



## LEGISLATIVE UPDATE JANUARY 12, 2018

### What Notable Employment Provisions Are in the Tax Bill?

The first significant piece of legislation to make it to President Trump's desk, the Tax Cuts and Jobs Act (H.R. 1), includes an employer tax credit for providing paid family and medical leave, elimination of a business expense deduction related to nondisclosure agreements, repeal of the Affordable Care Act's (ACA) individual mandate, and changes to the tax treatment of certain employer-provided fringe benefits, among others.

### What the Individual Mandate Repeal Means for Employers

The Tax Cuts and Jobs Act effectively repeals the Affordable Care Act's (ACA's) requirement that most Americans obtain ACA-compliant health coverage. Here's how it will affect employer-sponsored health plans now, and what it portends for the future of the employer health care mandate and related reporting obligations.

### HR Tax Reform Topics

On December 15th, the U.S. House and Senate Conference Committee on H.R. 1, the Tax Cuts and Jobs Act, released their [conference report](#) (review a [section-by-section analysis](#) of the conference report). The 503-page agreement contained compromises on a wide range of tax reform topics and included several big wins for HR, employers and employees. Those include:

Preservation of Employer-Provided Education Assistance (Internal Revenue Code (IRC) Section 127): Allows employees to exclude from income up to \$5,250 of education assistance provided by their employer, at the undergraduate, graduate or certificate level, per year.

Preservation of Qualified Tuition Reduction Programs (IRC Section 117): Allows education institutions to provide their employees, spouses and children educational assistance tax-free.

Preservation of Dependent Care Flexible Spending Accounts (IRC Section 129): Allows employees to contribute up to \$5,000 per calendar year tax-free into an account utilized for child care spending.

Preservation of Adoption Benefits: Allows employees to exclude from income adoption assistance provided by their employer up to \$13,500 (indexed for inflation).

Preservation of the Work Opportunity Tax Credit: Provides employers with a 40 percent tax credit for hiring individuals in certain targeted groups.

Preservation of Medical Savings Accounts (MSAs): Allows certain individuals to contribute to an MSA, which is a tax-exempt trust or custodial account.

Preservation of Catch-Up Provisions for High Earners: Allows individuals making more than \$500,000 annually to make catch-up provisions to 401(k), 403(b) and 457 plans.

### Walmart giving workers payday advances

After taking heat for decades about its treatment of its workforce, Walmart is trying to ease some of its employees' financial strain by allowing them to [tap earned wages before their next payday](#), the New York Times reports. The company says it wants to help workers avoid costly payday loans and other debt traps, but the service highlights the struggles many retail workers face to make ends meet.

Walmart is also picking up the fee for an [app called Even](#) that helps workers manage their finances by pinpointing how much they can [safely spend before their next paycheck](#), reports the Eugene Register-

Guard. Workers can get eight payments, known as instapays, per year free of charge. For most of the workers, the instapays will be deducted from their next paycheck.

#### Download Your E-Verify Records Before They Are Purged

As of March 1, 2018, employers will no longer have access to E-Verify records that were created on or before Dec. 31, 2007.

#### NLRB Deals Severe Blow to Micro-Bargaining Units

Unions will have a much tougher time getting their foot in the door through small groups of employees organized into micro-bargaining units, thanks to a decision by the newly Republican-controlled National Labor Relations Board (NLRB).

#### DRUG FREE WORK PLACE POLICIES ISSUES with ADA

Most employers have “drug-free workplace” policies, but they might not realize these policies require employees to disclose any prescriptions that might affect their ability to perform the essential functions of their job. Well how do you go about asking for this information without violating the Americans with Disabilities Act? Great question!

Click [here](#) to get the answers from our partners at Shawe Rosenthal.

#### Here's where the minimum wage is going up in 2018

CNN MONEY: Across the country, many Americans will ring in 2018 with a raise. On Dec. 31 and Jan. 1, the minimum wage went up in 18 states and about 20 cities and counties, according to an analysis by the National Employment Law Project. In some cases, the increases put employees closer to a \$15 an hour minimum wage, or what workers' rights advocates call the "living wage." [Read more](#)

#### Johnson County planning for another minimum wage increase

CEDAR RAPIDS - With a new study showing that Johnson County's two-year-old minimum wage increase has provided raises for some residents, yet hasn't hurt businesses, the county Board of Supervisors plans to continue with another recommended pay increase next year. Since state pre-emption rules passed earlier this year make the county's local minimum wage ordinance unenforceable, the pending raise from \$10.10 would be voluntary for business owners, yet highly recommended by the board. The increase would be based on the Consumer Price Index.

#### Review, Revise or Rescind – Agency Plans and Unified Agenda Reveal More Regulatory Editing is in Store for 2018

The Trump administration's Unified Agenda of Regulatory and Deregulatory Actions ("regulatory agenda"), released on December 14, 2017, indicates agencies are taking a hard look at existing rules, and trading lightly with new ones. The fall regulatory agenda outlines each agency's rulemaking efforts at any stage in the process—from requests for information to final regulations—and gives estimated timelines for completion. This information provides insight into an agency's priorities and what employers can expect in the coming months.

#### 8 Workplace Legal Trends for 2018

Legal protections for employees are likely to expand at the state level in 2018 but shrink under federal law, say employment law attorneys. Expect a more employer-friendly U.S. Department of Labor, a new

proposed overtime rule later this year and greater deference by the National Labor Relations Board to employee handbook policies.

### **Employers: Are Your Labor Law Posters Up to Date?**

A new year brings new workplace compliance standards—which means that businesses may need to revise their labor law posters. Here’s what employers should note for 2018.