

HR Update

November 4, 2015



Agenda

✓ HR Update

- ✓ Health Care Law Update
 - ✓ Top 10 OSHA Citations for the Printing Industry in FY 2015
 - ✓ BLS Releases 2014 Injury and Illness Rates
 - ✓ Preliminary EEOC enforcement statistics
 - ✓ IRS 2016 401(k) Limits (pending)
 - ✓ IRS Considering Earlier Filing of W-2
 - ✓ W-4 Reminder for December 1
 - ✓ FMLA Study
 - ✓ Towers Watson 2016 Healthcare Rate Study
 - ✓ GPO Printer/Federal Contractor? New Regulations to Contend with
 - ✓ Unemployment Benefit Claims Appeals, How Does Your Firm Match Up?
 - ✓ Preparing for the Overtime Exempt Regulation Update
-
- ✓ HR State Law Update

Continuing HR Certification Institute Credit Information

This program has been approved for **1.0 hours of General recertification credit hours** through the HR Certification Institute. Use of the seal is not an endorsement by the HR Certification Institute of the quality of the program. It means that this program has met the HR Certification Institute's criteria to be approved for recertification credit.

Program ID: *(provided at the end of the webinar)*

Title: 11-4-2015 HR Update Webinar

Presenter: Jim Kyger

PIA Human Relations Department



ACA Amendment on Nov. 2.... No Press Coverage

- ▶ President Obama signed the “Bipartisan Budget Act of 2015” on Nov. 2
- ▶ Continues debt spending until after Presidential and Congressional election in '16
- ▶ Title VI, Section 604, repeals the large employer automatic enrollment requirement of the ACA.
- ▶ Basically, large employers with 200+ full-time employees were required to automatically enroll new full-time employees in a health benefit plan and to automatically continue coverage during open enrollment.
- ▶ Lots of questions remained unresolved with this provision. Such as: who is a “full-time employee”? Are dependents enrolled? Which plan should the employee be enrolled in? Is a refund due if the employee opts out?
- ▶ Many or most large employers have auto-enrollment anyway.
- ▶ DOL was supposed to issue regulations, but never did.
- ▶ <http://tiny.cc/34ql5x>, page 37

ACA Amendment for Firms 51-100 Employee Size

- ▶ Protecting Affordable Coverage for Employees Act (PACE) (HR 1624/S. 1099)
- ▶ House passed Sept. 28 by voice vote
- ▶ Senate passed Oct. 1 by voice vote
- ▶ President Obama signed bill on October 7

- ▶ Under the ACA, state based small groups were going to be defined in 2016 to include firms with 51-100 employees. *No longer the case....*
- ▶ Rates would have been significantly higher for these firms in most cases/states, 18% according to one report

- ▶ Sponsored in the Senate by Sens. *Jeanne Shaheen, D-N.H., & Tim Scott, R-S.C.*
- ▶ *Rep. Brett Guthrie, R-Ky.*, sponsored the bill in the House

- ▶ Say “thank you” if you have locations in their states/district.
- ▶ Ask your Senators and Rep., if they yelled, “Yea” or “Nay”
- ▶ For co-sponsor lists see <http://tinyurl.com/olltupj> and <http://tinyurl.com/pzkjir9>

ACA Amended in Transportation Bill

- ▶ July 30, President Obama signs Transportation Bill
- ▶ Contained within was the *Hire More Heroes Act (H.R.3236)*
- ▶ New law exempts individuals from being counted by employers as employees for purposes of the Affordable Care Act's (ACA) employer mandate for any month that such individual has medical coverage under Tricare or the Veterans Administration (VA).
- ▶ The exemption will be applied retroactively for months beginning after December 31, 2013.

