NEWSLETTER

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Are Your Posters Up to Date?

Workplace experts are advising businesses to check on the required federal posters they display at their businesses. Some recent regulatory changes have led to poster modifications this year, and HR departments need to review the rules and post the latest notices.

According to the Society for Human Resource Management, the Know Your Rights: Workplace Discrimination Is Illegal poster now includes the Pregnant Workers Fairness Act in effect as of June 27.

Laws relating to pumping breaks for nursing employees used to apply only to nonexempt workers, says the SHRM. They now apply to exempt workers as well. The Labor Department has updated the relevant FLSA poster to reflect this.

Employers now see a third significant change, with a new FMLA poster that clarifies that even though an FMLA leave is unpaid, companies may require employees to use employer-provided paid leave at the same time, according to the SHRM.

Keeping up with these changes is essential, as the government can impose stiff penalties for noncompliance. However, through Paysmart's Labor Law Poster Update Service, we will partner with you to ensure you are up-to-date with any changes that may affect your business!

IRS Puts Brakes on ERC Processing

According to the IRS, a moratorium on processing of new ERC claims through year's end will allow IRS to add more safeguards to prevent future abuse, to protect businesses from predatory tactics. The pandemic-era relief program is a refundable tax credit designed for businesses that continued paying employees during the COVID-19 crisis.

In a recent release, the IRS said there has been growing concerns inside the tax agency and tax professionals that many new claims are ineligible and increasingly putting businesses at financial risk, thanks to scams by aggressive promoters.

Already in the system?

If you've already filed, you're okay. The IRS emphasizes that payouts for these claims will continue during the moratorium period but at a slower pace due to the detailed compliance reviews. With the stricter compliance reviews in place during this period, existing ERC claims will go from a standard processing goal of 90 days to 180 days – and much longer if the claim faces further review or audit. The IRS may also seek additional documentation from the taxpayer to ensure it is a legitimate claim.

But if you're being pressured right now to file, and not even sure you are eligible, take a step back. The IRS is advising business owners to "seek out a trusted tax professional who actually understands the complex ERC rules, not a promoter or marketer hustling to get a hefty contingency fee. Businesses that receive ERC payments improperly face the daunting prospect of paying those back, so we urge the utmost caution. The moratorium will help protect taxpayers by adding a new safety net onto this program to focus on fraudulent claims and scammers taking advantage of honest taxpayers."

Your next steps

Whether you've already filed, or think you might have a reason to file, now is the time to pick up your phone and call your tax adviser. This will be someone who can help you figure out if you are eligible and perhaps ready to file in 2024. If you are already in the system, you can get guidance through the lengthy and complex process.

More details on the moratorium are available on the IRS site. Even more important, the IRS has posted easy-to-follow guidance on how to recognize and avoid promoters who don't have your best interest at heart.

Tools to Help Employees With Their Retirement Plans

Technology is transforming the retirement transition for Technology is transforming the retirement transition for everyone, including those without financial advisers. Digital tools are interactive experiences designed to engage users with a combination of personalization and gamification, making their retirement experience both real and relatable.

DC retirement plans are meeting participants on their own ground, wherever they are in terms of life cycle, preferences and learning styles. The entire industry itself has embraced a goal of improving personalization and sharpening communication to achieve higher participant engagement.

Made to measure

Personalization is a dominant trend in participant education, supported by advances in data and technology. The ease with which participants can upload data to personalize retirement planning continues to progress. Gamification exercises, such as showing how choices affect retirement goals by using inputs and assumptions, are another useful tool to further engage learning and planning.

Many plans still face the persistent challenge of trying to educate across many different personality types and a wide range of preferences, from those who want to be heavily involved in their 401(k) decisions to those who would rather leave their retirement vehicles alone to grow steadily on their own. How should a plan differentiate among participants in its treatment of such diverse attitudes? One possible solution is to default to the least active and enable those who want to be more active through a customized approach.

Providing a DC plan that offers pensionlike income can have a profound impact on participant behavior, for instance, by intensifying their commitment to their employer. Employers can dangle a track to lifetime income as bait for recruiting more talented employees ahead of the competition. Meanwhile, the promise of future security promotes retention and furthermore allows participants to retire on time. A reluctance to retire because of worry about outliving assets is a sorry predicament for an employee; it also has negative repercussions for the employer, because keeping people employed longer than expected can dramatically increase workforce costs.

Making personalized planning tools available and creating effective education campaigns can make retirement feel more immediate and attainable. Participants already understand the importance of retirement preparedness. Adding retirement income may require additional education, but it provides more than just improved financial security; it also signals to employees that their employer has made a' long-term investment in their well-being.

The retirement conversation

Initiate the retirement income conversation well in advance of participants' key decision dates. In addition to focusing on timing, plans also need to consider the participant's unique experience.

