



# Employee Benefits

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## Department of Labor Issues Final Rules Regarding Notice of Blackout Periods

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**N**ew rules regarding blackout notice requirements were effective January 26, 2003. A blackout period occurs when the ability of retirement plan participants or beneficiaries to direct or diversify assets credited to their accounts, or to obtain loans or distributions from the plan, will be restricted for more than three business days.

Blackout periods normally occur when a plan sponsor changes third party recordkeeping firms or changes investment brokers and/or the complete menu of investment options available for participant investment direction. Blackout periods most often would affect daily valued plans, but can also affect other plans in which participants are eligible to change the direction of their investments on specific dates, or receive distributions after specific dates.

The notice must be provided no less than 30, and no more than 60 days in advance of the beginning of the black out period. The notice must contain the following:

- Reasons for the blackout period
- Description of rights suspended during the period, including identification of the investments subject to the blackout period
- Expected length of the blackout period
- A statement advising participants and beneficiaries to review their current investments in light of the inability to

direct or diversify their assets during the blackout period

- Name, address, and telephone number of an individual who can answer questions during the blackout period

Exceptions to the notice requirement include the following:

- Restriction by reason of application of security laws as defined under the Securities Exchange Act of 1934
- A regularly scheduled suspension that has been previously disclosed to participants and beneficiaries via a Summary Plan Description or other document instruments
- Restriction by reason of a Qualified Domestic Relations Order
- Blackout resulting from unforeseeable circumstances beyond the administrator's control, such as system failure lasting more than 3 days. However, notice must be provided as soon as possible under the circumstances, and the plan administrator must prepare a written statement, signed and dated, as to why the 30-day advance notice could not be given.

If you have any questions regarding the new blackout period notice requirements, please contact Laurie Harmon at Employee Benefit Resources. ▲

## Should I Consider a Defined Benefit Plan?

Defined Benefit Plans (DB plan) are the original retirement plans. They were used almost exclusively by the large employers of the early twentieth century – railroads, banks, insurance companies. Back then, the retirement benefit provided was a monthly check at retirement age, fully funded by the employer. These types of plans rewarded service with a single employer and allowed employees the security of knowing exactly what their retirement income would be.

In the last 15 – 20 years, these plans have fallen out of favor. Workers are no longer staying with one company for their entire employment tenure. Employers have placed some of the onus for retirement savings on the employee, and 401(k) plans have enjoyed a huge boom. But once again the tide is turning, and defined benefit plans are making a comeback.

There are several reasons for the return of the DB plan. These include:

- Defined benefit plans can be used to rapidly accumulate substantial benefits for older participants.
- Baby boomers are turning 50 and starting to think about retirement. In many cases, their retirement savings is not what they would like it to be.
- Social Security's solvency is questioned by many.
- Recent legislation increased limits and made DB plans less complicated, thereby making them more attractive.

In a 401(k) or other defined contribution plan, the annual

limit on contributions is \$40,000 per employee. However, contributions to a DB plan are not limited; the limit applies only to the benefits that will be paid. So an employer can contribute substantially more than \$40,000 on behalf of a participant to a DB plan – in some cases, more than \$100,000 per year.

As a rule, defined benefit plans favor older, higher paid employees. Because older employees are closer to retiring, their contributions must be larger because there are only a few years to fund the promised benefits. On the other hand, younger employees have many years for funding benefits, so their contribution requirement can be much smaller than under a traditional defined contribution plan.

Good candidates for defined benefit plans include:

- Small employers with older owners and principal staff, and younger rank-and-file employees.
- Employers with only one employee, the owner, who is older and has relatively high income to shelter.
- Any employer that wants to provide a guaranteed retirement income to employees, and can afford to do so.

Despite the recent law changes, defined benefit plans are still more complex than their defined contribution counterparts. They are also more expensive to administer. However, in many cases the higher costs are more than offset by the additional benefits that are gained. To discuss whether a defined benefit plan is right for you, contact Employee Benefit Resources. ▲

## How to Ensure a Good Fit

In today's business climate, applicants are taking an increasingly active role in researching an organization before accepting an employment offer. The hiring process has increasingly become a two way exchange of information. Better fit means more job satisfaction, higher productivity level, and a lower turnover rate. All of which contribute to reducing hiring and replacement costs over the long run.