IRS Gives ACA Reporting Reminders

- ▶ If you are an ALE, you are required to report certain information to the IRS, as well as to all of your full-time employees, regardless of whether you offer health insurance coverage.
- ▶ There are new IRS forms that ALEs will use to complete this reporting – [Form 1095-C](#), *Employer-Provided Health Insurance Offer and Coverage*, and [Form 1094-C](#), *Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns*. Form 1094-C is used to report to the IRS summary information and to transmit Forms 1095-C to the IRS. Form 1095-C is used to report information about each full-time employee, and is the form that is furnished to full-time employees.
- ▶ If you are an ALE, you are required to furnish each FTE with a statement, Form 1095-C, by Jan. 31 of the calendar year following the calendar year to which the information relates. Because Jan. 31, 2016 is a Sunday, the Jan. 31 due date will shift to Feb. 1, 2016. You will meet the requirement if the form is properly addressed and mailed on or before the due date.
- ▶

IRS Gives ACA Reporting Reminders

- ▶ If you are an ALE, you must file the information returns Forms 1094-C and 1095-C with the IRS no later than Feb. 28 – or March 31 if filed electronically – of the year immediately following the calendar year to which the return relates. Because the 2016 deadline falls on a Sunday, the Feb. 28 due date will shift to Feb. 29, 2016.
- ▶ Even if you're an ALE that is not liable for an employer shared responsibility payment because of transition relief, you still have to comply with the information reporting requirements for 2015. You use the reporting forms to communicate to the IRS that you are eligible for transition relief under the employer shared responsibility provisions.
- ▶ If you're an ALE that sponsors a self-insured group health plan for your employees, you also must report information about employees and their dependents who enroll in the coverage, whether or not the employee is a full-time employee.
- ▶ <http://tinyurl.com/obrkfw8>

2016 Healthcare Rates....

- Towers Watson study on what employers expect for 2016
- June/July 2015 study of firms with 1000+ employees, 487 participants
- *In 2015, 4.1% increase after plan changes; 5.7% before plan changes*
- *2016, 5% increase after plan changes, 6% before plan changes*

- Employer actions done/planned
 - ▶ Curbing the high cost of specialty pharmacy through new coverage/utilization restrictions: 53% of employers have done so already; another 32% are likely to by 2018
 - ▶ Adopting spousal surcharges: 27% of employers have implemented; could rise to nearly 60% in three years
 - ▶ Using a defined contribution strategy instead of defined benefit: 20% today; expected to double by 2018
 - ▶ Offering more customization by adding voluntary benefits: 34% today; could reach 70% by 2018

- Other findings include.....

2016 Healthcare Rates....

- Other findings include.....
- 70% of firms offering a high deductible plan with a **Health Saving Account**
- **Wellness** is an imperative business strategy
- **Employers are transitioning to value-based payment strategies.** Over 70% of employers identify reimbursement methodologies that are based on cost, quality, improved efficiency and better outcomes as important to consider in selecting health plan vendor partners.
- <http://tinyurl.com/omx6rdd>

Top 10 OSHA Printing (NAICS 323) Citations for FY 2015

Standard	Citations	Inspections	Penalty	Description
Total	453 (714 in '14)	134 (189 in '14)	\$579,258 (\$740,534)	<i>All Standards cited for Printing and Related Support Activities</i>
1910.1200	67	39	\$34,350	Hazard Communication
1910.0147	61	33	\$90,114	The control of hazardous energy (lockout/tagout)
1910.0212	46	43	\$122,187	General requirements for all machines
1910.0305	40	31	\$47,601	Wiring methods, components, and equipment for general use
1910.0303	30	21	\$29,173	General, electrical
1910.0219	22	11	\$11,212	Mechanical power-transmission apparatus
1910.0178	20	18	\$23,652	Powered Industrial Trucks
1910.0037	19	15	\$16,035	Maintenance, safeguards, and operational features for exit routes
1910.0157	17	11	\$5,786	Portable Fire Extinguishers
1910.0132	13	12	\$11,834	Personal Protective Equipment

<https://www.osha.gov/pls/imis/citedstandard.html>, note: OSHA is still updating this page.