Technology can be helpful. New digital tools translate savings into future income. For example, a record-keeping platform can provide a retirement income planner that incorporates personalized data, which is fully integrated with the participant experience online and through an app.

First, consider taking a multichannel approach to communication. It is unlikely one video will reach everyone to the same extent as, say, an email can; different participants consume information in different ways.

It is paramount that communications come from a source the participant recognizes and trusts, namely their employer, rather than the plan provider. Make sure to brand the communication from the employer, because that is where participants look for reassurance.

Finally, the content must be relevant to the end user. You will probably need different targeted campaigns directed at various audiences. Participants who are in the early days of their careers do not respond to the same messages as do those closer to retirement.

Embrace new thinking

Education about retirement income is a relatively new concept, because DC plans have not historically offered that type of option. It is incumbent on you to make sure that your employees have the tools they need to understand their investments and how to avail themselves of the income benefit. Words matter. Orient people to the benefit, its optionality and flexibility.

Plans are taking a more holistic view of participants' individual circumstances to tailor solutions that provide a greater degree of lifelong financial security.

Talk to a qualified retirement professional about tools and strategies to engage your employees in securing their futures.audiences. Participants who are in the early days of their careers do not respond to the same messages as do those closer to retirement.

How To Create a Raise Policy

In most cases, employees anticipate receiving a raise after working a certain amount of time at your firm — usually, six months to a year. Top performers who consistently exceed expectations expect to be paid a salary that reflects their hard work and level of responsibility. You look to offer competitive compensation to retain your best workers.

How do you keep raises within your budget? By seeking the right mix of compensation while keeping an eye on your bottom line, you can:

- Be transparent. Be upfront about what you can offer. If your business budget allows only a 3% increase, let each employee know in one-on-one meetings. They'll understand that you're doing your best and feel satisfied that they're receiving the largest pay increase possible.

- Offer bonuses instead of salary increases. You'll save money in the long run. Base bonuses on performance and experience, showing you value their contributions. You can also tie bonuses to sales or production volumes. Offering regular bonuses can increase employee motivation. See it as instant gratification, a useful tool for rewarding productivity and success in the workplace.

- Check what competitors are doing. What kind of salaries are they paying? How often do they offer raises? How much do they budget for an average salary increase? Gathering intelligence can help you compete for new hires and negotiate more effectively with your employees. Research the average pay rates for similar jobs in your area with data from the U.S. Bureau of Labor Statistics.

- Keep raises consistent. Being fair and equitable in giving raises is crucial. Providing higher raises to higher-paid employees or allowing bias to influence your decisions will cause conflict and dissatisfaction among your workers. This isn't just important for morale — the Fair Labor Standards Act contains rules on equitable pay.

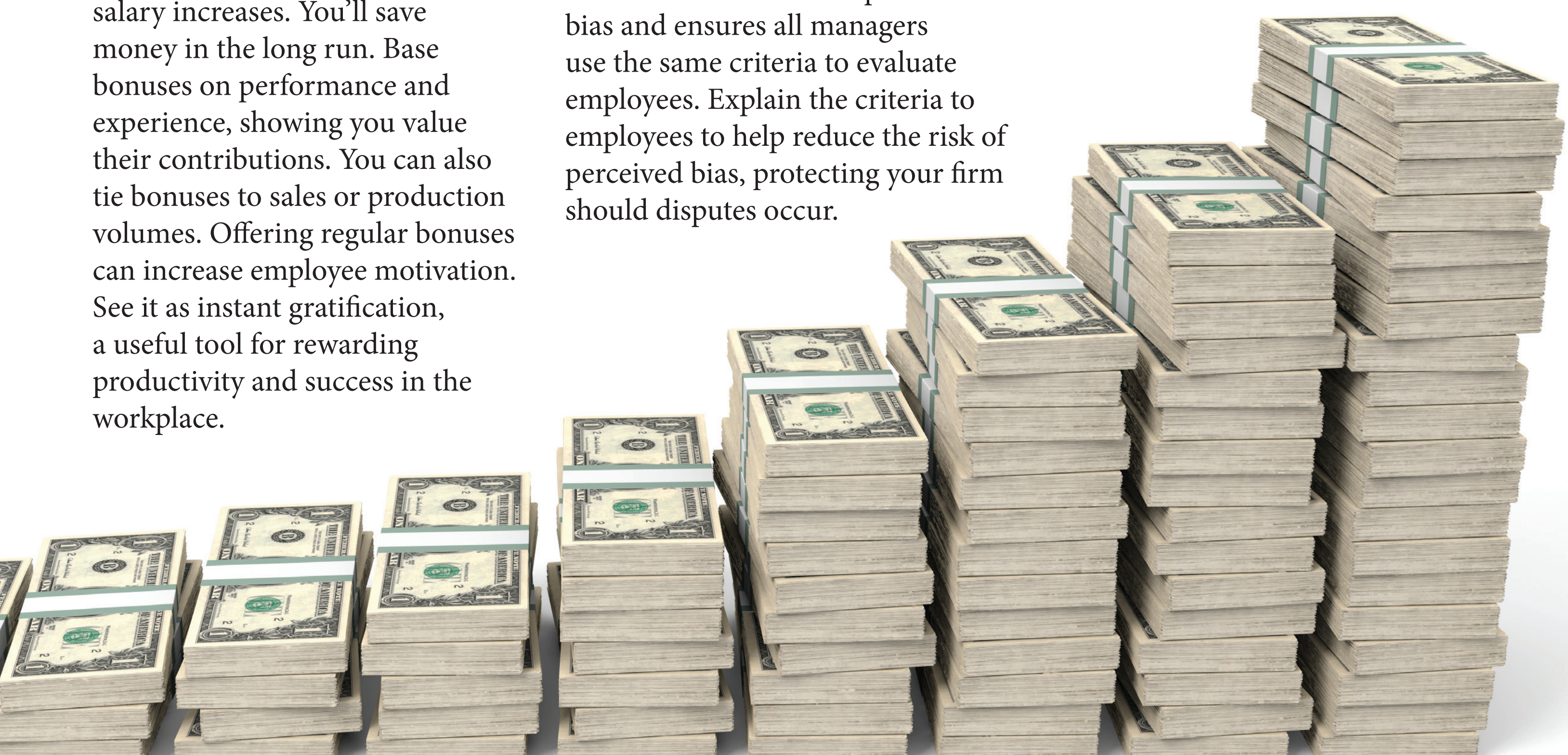
- Establish clear criteria. Give guidelines that let employees in on how you determine raises. This reduces the influence of personal bias and ensures all managers use the same criteria to evaluate employees. Explain the criteria to employees to help reduce the risk of perceived bias, protecting your firm should disputes occur.