Both large and small companies are utilizing a Realistic Job Preview (RJP) to provide potential employees with specific information as to what it would be like to work in the job if they are selected.

It is important to provide a balanced approach of the company and the job. Your goal is to paint a realistic picture for the applicant. RJP's can be tailored based on

company size and recruitment goals. An RJP could include the following:

- Description of a typical day
- Challenging and rewarding aspects of the job
- Opportunities for career advancement and professional development
- Compensation and benefits
- Requirements that may be unique to the organization such as travel, shift work, cold calling, managing customer complaints, and physical demands
- Current and future organizational structure

Information can be communicated in several ways depending on the position, recruitment goals, and your organization's budget.

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# Employee Health Insurance - Integrating Other Benefits to Control Premium Costs and Maintain Benefits

Rising health care costs continue to challenge employers as they design their employee benefit packages. For 2003, the cost of health insurance is estimated to increase by more than 15%. As these costs continue to rise, employers are faced with how to continue providing valued employee benefits while controlling costs.

When faced with increased premiums, employers often consider reducing benefits and/or shifting more premium costs to employees. This reaction causes additional out-of-pocket costs to fall on the employee – a burden that can result in employees choosing to waive coverage for themselves and/or their dependents. Employees and their families becoming uninsured, benefits neither the employee nor the employer.

A balanced approach to complementing an employer's health care benefit can lead to controlled premium costs, maintained levels of benefits, and satisfied employees. Benefit plans which an employer can use to supplement their health insurance benefit include:

- Cafeteria Plans
- Medical Reimbursement Plans
- Health Reimbursement Arrangements
- Medical Savings Accounts

## Cafeteria Plans

Cafeteria plans, also known as Section 125 or flexible benefit plans, allow employees to set aside a portion of their wages on a pre-tax basis to pay for out-of-pocket expenses. Plans may be designed to shelter only premium expenses, or may include spending accounts for medical (including dental, vision, and prescription) and dependent care (day care) expenses.

When costs of health care benefits shift to the employee, a cafeteria plan reduces the impact of the employee's increased share of the expenses. Employee withholdings under the plan are not subject to federal and state (where applicable) income taxes and FICA taxes. Depending on the employee's tax bracket and whether or not they are in an income tax state, pre-tax savings for most people range from 22% – 42%. Employers share in the tax savings, as employer FICA taxes are not paid on employee redirections – a savings of 7.65%.

Employers may also make contributions to a cafeteria plan.

## Medical Reimbursement Plans

Using a medical reimbursement plan, employers assume a portion of the risk by self-insuring part of the benefits. For example, in order to reduce the annual premium increase on health insurance, an employer may increase the deductible on their coverage from \$500 to \$1,500.

However, to reduce the impact on employees, the employer may implement a medical reimbursement plan covering the \$1,000 increase in the deductible.

The plan allows the employer to reduce their premium expenses, while only incurring reimbursement expense if an employee incurs over \$500 in deductible related expenses. The benefit reimbursement is not taxable to employees and the reimbursement amount is deductible as a business related expense for the employer.

Other plan designs may include reimbursement for specific types of expenses such as dental or vision.

Under a medical reimbursement plan, an employer's exposure will be equal to the plan benefit limit times the number of covered individuals. However, the actual exposure will be based on the covered expenses incurred by covered individuals and actually submitted. The employer does not fund the benefit until a claim is submitted.

## Health Reimbursement Arrangements

Health Reimbursement Arrangements (HRAs) are the latest ingredient to the health care benefit mix. These benefits are funded by the employer and provide design features which set them apart from cafeteria plans and medical reimbursement accounts. For example:

- An HRA may allow unused balances to be carried forward from benefit period to benefit period, in contrast to the "use it or lose it" feature of a cafeteria plan or medical flexible spending account (FSA) and the single plan year benefit under a medical reimbursement plan.
- HRAs may be designed to allow access to unused balances by terminated or retired individuals. FSA and medical reimbursement plan benefits are limited to the applicable plan year and may or may not be available after separation of employment.

