

WEB EXCLUSIVE: START PLANNING FOR 2020 NOW BY REVISITING YOUR POLICIES AND PLANS

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With the new year quickly approaching, it is important to re-examine the policies and plans that govern employee compensation, benefits, and responsibilities. These documents can be the difference between a successful year and one you would prefer to forget. Here are a few small changes that can have huge advantages for your business.

BUILD AN INCENTIVE COMPENSATION PLAN THAT WORKS FOR YOUR COMPANY

Great incentive-based compensation plans motivate employees without harming your bottom line. While there is no single way to accomplish these dual goals, the most effective plans do not lock the company into an express or implied contract. Instead, the plan should disclose that it can be modified and canceled at any time.

The plan also should allow the payment calculation to be adjusted when needed (for example, when the size of an employee's commission is unexpectedly large). This allows the company to reduce commissions that are disproportionate to what was reasonably expected when the plan was created. Indeed, one court recently approved the reduction of a \$1 million commission to \$150,000. While an 85% reduction might seem unfair, the court emphasized that the company held the "cards with respect to how sales commissions are calculated" because it provided "clear terms" to its employees beforehand.

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It also is important that the plan identify who can alter it. Often, overzealous managers convey their own incorrect interpretations about the compensation package. Rather than allow middle management to bind the company through stray comments, the plan should issue a clear warning to employees that they should not make assumptions about how the plan impacts their situations unless that advice comes directly from a designated representative at the company.

KEEP YOUR COMPANY HANDBOOK ALIGNED WITH THE CHANGING TIMES

If your social media policy is more concerned with watercooler humor than a loss of productivity, harm to the company's reputation, and online bullying and harassment, than it is time to update your handbook. The entire company is put at risk by outdated policies that do not reflect legal developments that deal with discrimination, sexual harassment, reasonable accommodations, family and medical leave, and related matters. For example, employers are now at risk in certain states for discrimination based on hair and hairstyle, as highlighted by a recent settlement directing a salon to pay a \$70,000 civil penalty and train its staff on the styling of natural hair in response to accusations that it enforced racially discriminatory grooming policies.

Annual updates come with the added advantage that it is easier for companies to implement, change, and end policies and benefits contained in the company handbook when employees become accustomed to proactive updates. By contrast, infrequent amendments, regardless of how benign, are often met with heightened suspicion if not outright resistance by employees.

CORRECT YOUR WAGE AND HOUR COMPLIANCE ISSUES BEFORE SOMEONE DOES IT FOR YOU

Incorrect classification is one of the most common mistakes a company can make, and one of the costliest. Luckily, it is extremely easy to prevent. At the start of every year, you should review the duties and salaries for your employees to confirm that they are properly classified as exempt under federal and state wage and hour laws. This hands-on approach can prevent a large and unexpected tax bill, three years of backpay, and liquidated damages.



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KEEP YOUR PLAN DOCUMENTS UP-TO-DATE

Many companies work with a benefits broker when selecting their health and benefit plans. While brokers offer an important service, all too often they recommend cookie-cutter plan documents that do not stay abreast of regulatory changes. This can expose your business to unnecessary levels of risk.

For example, the IRS recently announced that the minimum annual deductible for a high-deductible health plan in 2020 increased to \$1,400 for individuals (up from \$1,350) and \$2,800 for families (up from \$2,700). If your organization uses plan documents, it is critical that you take a proactive approach to ensure that they remain current.

ENJOY THE NEW YEAR KNOWING YOUR COMPANY IS ON THE RIGHT TRACK

While lawsuits are an unfortunate fact of life for most companies, they are not inevitable. Litigation is typically the result of poor planning, unclear documentation, and lack of execution. By taking control of the process early, you are ensuring that the rest of your time can be dedicated to growing your business. With January 1 right around the corner, now is the time to follow through on those new year resolutions from last year.

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