2014 Injury/Illness Rates

- ▶ BLS statistics released in late October
- ▶ Private Sector, All Industries, I&I Rate Fell from 3.3 in 2013 to **3.2** in 2014
- ▶ Manufacturing steady at 4.0
- ▶ Printing falls from 2.8 to **2.5**
 - ▶ 2004, Printing and Publishing's I&I rate was **4.5**
 - ▶ 1994, Printing and Publishing's I&I rate was **6.7**

2014 Injury/Illness Rates

Industry	NAICS Code	Injuries & Illnesses				
		Total Recordable Cases	Cases w/days away from work, job transfer, or restriction			Other Recordable Cases
			Total	w/Days Away From Work	w/Job Transfer or Restriction	
All Manufacturing	31-33	4.0	2.2	1.1	1.2	1.7
Printing and related support activities	323	2.5	1.5	0.8	0.7	1.0
Printing and related support activities	3231	2.5	1.5	0.8	0.7	1.0
Printing	32311	2.5	1.5	0.8	0.7	1.1
Commercial printing (except screen & books)	323111	2.5	1.4	0.8	0.7	1.1
Commercial screen printing	323113	2.2	1.3	0.7	0.5	0.9
Books printing	323117	4.1	2.6	1.0	1.6	1.5
Blankbook, looseleaf binders, & devices mfg.	323118	3.6	1.7	1.2	0.4	2.0
Support activities for printing	32312	1.9	1.2	0.9	0.4	1.2

Preliminary EEOC Enforcement Statistics

- ▶ EEOC lawsuits filed, analysis from *Seyfarth Shaw* law firm
- ▶ 157 lawsuits filed (FY 2015)
 - ▶ 62 filed in Sept. 2015 alone
 - ▶ 55% Title VII (98 filed)
 - ▶ 36% ADA (38 filed)
 - ▶ 5% ADEA (16 filed)
 - ▶ 3% EPA (5 filed)
 - ▶ 1% GINA (2 filed)
- ▶ 167 lawsuits filed in FY 2014, www.eeoc.gov/eeoc/statistics/enforcement/litigation.cfm
- ▶ Complaint statistics are not available yet, but there is a downward trend since 2011
- ▶ www.eeoc.gov/eeoc/statistics/enforcement/charges.cfm

IRS Raises 2016 401(k)

- ▶ In late October, the IRS announced that the contribution limits for 401(k) plans will remain at \$18,000 in 2016 (no increase).
- ▶ The **catch-up** contribution limit for employees aged 50 and over who participate in 401(k) (and other similar plans) also stays steady at **\$6,000**.
- ▶ <https://www.irs.gov/pub/irs-news/IR-15-118.pdf>

IRS Considering Earlier Filing for W-2s

- ▶ According to the American Payroll Association
- ▶ In order to reduce Stolen Identity Refund Fraud (SIRF), IRS is considering requiring employers to file W-2s earlier
- ▶ Would give IRS more time to catch fraudulent tax filings before it issues refunds
- ▶ APA says possible, but would result in more W-2c being filed.
- ▶ Currently, W-2s are given to EEs by January 31, but are not given to IRS until at least a month later
- ▶ No proposals... yet

W-4 Reminder

- ▶ IRS regulation, 31-3402(f)(2)-1(c)(3)
 - ▶ requires employers to give notice to employees by December 1 every year to file an amended W-4 if their filing status, exemption allowances or exempt status has changed since their last filing of their Form W-4.
 - ▶ How is not specified, could be a pay check memo or stuffer
 - ▶ Don't forget state/city withholdings, if applicable
- ▶ Resources:
- ▶ [Publication 505, Tax Withholding and Estimated Tax \(2014\).](#)
- ▶ The IRS has a [poster](#) that might be useful as well.
 - ▶ www.irs.gov/pub/irs-prior/p213--2009.pdf
- ▶ Pay check calculators (IRS and several payroll vendors have available)
- ▶ Example: *“Did your tax status change this year? E.g., Marital status, dependents, etc.? You may want to change your tax deductions now for 2016. See HR for details.”*

FMLA Study

- By FMLASource® and CompPsycho®

- 10.7% of the U.S. workforce is on FMLA leave at any one time
- The average time off on FMLA was 113.8 work hours, or 14.2 days.

- The top three reasons for leave for an employee's health condition are:
 - 1) surgery,
 - 2) pregnancy and
 - 3) bonding with a new child.

