

September 2016 Issue

New Federal Minimum Wage and Employee Polygraph Workplace Posters Must Be Posted

The U.S. Department of Labor (DOL) recently updated its **Fair Labor Standards Act (FLSA)** and **Employee Polygraph Protection Act (EPPA)** posters. The new versions are now available for download.

New Posters

Every employer of employees [subject to the FLSA's minimum wage provisions](#) must post (and keep posted) a notice explaining the law **in a conspicuous place in all of its establishments** so as to permit employees to readily read it. An [approved copy of the minimum wage poster](#) is available for employers to post.

Additionally, an employer [subject to the EPPA](#) must post (and keep posted) on its premises [a notice](#) explaining the law. The notice must be posted **in a prominent and conspicuous place in every establishment** of the employer where it can readily be observed by employees and applicants.

As of August 1, 2016, employers subject to these provisions must post the new versions of the FLSA and EPPA posters.

More information on federal posting requirements and links to downloadable posters are featured in our [Federal Poster Requirements](#) section.



2016 ACA Transitional Reinsurance Program Contribution Rate and Deadlines Announced

The Centers for Medicare & Medicaid Services (CMS) has announced the 2016 benefit year contribution rate and deadlines for the Affordable Care Act's (ACA) Transitional Reinsurance Program.

Transitional Reinsurance Program Explained

The Transitional Reinsurance Program is a three-year program established by the ACA that requires employers sponsoring certain self-insured plans ("[contributing entities](#)") to make contributions to support payments to individual market issuers that cover high-cost individuals.



2016 Contribution Rate and Deadlines

The [2016 Reinsurance Contribution Rate](#) is **\$27.00 per covered life**. For the 2016 benefit year, CMS will offer contributing entities the option to pay:

- The entire 2016 benefit year contribution in **one lump sum payment**, no later than January 17, 2017, reflecting **\$27.00** per covered life; or
- In two separate payments for the 2016 benefit year, with the first remittance due by January 17, 2017 reflecting **\$21.60** per covered life, and the second remittance due by November 15, 2017 reflecting **\$5.40** per covered life.

The annual enrollment count submission deadline for the 2016 benefit year is **November 15, 2016**. While not yet available, the 2016 ACA Transitional Reinsurance Program Annual Enrollment and Contributions form is expected to be available on www.pay.gov in time for the submission deadline.

More information on the reinsurance contribution process can be found in our section on the [Transitional Reinsurance Program](#).

DOL Issues Guidance for Private Employers on Final Overtime Rule

The U.S. Department of Labor (DOL) has issued new guidance on its final overtime rule to help private sector employers evaluate current practices and transition to the rule's requirements.

Final Overtime Rule

The DOL's [final overtime rule](#), effective **December 1, 2016**, updates the salary and compensation levels required for executive, administrative, and professional workers to be exempt from the minimum wage and overtime pay protections of the federal **Fair Labor Standards Act** (FLSA). In particular, the final rule:



- Raises the salary threshold from \$455 a week to **\$913 per week** (or **\$47,476 annually**) for a full-year worker;
- Sets the **highly-compensated employee (HCE) total annual compensation level** equal to **\$134,004 annually**; and
- Amends the regulations to **allow employers to use nondiscretionary bonuses, incentives, and commissions** to satisfy up to **10%** of the new standard salary level, **so long as** employers pay those amounts on a quarterly or more frequent basis.

Note: When both the FLSA and a state law apply, the employee is entitled to the most favorable provisions of each law.

New DOL Guidance

Among other things, the DOL's [new guidance](#) details some of the **options employers may exercise** in determining how to comply with the final rule. Employers have certain options for responding to the changes to the salary level, and the **DOL does not dictate or recommend any method**. Such options include:

- Providing **pay raises** that increase workers' salaries to the new threshold;
- Spreading employment by **reducing or eliminating work hours** of individual employees working over 40 hours per week for which no overtime is being paid; or
- **Paying overtime**.

Note: The rule does not require employers to convert a salaried worker making less than the new salary threshold to hourly status; employers can pay non-exempt employees on a salary basis and pay overtime for hours worked beyond 40 in a week.

Our section on the [Fair Labor Standards Act](#) features additional information on DOL's final overtime rule.

IRS Releases 2016 Draft Forms 1094-C and 1095-C and Instructions

The IRS has released draft versions of the Forms 1094-C and 1095-C and instructions that employers will use in early 2017 to report on health coverage offered in the 2016 calendar year.

Who is Required to Report

Under the Affordable Care Act, [applicable large employers](#) ("ALEs")--**generally those with 50 or more full-time employees**, including full-time equivalent employees--use Forms [1094-C](#) and [1095-C](#) to report information to the IRS and to their employees about their compliance with the employer shared responsibility provisions ("pay or play") and the health care coverage they have offered.

2016 Draft Forms and Instructions

The following draft forms are now available for 2016:

- [Draft Form 1094-C](#) (transmittal)
- [Draft Form 1095-C](#)

The [2016 Draft Instructions for Forms 1094-C and 1095-C](#) are also now available. Among other items, the draft instructions clarify:

- The reporting rules which require employers who are Members of an "Aggregated ALE Group"--a group of ALE Members treated as a single employer under the Internal Revenue Code--to file Forms 1094-C and 1095-C, **even if the ALE Member has fewer than 50 full-time employees of its own**;
- The indicator codes that should be used to report offers of COBRA continuation coverage on lines 14 and 16 of Form 1095-C; and
- The definitions of "full-time employee" and "Employee Required Contribution" for purposes of Forms 1094-C and 1095-C reporting.

Visit our [Information Reporting](#) section for more on these requirements.

5 Tips to Prepare Your Business for a Natural Disaster

Natural disasters such as floods or hurricanes can happen suddenly at any time. The loss of essential records, files, and other materials during a disaster is commonplace and cannot only add to your damage costs, but may also delay your return to normal operations.

Securing Company Documents and Equipment

To reduce your vulnerability, determine which records, files, and materials are most important; consider their vulnerability to damage during different types of disasters (such as floods, hurricanes, and earthquakes) and take [steps to protect them](#).



1. **Confirm your insurance:** Make sure you are aware of the details of your flood insurance and other hazard insurance policies, specifically which items and contents are covered and under what conditions. Check with your insurance agent if you have questions.
2. **Back up essential files:** Regularly back up vital electronic files (such as billing and payroll records and customer lists) and keep backup copies in a secure off-site location. Important papers (plans, legal documents, etc.) should also be stored securely off-site.

3. **Consider the location of equipment susceptible to damage:** Raise computers above flood level, move heavy objects to low shelves, and secure any equipment that could move or fall during a natural disaster.
4. **Take inventory:** For both insurance and tax purposes, you should maintain written and photographic inventories of all important materials and equipment. Estimate the cost of repairing or replacing each essential piece of equipment in your business.
5. **Perform regular building maintenance and repairs:** Periodically evaluate the building envelope to make sure that wind and water are not able to penetrate the building.

Our section on [Planning for Workplace Emergencies](#) includes additional guidelines on developing an emergency action plan to protect your employees and business during a disaster.

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