HR STRATEGIES

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2020 IRS Retirement Plan Limits

Employee 401(k) contributions for 2020 can increase by $500 to $19,500, while the combined employer and employee contribution limit rises by $1,000 to $57,000, the IRS announced Nov. 6.

For participants ages 50 and over, the additional "catch-up" contribution limit will rise to $6,500, up by $500.

Companies should adjust their systems for the new year and inform employees about the new limits in year-end open enrollment materials. Because the IRS announced the 2020 contribution changes so late this year, you may need to provide addendums to benefits materials that have already been printed for the 2020 benefits open enrollment period.

Hiring a Competitor's Employees

Employers often may find themselves in a position to hire a competitor's employees. In these cases, it is worthwhile to take some precautionary steps because state courts may find that a new employer's interference with valid noncompete agreements constitutes "tortious interference" with the former employer's relationship with the employee.

An employer should first determine if the employee is subject to any restrictions. An employer should not be satisfied with a vague answer to a question whether the employee has any sort of restrictive agreement with the former employer. The employer should have the employee sign a statement that the individual is not subject to any noncompete or other agreement. If an employer hires a competitor's employee knowing that the employee is subject to a restrictive covenant, the organization could be sued for interfering with the previous employer's contractual rights, just as employers could sue an organization that hired one of their employee's subject to such an agreement.

The key to lawsuits regarding violation of another organization's restrictive covenant is the hiring organization's knowledge of the restriction and its decision to employ the person in spite of this knowledge. This is why the first step in such a case may be the sending of a certified letter by the old employer to the new, putting the new employer "on notice" of the restriction. If, in fact, it can be proven that the nature of an individual's work for the new employer makes it virtually impossible for the individual not to use or disclose the old employer's confidential information, a court may be persuaded to restrain the employee from working for the competition at all.

If an employer learns that a new hire does have a restrictive covenant, the employer should get a copy of it and have legal counsel examine it. It may be that the prohibitive activity does not match the duties of the position to be filled. The agreement may also appear too broad. It may also be that there was no consideration in return for the agreement being signed.

Once an employer knows how enforceable the agreement is, the employer can decide how to proceed. An employer may want to begin negotiations with the other employer in cases where the agreement seems especially strong. The employer should be especially cautious about hiring employees with noncompetition agreements if the organization requires such agreements of its employees. It will be very difficult to enforce agreements, based on what the employer argues is a legitimate reason for having employees sign them, if an employer finds it acceptable to violate another employer's agreements.

Talent Acquisition Support

If your organization has job openings and needs assistance in filling those open positions, contact HR Strategies' staff for support. We can focus on your recruiting needs so that you can focus on your business needs.

30 Days to Comply

The new Delaware law specifically addresses the prohibition against sexual harassment under the Delaware Discrimination in Employment Act (DDEA), sets an affirmative defense for employers, imposes mandatory notice distribution on employers with at least four employees within the state, and provides anti-sexual harassment training requirements for employers with at least 50 employees in the state. The new law became effective on January 1, 2019.

What should employers do?

- Review policies to ensure sexual harassment prevention policies comply with the new law.
- Distribute the Department of Labor's Notice to each new employee a copy of the Information Sheet is available on www.hrstrategies.org.
- Ensure all employees have completed the mandated interactive harassment prevention training prior to December 31, 2019.

HR Strategies, LLC offers training brought to your organization or the option of state specific online interactive Anti-harassment Prevention training. We provide the mandated training requirements and options for the following states: California, Connecticut, Delaware, Maine and New York. The training can be used for new hires that did not attend your organization's group training session, or for a newly hired or promoted supervisor that that did not complete your company's manager training.

Feel free to contact us with any questions you may have or for pricing on our programs.

Record Retention

You've tackled your piles of papers and now have a system in place for maintaining proper records on all employees. But which records are you required to maintain? **It depends.** There are a variety of federal statutes that require employers to maintain certain paperwork on all their employees—and for a specified duration. These laws require that, among other documents, employers retain payroll records, certain pre-hire paperwork, health and safety logs, benefits-related forms, and employee I-9 forms. In addition to the records that are required by law, employers should also be maintaining personnel files on all employees that include job descriptions, training records, performance reviews and disciplinary notices. These files are necessary for supporting and defending employment decisions, such as promotions, transfers and terminations.

The following is a list of records employers are required to keep:

- **Resumes & employment applications**
- **New hire paperwork**
- **I-9 form**
- **Performance records**
- **ADA-related documentation**
- **Leave records**
- **Payroll records**
- **Benefits forms**
- **Health & safety records (OSHA logs)**

Please feel to reach out to us with any questions regarding specifics and retention requirements.

Voluntary Self-Identification of Disability: Is it Time for Contractors to Resurvey Their Workforces?

The regulations that updated Section 503 of the Rehabilitation Act of 1973 took effect on March 24, 2014. These updates required federal contractors and subcontractors to invite their employees to voluntarily self-identify their status as an individual with a disability using the Office of Federal Contract Compliance Programs' (OFCCP) official invitation, **Form CC-305**.

They further require that contractors resurvey their workforces at least once every five years, as well as issue at least one reminder between invitations. So it may be time for many contractors and subcontractors to conduct their resurvey if they have not already recently done so.

Contact HR Strategies staff at 302.376.8595 or info@hrstrategies.org if you would like support or would like to learn more about the items in this newsletter. Please contact us if you would like to be removed from our Monthly Strategies mailing list or if you would like for us to add someone to our mailing list.