- The top three reasons for denial of leave are:
 - 1) documentation not received in allotted time,
 - 2) requested dates not certified and
 - 3) documentation not received at all.

- <http://tinyurl.com/pbueccy>

GPO Printers/Federal Contractors' New Rules

- ▶ Prohibit discrimination based on “sexual orientation, gender identity”
- ▶ Pay Secrecy (transparency), protects applicants and employees from discrimination based on inquiring about, disclosing, or discussing their compensation or the compensation of other applicants or employees. Effective 1/11/16
- ▶ Disability, new rules that apply to ADAAA, 7% utilization goal in AAP
- ▶ Vietnam Era Veterans Act, changes including hiring benchmark (7% for 2015, adjusted annually... company may establish own benchmark using government data)
- ▶ Minimum Wage, \$10.10 for EEs working on federal contracts (**\$10.15 for 1/1/2016**)
<http://tinyurl.com/qbjmdc2>
- ▶ Fair Pay and Safe Workplaces: Contractors must report violations for 14 different federal laws (& state equivalents) to contracting officer every 6 months and any violations 3 years prior to bidding.
 - ▶ If \$500K+, must provide document to each EE each pay period showing hours worked, overtime, pay, and any additions to or deductions from pay
 - ▶ If \$1M+, restricts the use of predispute arbitration agreements for claims arising under Title VII or any tort related to or arising from sexual assault or harassment.
- ▶ Sept. 2015, EEO is the Law supplement (mandatory) poster for Contractors,
<http://tiny.cc/e0o43x>
- ▶ Equal Pay Report *pending*, W-2 based on different demographic categories
- ▶ Nov. 2, Pres. Obama announced “ban the box” for contractors, details to come.

Unemployment Benefit Claim Appeals

- ▶ According to [UWC – Strategic Services on Unemployment & Workers' Compensation](#) analysis of DOL data, Appeal Reversal Rates are below for CY 2014

- ▶ For Lower Level Appeals
 - ▶ 34.8% for Claimant Appeals
 - ▶ 37.5% for Employer Appeals.

- ▶ At the Higher Level Appeals
 - ▶ 13.1% for Claimants appeals
 - ▶ 19% for Employer Appeals

- ▶ Claims vary state-by-state as well....

- ▶ http://workforcesecurity.doleta.gov/unemploy/ui_appeal_reversal.asp

Unemployment Benefit Claim Appeals

▶ Employer Appeals/ Lower Level

▶ States with the **highest rate of employers prevailing** when they appeal at the **Lower Level**:

- ▶ Delaware 62.9%
- ▶ Tennessee 57.1%
- ▶ Arkansas 52.7%
- ▶ North Carolina 52.3%
- ▶ Colorado 52.2%

▶ States with the **lowest rate of employers prevailing** when they appeal at the **Lower Level**:

- ▶ New York 20.6%
- ▶ Utah 22.7%
- ▶ Connecticut 23.1%
- ▶ DC 23.9%
- ▶ Oregon 25.3%

Unemployment Benefit Claim Appeals

▶ **Employer Appeals/Higher Level**

▶ States with the **highest rate of employers prevailing** when they appeal at the **Higher Level**:

- ▶ Indiana 87.3%
- ▶ South Dakota 70.0% (10 cases)
- ▶ Florida 47.2%
- ▶ New Jersey 41.5%
- ▶ Alaska 40.0% (5 cases)

▶ States with the **lowest rate of employers prevailing** when they appeal at the **Higher Level**:

- ▶ North Dakota 0.0% (63 cases)
- ▶ New Hampshire 0.0% (59 cases)
- ▶ Utah 0.8%
- ▶ New Mexico 2.4%
- ▶ Colorado 3.3%

