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Compensation

Retirement, Health,
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2025 Year-End Compliance Checklist: Key Action Items for Your Benefits and Compensation Plans

As 2025 draws to a close, we want to send a quick year-end reminder to help ensure operational compliance and mitigate risks going into 2026.

1. General Year-End Action Items

Ensure all plan amendments implemented during the year have been properly dated and executed. If board or executive approval is required, obtain required resolutions ratifying and approving those amendments. A blanket consent may be appropriate.

Review your summary plan descriptions (SPD) and make sure they have been updated to reflect plan amendments or changes in administrative practice. Employers must update and distribute SPDs every five years if the plan has been materially amended, or every 10 years otherwise.

Gather your fiduciary committee minutes and make sure that they have been drafted, ratified, and approved, as necessary.

If you had turnover in any of your committees during the year, make sure those changes are properly memorialized and that your committee charters or other documents are updated.

While open enrollment has ended for most plan sponsors and required annual notices have already been delivered, plan sponsors should send any notices during December that may have mistakenly not been delivered earlier in the year.

2. Retirement Plan Operational Compliance (SECURE 2.0 Deadlines)

For defined contribution plan sponsors, 2025 is an important year for aligning operations with major legislative changes, particularly those mandated by SECURE 2.0 Act:

Prepare for Mandatory Roth Catch-Up Implementation. Beginning January 1, 2026, most plans must ensure that catch-up contributions made by participants whose prior year Federal Insurance Contributions Act (FICA) wages exceeded \$150,000 (in 2025) are processed as **Roth contributions**. This requires immediate coordination with payroll administrators and recordkeepers. While most plan sponsors and administrators have been working on this implementation for some time, now is a good time to step back and review the overall strategy, including employee communications and reminders, to ensure it is consistent with your intent.

Address Plan Forfeiture Balances. Review your forfeiture account balance and apply those amounts **by December 31, 2025**. This is particularly important for forfeiture balances incurred before the 2024 plan year, as regulators and plaintiffs' attorneys are focusing on plans with unused, older forfeiture accounts. It is also important to make sure your administrative practice aligns with your plan documents.

Finalize Tax-Exempt 457(b) Plan Amendments. While the IRS extended the amendment deadline for most retirement plans (SECURE Act, CARES Act, SECURE 2.0 Act) until December 31, 2026, **non-governmental, tax-exempt 457(b) plan sponsors** are encouraged to adopt applicable amendments reflecting statutory changes (like updated required minimum distribution rules) on or before the last day of the 2025 plan year (December 31, 2025, for calendar year plans). The deadline to adopt amendment for governmental employers will not expire until 2029.

Review and Amend Plan Documents for Discretionary Changes. Plan documents must be amended by the end of the 2025 plan year to reflect any "discretionary" plan design or administrative changes implemented during 2025. At the same time, plan sponsors should adopt amendments making significant design changes going into 2026. For example, a plan implementing a new safe harbor 401(k) design based on matching contributions must be amended before the start of the 2026 plan year, along with advance participant notice.

Encourage Participant Data Review. Encourage participants to review and update their **beneficiary designations**. At the same time, employers may also consider giving employees the opportunity to assign a trusted contact. Having a trusted contact may provide an extra layer of protection, particularly in case of potential suspicious activity or cognitive decline and does not grant access to manage assets.

3. Health and Welfare Plan Action Items

Compliance efforts heading into 2026 for health and welfare plans are expected to focus heavily on new legislative options, increased fiduciary risk, and mental health parity enforcement.

Evaluate the Impact of the One Big Beautiful Bill Act (OBBBA) on Plan Design. The OBBBA provides employers discretion to implement several changes:

Determine whether to adopt **Permanent Telehealth Relief**, allowing High-Deductible Health Plans to provide telehealth on a pre-deductible basis retroactive to January 1, 2025.

Consider allowing **Direct Primary Care Service (DPCS) Arrangements Relief**, effective January 1, 2026, which permits individuals to use HSAs to pay DPCS Arrangement fees.

Review and potentially increase **Dependent Care Assistance Program (DCAP) limits**, effective January 1, 2026. A cafeteria plan amendment is recommended before the 2026 plan year begins.

Formalize **Permanent Student Loan Repayment Policies** under Code Section 127 to allow for tax-excluded employer contributions.

Strengthen Group Health Plan Fiduciary and Cybersecurity Practices. Recent litigation trends highlight the need to solidify fiduciary practices. Plan sponsors should undertake an analysis of their Pharmacy Benefit Manager (PBM) contract fees to ensure they are “reasonable.” Additionally, plan sponsors must review internal cybersecurity policies and evaluate existing service provider agreements to confirm they comply with Employee Benefits Security Administration guidance, which applies broadly to ERISA plans.

Review Mental Health Parity & Addiction Equity Act (MHPAEA) Comparative Analysis Documentation. In May 2025, the Department of Labor, HHS and IRS announced a non-enforcement policy regarding the 2024 Final Rule issued under the Biden administration. Despite this announcement, group health plans remain subject to the Mental Health Parity and Addiction Equity Act (MHPAEA) and plan sponsors should continue to monitor, review and document their

compliance with the MHPAEA. Continuing to do so may help reduce both regulatory and litigation risk.

Review and Update HIPAA Privacy and Security Policies. Employers should review their HIPAA practices to keep up with new guidance and evolving risks, including ensuring compliance with the HIPAA Security Rule through risk analyses and risk management plans. They should also note that group health plans must update their **Notice of Privacy Practices** by February 16, 2026, to address the confidentiality of substance use disorder patient records. This update is required even though the proposed changes relating to reproductive rights are not required as a result of ongoing litigation in the 5th Circuit Federal Court of Appeals.

Address Ongoing CAA Disclosure and Reporting Requirements. Plans must continue to comply with the Consolidated Appropriations Act (CAA). This includes proactively seeking **ERISA Section 408(b)(2) disclosures from covered service providers** (like brokers or consultants) to avoid engaging in a prohibited transaction. Also, confirm necessary data coordination for **Medical and Drug Cost Reporting (RxDC Reports)**, which are due annually by June 1.

Prepare for ACA Code Sections 6055 and 6056 Reporting. Reporting for 2025 coverage is required in early 2026. Applicable Large Employers (ALEs) need to confirm their ALE status for the year and prepare to use Forms 1094-C and 1095-C. In addition to IRS reporting, it is important to remember to file any state required filings.

4. Non-Qualified Deferred Compensation

Employers maintaining non-qualified deferred compensation plan subject to Section 409A of the Internal Revenue Code should review their administrative records and ensure that any amounts scheduled for payment in 2025 are in fact made no later than December 31, 2025, and reported on Form W-2 or Form 1099 for the year. The failure to comply with Section 409A may result in significant excise taxes and penalties so a year-end review is critical.

The above year-end action items can involve complex regulatory interpretations and require formal plan document amendments and coordinated administrative changes. Failing to act or incorrectly implementing changes can expose your organization to potential IRS or DOL penalties, excise taxes, and increased litigation risk.

Please reach out to Craig Kovarik, Alan Kandel, and David Eckhardt with any questions or for assistance.