What Every Executive Director Needs to Know about HR: Top 10+

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You will learn:

- Key subject areas of Human Resources
- Knowledge of current/continuing issues in those areas
- Resources
The HR Director’s Desk: Subjects

- Benefits
- Compensation
- Employee Relations
- Safety/Security
- Staffing Management
Benefits:

- #1 Affordable Care Act
- #2 Family and Medical Leave Act (FMLA)
Key Provisions:
- Small employer: < 50 employees
- Notice requirements: benefits and coverage summary, note of Plan changes ("material modification")
- Health flexible spending accounts: $2,500 annual limit
- Prohibition on annual limits
- Waiting period may not exceed 90 days
- No pre-existing conditions exclusion
Affordable Care Act (continued)

- Essential benefits required

- Health contingent wellness programs: maximum permissible reward increase to 30% of the cost of coverage

- Fees: Patient–Centered Outcomes Research Institute @ $2/average number of covered lives
# 1 Affordable Care Act (continued)

- Small Business Health Care Tax Credit
  - Eligibility:
    - < 25 employees who work full time or a combination of full-time and part-time
    - Average annual wages < $50,000
    - Note: tax credit reduction if > 10 employees or >$25,000 average wage
  
  - Tax-exempt employers must pay at least 35% of the state average annual premium cost of the insurance coverage through a Small Business Health Options Program (SHOP Marketplace)
    
    - Illinois – Single: $6,017; Family: $14,453
Claiming the credit: tax-exempt employer

- File form 990-T, Exempt Organization Business Income Tax Return with an attached Form 8941 showing the calculation of the claimed credit

Credit estimator:
www.healthcare.gov
SHOP Tax Credit Estimator

Credit capped at total of federal payroll taxes:
- federal income tax withheld from employees’ pay
- Medicare tax withheld from employees’ pay
- Employer share of Medicare taxes
To ensure that employee can provide care for self or loved one; defined as spouse, child, parent (biological, adoptive, step or foster father or mother, or individual who stood “in loco parentis” when employee was a child)
Note: does not include in–law

Eligibility: Worked 1,250 hours in preceding year

Work for employer with 50 or more employees
Expansion of law:

- Qualifying exigency leave:
  To provide assistance for spouse, son, daughter, or parent military member (Armed Forces, National Guard, Reserves) called to active duty in foreign country

  Examples: making alternative child care arrangement for military member’s child; attending military ceremonies and briefings; making financial or legal arrangements to address military member’s absence

Rest leave: employee may take up to 15 days to be with military member during deployment rest and recuperation leave
#2 FMLA (continued)

- Military Caregiver Leave: up to 26 weeks

- Expanded to include assistance for veteran (discharged within 5 years)

- Eligible employee also includes “next of kin”: designated in writing or legal custody or designated order

- Injury/illness incurred by covered veteran in the line of duty on active duty or that existed before the veteran’s active duty and was aggravated by service in the line of duty
Proposed Department of Labor rule changes:

- Spouse, for same sex partners, to be defined based on where marriage occurred

- FMLA leave can be taken for stepchild (including child of employee’s same sex spouse) even if day to day care or financial support has not been provided
Compensation:

- #3 Independent Contractor
- #4 Interns
#3 Independent Contractor

- IRS definition:
  “... Individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done.”


- Facts and Circumstances “Tests”
  - Behavioral
  - Financial
  - Type of Relationship

- Misclassification Consequences: back pay of taxes
Compensation (continued)

#4 Interns: volunteers or employees?

U.S. Department of Labor criteria: facts and circumstances

- Internship similar to training provided in educational environment;
- Internship experience is for the benefit of the intern;
- Intern does not take the place of regular employees, but works under close supervision of existing staff;
- Employer does not receive immediate advantage from intern’s activities;
- No job guaranteed to intern at conclusion of internship;
- Intern not entitled to wages.
Employee Relations:

- #5 Employee communication
- #6 Social media
- #7 Harassment
- #8 Recordkeeping
Employee Relations (continued)

- #5 Employee communication: policies, handbooks, procedures
  - Policies: organizational “law”
  - Handbooks: “need to know” information for employees
  - Procedures: manual for how the policies are implemented (i.e., forms, processes, etc.)
#6 Social Media

- Broad number of forums
- Policy required
- Can not interfere with employee’s right to discuss wages and working conditions

- See National Labor Relations Board Operations Management Memo, Report of the Acting General Counsel on Social Media Cases (5/12)
Employee Relations (continued)

- #7 Harassment
  - Sex discrimination: range of actions
  - Can be same sex
  - Duty to investigate
# Employee Relations (continued)

- #7 Harassment
  - Investigation
    - Confidential – to extent possible
  - Witnesses
  - Recordkeeping
  - Judgment
#8 Recordkeeping

- Medical information: HIPAA
- Disciplinary actions
- Manager’s notes
Safety/Security:

#9 OSHA: General Duty Clause

- “. . . shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees”
# Staffing Management:

- **#10 Background checks**
  - Third party vendors
  - Illinois State Police system
  - Illinois Sex Offender Registry
  - National databases
HR Universe:

#11 DOCUMENT, DOCUMENT, DOCUMENT
Resources: Organizations

- Society for Human Resource Management: www.shrm.org
- World at Work: www.worldatwork.org
- International Foundation of Employee Benefit Plans: www.ifebp.org
- Cornell University School of Industrial Relations: www.ilr.cornell.edu
Resources: Federal Websites

Department of Labor:
- Posting requirements:
  www.dol.gov/oasam/box/osdbu/sbrefa/poster/matrix.htm
- FAQs by topic:
  webapps.dol.gov/dolfaq/dolfaq/asp
- Employee status:
- Fair Labor Standards Act (FLSA): Hours Worked
  Fact Sheet #22
  www.dol.gov/shd/regs/compliance/whdfs22.htm
Resources: Federal Websites (continued)

Internal Revenue Service:
www.irs.gov

- Links to special programs, including the Tax Credit
- Interactive Tax Assistant available
Resources: State Resources

- Illinois Chamber of Commerce: ilchamber.org

- Illinois Department of Labor
  www.illinois.gov/idol

- Illinois State Police:
  www.isp.state.il.us
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