NIXON BENEFITS

Industry Notes, November 2016

- **What do the election results mean for Health Care?**
Repealing the ACA was a central platform of the Trump campaign. However, no one knows yet what pieces the new administration will attempt to repeal nor how quickly his administration could act on the issue. For now, the law stands. What we do know is that Nixon Benefits will keep you informed and compliant with changes as they come.

- **Also in Election Results: Recreational Marijuana**
Voters in California, Maine, Massachusetts and Nevada joined Alaska, Colorado, Oregon, Washington and the District of Columbia in legalizing recreational use of marijuana in their states. The only state in which a recreational marijuana initiative failed was in Arizona.

Employers can still prohibit employees from possessing, using or being under the influence of pot, including for medical reasons, at work. Employers can still refuse to hire an applicant who tests positive for marijuana in a pre-employment drug test and fire workers who are tested for permissible reasons, and fail the test.

Marijuana use in public is still illegal in all states and is still illegal under federal law. "The federal Controlled Substances Act makes it a federal crime to possess any marijuana, but the United States government does not prosecute possession of small amounts of marijuana," said Erwin Chemerinsky, dean of the UC Irvine School of Law. "It's a value decision that it's not worth law enforcement resources to do so."

SF Chronicle 11/7/2016 & LA Times 11/14/2016

- **If your company allows post-tax payroll deductions, where are those funds held until they are used to pay for the intended benefits or Plan expenses?** According to the DOL, post-tax payroll deductions are ERISA Plan Assets and cannot be comingled with "employer assets." What this means to plan sponsors is that post-tax payroll deductions should be moved to a trust or trust checking account established for the Plan until they are used to pay claims or expenses in order to keep them from mingling with employer assets. This is not true for pre-tax deductions. Your financial institution can assist you in setting up a trust or trusteed checking account.

Emmer and Graeber

- **IRS Extends Reporting Due Dates for 1095 Forms Sent to Individuals**
On November 18, 2016, the IRS announced an extension to the deadline for 2016 Minimum Essential Coverage (Section 6055) and Large Employer Shared Responsibility (Section 6056) reporting due to individuals in early 2017. The original deadline for the 1095-B and C was 1/31/17. The deadline for distribution to employees has been extended to 3/2/2017.

Individuals who file their 2016 federal income tax returns before receiving their 1095-B forms will not be required to amend their income tax returns once they receive their forms. However, they should keep the forms with their tax records.

It is important to note the IRS has not extended the due date for filing 2016 Forms 1094-B, 1095-B, 1094-C, or 1095-C with the IRS. The deadline remains February 28, 2017, for those with 250 or fewer forms filing by paper, or March 31, 2017, if filing electronically.

The IRS also extended its transition relief with respect to penalties if good faith efforts are made to comply with information reporting requirements.

Informed on Reform

- **New 2017 Limits for Health FSA and HSA**

	2016	2017
Health FSA Contributions (EE)	$2,550	$2,600
HSA Contribution (EE/ER)	$3,350	$3,400

- **Telemedicine service offerings among large employers surged** to 59% this year from just 30% in 2015, according to the largest annual health benefits survey. The survey also noted the potential for significant savings when health plan members have a telephonic or video visit. A telemedicine visit typically is $40 versus $125 for a traditional office visit.

EBN 11/22/16

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