## Medical Savings Accounts

Medical Savings Accounts (MSAs) are yet another type of benefit which may be offered by an employer in conjunction with their health plan. There is a Federal MSA and individual states may also have MSA programs. The Federal program provides an exemption from federal income tax, but may not provide state relief.

The Federal MSA must be offered in conjunction with a high deductible health plan. For 2003, a high deductible health plan is defined as coverage with an individual deductible between \$1,700 and \$2,500, and annual out-of-pocket expenses not exceeding \$3,350.

## Employee Health Insurance - Integrating Other Benefits to Control Premium Costs and Maintain Benefits

Family coverage meets the high deductible health plan requirement if the family deductible is between \$3,350 and \$5,050, and the out-of-pocket limit is no more than \$6,150.

A second requirement is that only small employers may offer an MSA to their employees. A small employer is defined as one who employed 50 or fewer employees in each of the last two years.

State MSAs may also be available. For example, the Montana MSA includes the following features:

- State income tax relief, but not federal tax relief
- Annual contribution limits of \$3,000 per covered employee
- No eligibility limit on the size of the employer
- May be offered in conjunction with any health plan (not limited to high deductible health plans)

### Summary

Employee benefit costs typically range from 21% – 25% of total compensation, so effective use of employer funds is important. When designing their employee health care benefit package, employers need to consider their goals as well as the features and benefits which are valued by their employees. Employees tend not to utilize benefits unless the benefit is valued and understood by the employee.

Whether the employer is shifting the cost of benefits or reducing benefits, employee loyalty is likely to be higher if employees understand the benefits and understand the employer's effort in designing the benefit package.

Contact Employee Benefit Resources if you would like assistance in analyzing your health care benefits or redesigning your benefit package.

(1) Plan type may still be sponsored by partnerships, LLCs, S-Corps, and sole proprietors for their employees.

(2) Spouses of a sole proprietor who are bona fide employees are eligible to participate and claim expenses for the sole proprietor and/or their dependents. ▲

|  | Cafeteria Plan Spending Account   | Medical Reimbursement Plan  | Health Reimbursement Arrangement  | Federal Medical Savings Account   |
|--|---|---|---|---|
| <b>Employer or employee funding</b>          | Both  | Employer  | Employer  | One or the other; not both  |
| <b>Excludes</b>                              | Partners in a partnership, members of an LLC, sole-proprietors, and 2% owners of an S-Corp. (1) (2)                 | Partners in a partnership, members of an LLC, sole-proprietors, and 2% owners of an S-Corp. (1) (2)   | Partners in a partnership, members of an LLC, sole-proprietors, and 2% owners of an S-Corp. (1) (2)                                 | Employers who are not small employers (a small employer employs 50 or fewer employees on average) |
| <b>Requires high deductible health plan?</b> | No  | No  | No  | Yes   |
| <b>Employer tax treatment</b>                | Employer contribution is a deductible business expense.<br><br>Employer does not pay FICA on employee withholdings. | Employer reimbursements are deductible business expenses.   | Employer reimbursements are deductible business expenses.   | Employer contribution is a deductible business expense.   |
| <b>Employee tax treatment</b>                | Employee withholdings are not subject to federal and state income taxes and FICA.                                   | Employer reimbursements are not taxable to employee.  | Employer reimbursements are not taxable to employee.  | Employer contributions are not taxable to employee.   |
| <b>Types of medical expenses</b>             | All medical expenses within meaning of IRC Section 213.   | All medical expenses within meaning of IRC Section 213. May be designed to cover only specific medical expenses. Does not include premiums. | All medical expenses within meaning of IRC Section 213. May be designed to cover only specific medical expenses. Includes premiums. | All medical expenses within meaning of IRC Section 213. Does not include health premiums.         |
| <b>Benefit limit</b>                         | No limit for qualifying health insurance premiums.<br><br>Out-of-pocket medical expense limit defined by plan.      | Defined within plan.  | Defined within plan.  | 65% of employee only deductible; 75% of family deductible.  |
| <b>Rollover to next plan year</b>            | Unused funds may not be rolled over to next plan year; "Use it or lose it."   | Benefit available only during the applicable plan year.   | Plan may be designed to allow unused funds to carry forward to subsequent benefit periods.  | Yes   |
| <b>Benefits available after employment</b>   | For remainder of plan year, only to the extent of the participant's account balance.                                | Only for expenses incurred while a participant. COBRA may apply.  | Plan may be designed to allow unused funds to be available to terminated/retired employees. COBRA may apply.                        | Account remains available to individual.  |

## Human Resource Advisory Services Now Available

**E**mployee Benefit Resources, LLP offers human resource advisory services to allow employers immediate access to experienced and certified HR Advisors on a daily, weekly, monthly, or project basis.

