BENEFITS & RETIREMENT
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News & Notes

Winter 2014

ALERT: Individual Health Insurance Loses Tax Benefit

Employers can no longer reimburse employees for individual insurance premiums on a pre-tax basis.

As the church benefits organization of the EFCA, FCMM monitors developments affecting how local churches provide for staff. From time to time, we'll advise participants and churches of significant changes that may affect staff benefits.

In the last quarter of 2013, federal rulings related to the Affordable Care Act implementation were published that restrict the ability of churches to provide health insurance as a nontaxable benefit.

Effective for health insurance plan years starting on or after January 1, 2014, individuals who obtain insurance either privately or through the marketplace exchanges may not deduct their premiums as medical expense and may not be reimbursed tax-free by their employer.

The longstanding practice of many churches to use "Health Reimbursement Arrangements" (HRA), whether formal or informal, may no longer be used to reimburse premiums outside of reporting the amount as W2 (taxable) compensation. IRS Notice 2013-54 and DOL Technical Release 2013-03 specifically state that reimbursement of individually-owned health insurance policies is no longer allowed.

It appears that the only remaining methods for providing health insurance as a tax-free benefit are: (1) through group health insurance paid by the employer, or (2) through the Small Business Health Options Program (SHOP), which are public exchanges for small employers with no more than 50 employees (or up to 100 employees in some states). If SHOP is used to provide health insurance, it must be administered through a Cafeteria Plan to be nontaxable. Typically, an employer will need the assistance of a CPA, or an attorney, or an insurance provider or broker to properly set up a compliant cafeteria plan.

Effect on staff compensation

The local church should recognize the tax impact upon staff if the church cannot provide group health insurance. The best practice would be to increase the salary to cover the additional tax in order to keep the staff member at an equivalent level of compensation.

2014 Retirement Plan Contribution Limits

The overall limit includes both employer and salary deferral contributions to all 403(b) plans. In 2014, the overall contribution limit is the lesser of $52,000 or 100% of includible compensation which excludes a housing allowance.

The salary deferral limit for both pre-tax and Roth contributions is $17,500.

A participant over age 50 can make a catch-up contribution of up to $5,500.

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The Value of Setting Up a Salary Continuation Plan

Kim Thompson, Thompson Insurance Agency

An increasing number of churches have taken the step of protecting employees and their families by providing a group long term disability (LTD) program for their staff. The FCMM LTD plan has been specifically designed with features for the local church that often are not included in "off-the-shelf" plans. (See features of FCMM LTD at fcmmbenefits.org.)

The coverage can help a church staff member through a difficult time if he/she becomes disabled and unable to work at his/her job. There is, however, an additional step that can be taken in advance to cover a potential gap. Here's the explanation:

- The Group LTD plan begins to provide a benefit of 60% of the employee's lost income/salary after a 90-day elimination period.

- In that first 90 days of being disabled, the employee is required to show a loss of his/her income in order for the 90 day time-clock to begin counting.

- If the church/employer continues to pay the employee's regular salary then the "loss of income" requirement is not met and the claim will be denied until the requirement is met.

- The solution is to have a formal Salary Continuation Plan (SCP) in place prior to the occurrence of a disability. Funds provided under the SCP during the 90-day elimination period to an employee who is disabled are considered "benefit" rather than "salary" and therefore do not interfere with timely qualifying.

- The Salary Continuation Plan is funded by the employer by establishing, in the SCP document, (1) what percentage of the salary the church will pay out, (2) for what length of time, and (3) to whom the plan applies (e.g. all full-time employees, or all benefit-eligible employees). The church may choose any percentage of income to cover. 60-70% is most common, with the length set to match some or all of the LTD plan's 90-day elimination period. Many employers also grant a number of "sick-time" days each year; they often require that employees use all or a portion of their accrued sick time before the SCP begins to pay a benefit. (Incorporating this requirement allows the employee to receive 100% of pay for those days.)

Here are the requirements for a Salary Continuation Plan to meet IRS Regulations:

(1) The details of the plan must be described in writing.
(2) The plan must be in effect prior to the onset of a disability in order for it to be applicable.
(3) The plan details must be communicated in writing to all employees who are eligible for the plan.
(4) The church board must approve the plan via a board resolution.
(5) A copy of the plan and board resolution must be placed on file with FCMM. These records will be necessary for verification at the time of a claim.

A sample plan document, board resolution, and employee notice are available on the FCMM website.

Kim Thompson is the CEO and owner of Thompson Insurance Agency, which partners with FCMM to provide Long Term Disability Insurance to EFCA pastors and church staff.

> After a disability begins, it's too late to establish salary continuation for the benefit of the affected person.

Future of Clergy Housing Allowance Challenged Again

As most have probably read, a recent court case in Wisconsin declared the housing allowance exclusion to be unconstitutional. There will be no immediate effect as the case works its way through the appeals process – probably lasting two years. Should the decision be upheld by higher courts, local churches should also consider the tax impact on their eligible staff members.

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