Selected State Rates, Employer Success Rates, CY 2014

	Lower Level	Higher Level
Virginia	47.1%	20.1%
Maryland	42.1%	6.3%
D.C.	23.9%	no data
North Carolina	52.3%	24.6%
South Carolina	36.6%	19.7%
Massachusetts	32.7%	11.5%
Connecticut	23.1%	12.0%
Maine	31.1%	17.2%
New Hampshire	39.1%	0.0%
Vermont	47.5%	23.8%
Rhode Island	30.8%	17.2%
Wisconsin	27.1%	18.1%
Indiana	45.3%	87.3%
Illinois	25.6%	9.3%
Washington	29.6%	3.9%
Oregon	25.3%	13.0%
Alaska	35.0%	40.0%
Hawaii	40.9%	no data
Idaho	30.7%	12.6%
Montana	31.5%	14.0%
California	32.4%	11.1%

Tips for managing unemployment claims/appeals:

1. UI claim notices are often not routed to the right management person in timely manner. Hang “UI claims” posters in the mail room and train those who sort incoming mail.
2. Documentation will set you free if the claim is not valid (i.e., for-cause). Coaching/disciplinary/exit interview documentation will help prove your case. Have copies available.
3. If witnesses are needed, ensure they are available for the date of the hearing(s). If they are not, immediately ask for an continuance.
4. If the UI claim is valid (i.e., layoff), consider severance to help reduce the UI experience. Plus, offer job placement assistance to help the former employees reconnect quickly. *Printworkers.com* is the largest printing industry job bank.
5. Be aware of your state’s unemployment insurance claims/appeals particulars. Many states have manuals, newsletters, forms, etc. available for employers.

UI Employer Handbook links, selective states

1. Virginia, www.vec.virginia.gov/employers
2. Maryland, <https://www.dllr.state.md.us/employment/empguide/empguide.pdf>
3. D.C., <http://does.dc.gov/publication/ui-employer-handbook>
4. North Carolina, <https://desncc.com/DESHome/Static?page=faqMain#UIBenefits>
5. South Carolina, www.dew.sc.gov/Documents/EmployerHandbook.pdf
6. Massachusetts, www.mass.gov/lwd/docs/dua/business/employer-handbook.pdf
7. Connecticut, <https://www.ctdol.state.ct.us/uitax/empl-guide.pdf>
8. Maine, www.maine.gov/labor/unemployment/tax.html (see videos)
9. New Hampshire, www.nhes.nh.gov/forms/employers.htm
10. Vermont, <http://labor.vermont.gov/forms/#emp>
11. Rhode Island www.dlt.ri.gov/ui/EmployerInfoUI.htm and www.dlt.ri.gov/lmi/publications/handbook.htm
12. Wisconsin, <https://dwd.wisconsin.gov/ui201/>
13. Indiana, www.in.gov/dwd/2614.htm
14. Illinois, www.ides.illinois.gov/IDES%20Forms%20and%20Publications/CLI106L.pdf
15. Washington, <https://www.esd.wa.gov/about-employees>
16. Oregon, www.oregon.gov/EMPLOY/Businesses/Tax/Documents/edpub117.pdf
17. Alaska, <http://labor.alaska.gov/unemployment/ui-bpm.htm>
18. Hawaii, http://labor.hawaii.gov/ui/files/2012/12/HANDBOOK_-_FOR_-_EMPLOYERS.pdf
19. Idaho, http://labor.idaho.gov/publications/ui_tax_information.pdf
20. Montana, <http://wsd.dli.mt.gov/local/livingston/business/Files/Y-%20Employer%20Unemployment%20Handbook.pdf>
21. California, http://www.edd.ca.gov/pdf_pub_ctr/de44.pdf

Overtime Exempt Regulation: Preparation is Key

1. Review fact sheet, FAQs, regulation, etc., at www.dol.gov/whd/overtime/NPRM2015/
2. Review PIA's *HR Flash Report*, www.printing.org/hrflashreport
3. Top management should meet with CFO and HR determine potential effects of the proposal.
 - ❖ Review the salary bands of employees to determine the effect of the proposed changes on existing job responsibilities and titles.
 - ❖ Proactively prepare a plan of action for bumping of salary for certain positions and/or reclassification of positions from exempt to non-exempt status.
 - ❖ Review, update job descriptions for accuracy and list exempt/non-exempt status
4. Review 2016 budgeting
5. Recognize that nothing is final yet. Any proposal will not take effect until 2016 and may have a delayed effective date