Employee Benefit Resources will provide human resource advice when you need it. HR Advisors are available to act as your own human resource department or to complement your existing human resource department. Packages and custom services are tailored to meet your organization's needs.

For additional information, please contact Ellen Feaver, Jim Dole, or John Cummings. ▲

## New On-line Employee Flex Plan Savings Calculator

**E**mployees may now visit EBR's web site to estimate the tax-savings they may experience by participating in their employer's flexible benefit plan. This tool can be beneficial in increasing enrollment in the employer's plan – either by helping the employee identify qualifying expenses or by demonstrating the estimated tax savings available to the employee. And, increasing the flex plan's enrollment increases the employer's FICA tax savings, creating a win-win situation for both the employee and the employer.

The calculator and additional flexible benefit plan information may be accessed by clicking the "cafeteria plans" button on the right side of our home page (ebrworld.com).

If you would like information about implementing a flexible benefit plan for your business, or would like to discuss the possibility of EBR administering your flex plan, please call Jim Dole, John Cummings, or Ellen Feaver. ▲

## Plan Sponsor Web Module Now Available

**E**mployee Benefit Resources, LLP now offers to retirement plan sponsors, the ability to have access to plan and participant information via the Internet. Plan sponsors can use the web module for the following:

- View plan summary information: total plan assets by fund and source, top heavy status, and number of participating employees
- View employee category information: breakdown of employees by category
- Upload census and payroll information; view previously uploaded files
- View, download and print plan documents and reports
- View plan and participant transaction history
- View Web/VRU transaction history
- View participant information summary
- View participant account balance information, investment elections and contribution history

If you would like further information regarding the Plan Sponsor Web Module features and applicable fees, please contact Laurie Harmon of Employee Benefit Resources, LLP. ▲

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## How to Ensure a Good Fit

Examples include:

- Job descriptions
- Company brochures or manuals
- Interviews with existing employees and leaders
- Videos showing a typical day
- Information shared in the interview process
- Lunch meeting with leadership or employee team
- Office tours

In addition, some companies have a potential employee spend a day observing a current employee.

The RJP can be integrated into an established recruitment and selection process to help ensure hiring success. EBR consultants are available to help with your organization's recruitment and selection needs. For additional information, please contact Linda Kaiser, Jim Dole, or John Cummings. ▲

## Why Tax Free Exchange?

In the West, farms and ranches that have been in the same family for generations, invariably have value that far exceed the basis in the property. Owners ready to sell the family property may be perplexed about paying a large portion of the proceeds in federal and state taxes. They are challenged to successfully transition their ownership interest while preserving their acquired wealth.

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If the property is sold and the taxes paid, the owners are further challenged to invest the proceeds.

The investment choice typically should preserve the family wealth and provide an income stream to either augment current financial needs or retirement.

Real estate is the only investment that allows the deferral of federal and state income taxes by reinvesting in real estate. Real estate also provides the opportunity to continue wealth preservation and an income stream for current needs.

The key for a successful exchange is to find property that meets the owner's financial and personal objectives. Exchanging to another agricultural property or development property may be an excellent long-term investment but may not fit your objectives. An income producing property well positioned in a dynamic market may be a better-suited alternative.

Finding replacement property that meets the client's objectives while qualifying for the 1031 exchange criteria is tantamount to a successful exchange. Acquron represents the buyer's interest in finding replacement property that not only qualifies under the 1031 exchange provisions but also meets the client's objective. We use a *Team Approach* to provide tax consultation, valuation services, and brokerage services.

Call Acquron at 406.449.0268 and ask for Rick Ahmann, Ray Petersen, or Tom Brooke for more information. ▲

Return Service Requested

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