



Employee Benefits

Incentive Programs

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More and more companies of all sizes are designing incentive plans for their employees. Properly designed incentive programs will:

- increase productivity and improve quality,
- encourage employee involvement in achieving business objectives,
- link costs more closely with business results, and
- support the company's mission and culture.

Employers may want to keep the following keys to success in mind when designing an incentive program. Ideally, an incentive plan should:

- be designed with employee input,
- support the business strategy,
- reflect the organization's mission and culture,
- be simple enough to describe in under three minutes,
- encourage employee involvement,
- be well communicated,
- have performance goals that are SMART (specific, measurable, achievable, results oriented, and time bound), and
- promote teamwork.

Most incentive plans have the following components:

- an introduction,
- participation and eligibility requirements,
- program goals/incentive components,
- program performance measures,
- examples,
- payment procedures, and
- termination guidelines.

In addition to designing an incentive program, it is essential that the program be communicated to all employees. We recommend a quarterly status report to keep everyone motivated and informed.

EBR specializes in designing incentive programs to meet the needs of employers. For additional information on incentive programs contact Linda Kaiser, Jim Dole, or John Cummings at 1-800-765-9429 or 1-406-449-5500. ▲



Compensating Non-Exempt Employees for Travel Time

Time spent traveling throughout the State of Montana is always a time consuming endeavor. It is important for supervisors, managers, and payroll departments to understand when they must compensate non-exempt employees for travel time. Different situations may determine if the travel time is work time or not. The following variations are described in the administrative rules of Montana (24.16.1010, ARM) promulgated by the Montana Department of Labor:

Home to Work - (Ordinary Situation) Normal travel from home to work is not work time. This is true whether an employee works at a fixed location or at different job sites.

Home to Work - (Emergency Situation) Travel to the job and back home by an employee who receives an emergency call outside of his regular hours to report back to his regular place of business to do a job is work time.

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Employee Benefits is published by Employee Benefit Resources, LLP. The technical information it contains is necessarily brief. No final conclusions on these topics should be drawn without further review and consultation.

Reference and Background Check Guidelines

Many managers have experienced the difficulty caused by hiring a job candidate based on their perfectly manicured resume and then later discovering they did not have a complete understanding of their new employee's strengths and weaknesses. Unfortunately for employers, there are no concrete or absolute rules that determine how detailed a reference or background check they should conduct.

The level of reference or background check necessary will greatly depend on the position involved and the potential risk an employee in that position could present. Following are some general guidelines that should assist employers in making informed hiring decisions:

- If necessitated by the level of the position being hired, complete a background check before hiring any job candidate.
- Review the job candidate's resume for any break in their work history. Breaks in employment could reflect any number of issues including: imprisonment, hospitalization, substance abuse, or other potential employee problems.
- Obtain the job candidate's consent to contact their previous employers. Oftentimes, a job applicant's authorization may ease a previous employer's fear of defamation. A job applicant's reluctance to provide

this type of consent may indicate difficulty in their previous position.

- Make use of professional references provided by the job applicant. Despite concerns about defamation, checking with past employers can confirm employment dates and job descriptions. In addition, employers usually are not hesitant to discuss former employees with excellent records.
- An employer's legal duty under the negligent hiring theory is to conduct a reasonable investigation.
- Verify the applicant's previous addresses. This allows the employer to ensure that the applicant lived where they stated and were not in custody.
- Employers should not investigate an applicant's history of workers' compensation claims. The Americans with Disabilities Act prohibits asking about an applicant's workers' compensation history before making a conditional offer of employment.
- Employers should document their efforts at performing background and reference checks.

EBR specializes in assisting employers with a wide range of employee recruitment and retention services. For additional information, please contact John Cummings, Linda Kaiser, or Jim Dole, at 1-800-765-9429 or 1-406-449-5500. ▲

Small Plan Audits

"Small plans" are plans with fewer than 100 participants at the beginning of the plan year. "Large plans" are plans with 100 or more participants at the beginning of the plan year. The "Large plans" have been required to have an independent audit each plan year, but small plans have been exempt from the audit requirements. In order for "Small plans" to continue to be exempt from an annual independent audit, the plans must now satisfy certain requirements.

Small plan audit waiver conditions are effective for plan years which begin after April 17, 2001. (A plan that reports on a calendar year basis is subject to this rule for the plan year beginning January 1, 2002.)

Conditions to remain exempt from the audit requirement:

- 1) At least 95% of the plan assets must be invested in "qualifying plan assets," or if the 95% requirement is not satisfied, the assets that are not "qualified plan assets" must be covered by a bond equal to the value of the plan assets.
- 2) The plan's Summary Annual Report (SAR) must include: (a) information about the name of each

institution holding "qualifying plan assets" and the amount of such assets held by such institution as of the end of the plan year (with the exception of individual self-directed accounts and participant loans); (b) information about the surety company issuing the bond covering the assets that are not "qualifying plan assets;" (c) a notice that the plan participants and beneficiaries may request to examine or receive from the regulated financial institutions describing the "qualifying plan assets;" and (d) a notice that the participants and beneficiaries should contact the DOL's Pension and Welfare Administration if they are unable to examine or obtain copies of these items.