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2015 BWA Key Metrics

Management Practices

	Sex Harassment training?*	Mgmt. Sexual Harassment Training?*	Disaster Plan*	Violence Plan*	Job Descriptions*	Performance Appraisals*
Small (2-100 employees)	83%	83%	67%	100%	83%	83%
Medium (101-250)	76%	82%	88%	100%	94%	94%
Large (251+ & multi-plants)	100%	100%	100%	100%	100%	100%
All Firms	85%	88%	88%	100%	94%	94%

2015 BWA Key Metrics

Work Environment

	Voluntary Turnover Rate	Involuntary Turnover	Total Turnover
Small	8.1%	6.9%	15.1%
Medium	6.2%	5.0%	11.2%
Large	6.6%	4.8%	11.4%
All Firms	6.7%	5.3%	12.0%

2015 BWA Key Metrics

Training and Development

	Formal Cross Training	Avg. % of Employees Cross Trained
Small	83%	77%
Medium	88%	70%
Large	89%	84%
All Firms	88%	75%

2015 BWA Key Metrics

Recognition and Rewards

	% Employees Eligible for Incentive Plan	% Workforce Recognized
Small	99.6%	71.8%
Medium	93.6%	76.0%
Large	88.4%	75.9%
All Firms	93.1%	75.3%

2015 BWA Key Metrics

Safety and Health

	Injury/ Illness Rate
Small	2.56
Medium	2.58
Large	2.48
All Firms	2.55

2015 BWA Key Metrics

Health and Wellness

	Single Coverage / Medical Offered	Single Dental Offered	Single Vision Offered	Long Term Disability*	Short Term Disability*
Small	100%	83%	67%	67%	67%
Medium	100%	94%	94%	100%	100%
Large	100%	100%	89%	100%	100%
All Firms	100%	94%	88%	94%	94%

2015 BWA Key Metrics

Financial Security

	Offer 401(k) or other Retirement Plan	Average Employee Contribution to 401(k)
Small	100%	7.4%
Medium	100%	5.9%
Large	100%	6.7%
All Firms	100%	6.3%

2015 BWA Key Metrics

Work-Life Balance

	Picnic*	Child/ school leave*	# of Paid Holidays	Community Activity Program*
Small	83%	67%	7.8	67%
Medium	94%	65%	9.3	94%
Large	89%	56%	9.1	78%
All Firms	91%	64%	9.0	82%

State Law Update: Wisconsin

No news is good news.

State Law Update: Illinois

- ▶ GCC/IBT 458-M *active again*
 - ▶ Had meeting in the spring with members/International Organizer
 - ▶ Election at INTERLAKE MECALUX (warehouse systems firm)
 - ▶ Union lost 73-64 on August 5
-
- ▶ Illinois enacts Veterans Preference in Private Employment Act
 - ▶ allows an employer to voluntarily establish a preference for hiring veterans as long as there is a publicly posted policy (i.e., lobby, website, etc.) that is applied uniformly for all employment decisions regarding the hiring, promotion or retention of employees.
 - ▶ applies to veterans of the five service branches, their reserve components, and the Illinois National Guard
 - ▶ effective on January 1, 2016.
 - ▶ <http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=099-0152>

State Law Update: Indiana

- ▶ Wage Payment Law amended
- ▶ If in a suit to recover unpaid wages due, if the court determines that the employer that failed to pay wages due was not acting in good faith, the court shall order, as liquidated damages for such failure to pay wages, **an amount equal to two times the amount of wages due the employee.**
- ▶ In addition, for assignment of wages, the law has been amended to provide that the total amount of wages assigned for the purchase of uniforms and equipment necessary to fulfill the duties of employment may not exceed the lesser of:
 - ▶ (a) \$2,500 per year or
 - ▶ (b) five percent of the employee's weekly disposable earnings. (*H.B. 1469, Laws 2015, approved May 5, 2015, effective July 1, 2015.*)

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Presenter: Jim Kyger

PIA Human Relations Department



Thanks for Listening. Questions??

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