiving while on disability leave and whether your company, as the employer, contributed to that arrangement either directly or indirectly. If the employee is receiving disability benefits under an arrangement for which s/he paid the premium entirely with after-tax dollars (such that the benefits are exempt from income taxes under IRC Section 104(a)(3)), then the employer is treated as not having contributed to the arrangement and the employees' hours that are paid for under that arrangement will not need to be counted. If your company paid all or a portion of the disability premiums or allowed an employee to use pre-tax dollars to pay for his or her disability premiums, then, unless another exception applies, you will need to count the hours that are paid for under that arrangement as hours of service, and he or she may be considered a full time employee under the ACA. (See IRS Notice 2015- 87.)

Employee Benefit Review April 2016

- ### ■ If you have an Employee that received an ACA subsidy you may receive a 1411 Certification or Marketplace Notice. While the notice may indicate that an employee received a subsidy it is NOT an assessment of a penalty. That may be assessed by the IRS at a later time. It is important to respond to the notices within 90 days, and appeal if necessary. Notices may go to subsidiaries or to an alternate worksite instead of the main corporate office, so alert other departments to be on the lookout for these notices. Employers are prohibited from discriminating against employees who receive subsidies, so discretion and confidentiality is important.

ThinkHR Blog 6/10/2016

■ First Stop Smoking then Lose Weight

Smokers who are also overweight face a dilemma in trying to take care of their hearts: Should they focus first on losing weight or kicking the smoking habit? A new study suggests stopping smoking should be the first step.

All smokers had a higher risk of suffering a first heart attack than nonsmokers. But the risk didn't go up significantly for smokers who were also obese, the study found.

Wall Street Journal 7/25/2016

■ Requesting SSN for ACA Reporting

An employer can be subject to penalties for failure to file a complete and timely form 1095. Part III of the 1095 requires the SSN of each covered individual. Employer penalties will be waived if the employer takes certain steps to obtain Social Security Numbers. Employers must make an initial request when an application is received and 2 subsequent requests. The 2nd request must be made within 75 days after the application of coverage and the 3rd request must be December 31 of the year after the account is opened. If you haven't followed these rules, the IRS will consider an employer to have complied with the initial request as long as an employer has requested the SSN at the time of enrollment OR any time prior to 7/29/16. Employers who have not made a request for missing SSNs prior to July 29, 2016 should do so as soon as possible.

ERISA Corner Kilpatrick Townsend 8/2/2016

■ Eyeing a Chocolate bar for a pick-me-up?

Check out how much activity you will need to do to burn it off!



Fitbit



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