What are "Qualifying Plan Assets?"

Qualifying Plan Assets are:

- 1) Qualifying Employer Securities
- 2) Participant Loans
- 3) Assets Held by Regulated Financial Institutions
- 4) Registered Mutual Funds
- 5) Investment and Annuity Contracts ▲

Professional Profile



John M. Cummings (PHR) has been an employee benefit and human resource consultant with EBR since 2001. His experience includes conducting salary and benefit surveys, analyzing and designing performance appraisal programs, and administering benefit programs including flexible

benefit plans. John also provides a wide variety of human resource consulting services including the development of job descriptions, personnel policy manuals, organizational analysis, and provides research on Federal and State employment legislation. John has management expertise in long-term healthcare. In addition, he was worked in educational software development, custom technology solutions, and distance learning. John received his M.B.A. Degree from the University of Montana. In addition, John is certified as a Professional in Human Resources by the HR Certification Institute. John enjoys spending time with his wife, two children, and black lab.



Safe Harbor Deadlines

Sponsors of safe harbor 401(k) plans must provide written notice of safe harbor provisions to all eligible employees at least 30 days (and no more than 90 days) before the beginning of each plan year. For calendar year plans, written notice must be provided no later than December 1, 2002 for the plan year beginning January 1, 2003.

Sponsors can give themselves the option of amending their 401(k) plan to include safe harbor provisions as late as 30 days before the end of the plan year by providing advance written notice that safe harbor provisions may be adopted. This notice must be provided at least 30 days before the beginning of the plan year. For calendar year plans that provide this notice by December 1, 2002, the sponsor has until December 1, 2003 to adopt the 3% safe harbor provisions for the plan year beginning January 1, 2003. ▲

Compensating Non-Exempt Employees for Travel Time

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Home to Work in Another City - (Special One-Day Assignment) All time spent traveling to another city would be considered work time except for the travel from home to public transportation, such as a bus depot. This would be the normal home to work travel. The usual mealtime would be non-compensated also.

Travel All in the Day's Work - Time spent by an employee in travel as part of his principle activity, such as travel from job site to job site during the workday, must be counted as hours worked. If the employee goes home instead of returning to the employer's premises from the last job site, this travel is home-to-work travel and is not time worked. If an employee is required to report at a meeting place to receive instructions or to perform other work there, or to pick up and carry tools, the travel time from the designated place to the work place must be counted as hours worked.

Travel Away from Home Community - Travel that keeps an employee away from home overnight is travel away from home and is clearly work time when it cuts across the employee's workday (employee is simply substituting travel for other duties). This time is not only hours worked on regular working days during normal working hours, but also during the corresponding hours on nonworking days. For example, if an employee normally works 8 a.m. to 5 p.m. Monday through Friday, the travel time during these hours on Saturday and Sunday is also counted as work time. If the employee requests to drive his car in place of public transportation that has been offered, this travel time is counted as hours worked only to the extent of time it would have taken to travel if the employee had been using public transportation.

Work Performed while Traveling - Any work which an employee is required to perform while traveling must be counted as work time. Sleep in adequately furnished facilities would not be counted as hours worked.

One critical aspect of compensating an employee for travel time is appropriately classifying an employee as exempt or non-exempt. If an employee is misclassified as exempt, they may be eligible for uncompensated travel time. EBR specializes in assisting employers with a wide range of wage and hour questions including travel time compensation and the classification of employees as exempt or non-exempt. For additional information please contact John Cummings, Linda Kaiser, or Jim Dole at 1-800-765-9429 or 1-406-449-5500. ▲

Employee Benefit Plan Design and Administration

In today's labor market, a well-designed employee benefit package can be a competitive recruitment tool as well as help retain experienced, quality employees. However, benefit plans and the laws regulating them are rapidly changing, becoming much more technical and complex. The professionals at EBR possess the knowledge and experience to ensure compliance with the myriad of regulations governing employee benefit plans. EBR can help you design a benefit package that is valued by employees and the most effective benefit package for your organization. We develop benefit designs for new and existing businesses and assess employee benefits to determine optimal value. EBR designs and, in some cases, administers a variety of employee benefit programs including:

Tax Advantaged Plans

- Cafeteria (Section 125) Plans
- Medical Care Reimbursement Plans
- Dependent Care Reimbursement Plans

Providing your employees with a retirement plan that provides them with more control and quicker access to their

accounts is essential in today's marketplace. Your company can receive significant tax savings and your employees will have a greater sense of comfort about their future by providing a comprehensive retirement plan. EBR specializes in retirement plan design and administration, including:

Retirement Plans

- 401(k) Plans
- ESOPs (Employee Stock Ownership Plans)
- Defined Benefit Retirement Plans
- Davis Bacon Plans
- Profit Sharing Plans
- Age-Weighted Profit Sharing Plans

Daily Valuations via the EBR Daily Plan-It

Daily account valuations can be readily accessed via the Internet or by using a toll-free number. Through our Web and Voice Response Unit (VRU), plan participants obtain important employee benefit information instantly.

For more information or an appointment with an EBR professional, please contact us at 406-449-5500. ▲

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