- Use benefits to reward hard work. If you can't offer more money, acknowledge accomplishments with additional time off, more chances to work remotely or a new workspace at the office. Consider a travel stipend. Tuition reimbursement is another way to show employees you're invested in their success.

Costs to your company rise when salaries increase. And though you'd like to give everyone a generous raise, you may not have the money in your budget. Look for times to thank employees for extra work with a combination of incentives.

Suggestions for distributing raises

- Rewarding seasoned team members with a pay raise if they assist with training or serve as resources for their peers.



- Offering a raise or extra benefits when employees finish their training period.
- Recognizing years of service milestones with pay raises and/or more benefits.
- Acknowledging employees who've added a new skill set or obtained a new certificate related to their job duties.
- Keeping your pay rate in line with current trends.
- Keeping your pay rate in line with the cost of living, as it may rise dramatically. Raises allow employees to maintain their standard of living. You can consult the Consumer Price Index for guidance.

Salary increases help improve employee productivity and satisfaction. Use raises and added benefits to encourage an employee to stay, making a continued commitment to your team. Salary increases can also serve as a thank-you to an employee for overcoming a significant challenge or bringing in an impressive client.

Take the long view

Also, you may want to ensure that long-term employees' salaries don't fall behind new hires —give older employees at least a little more. Show your entire team how you treat employees who exceed expectations. If you consistently reward superior performance, you'll strengthen your relationship with your team.

Compliance Risks with AI and Automated Employment Decision Tools

Lawmakers and regulators are increasingly scrutinizing whether AI hiring tools unintentionally perpetuate bias. While these tools can streamline hiring processes, they may pose a compliance risk if they discriminate against certain candidates.

From basic computer screening to advanced AI, various tools are used to evaluate employment candidates. These include resume scanners, employee monitoring software, virtual assistants, video technologies and job-fit algorithms that assess candidates' potential success in certain positions.

However, these tools can introduce discrimination into the hiring process, which is why legislators at the federal, state and local levels are focusing on AI in employment. Although there is no consensus on what constitutes AI and how it contributes to discrimination in hiring, upcoming laws will aim to address these concerns.

Starting in April, New York City employers are banned from using AI in employment decisions, unless they take affirmative steps to mitigate potential bias. This includes conducting a bias audit of the AI tool, making the tool publicly available and notifying job candidates about its use. Candidates or employees must also be allowed to request alternative evaluation processes if needed.

What is a bias audit?

A bias audit involves having a person or group not involved in developing or using the AI tool review it for potential bias. Further details on what this entails are expected. A main concern is that the AI tool might significantly impact or replace discretionary employment decisions, such as overruling human decision-making.

In these instances, the bias audit must calculate the selection rate for each race or ethnicity and sex category. Then, it must be reported to the Equal Employment Opportunity Commission, where the impact ratio for each category will be calculated. This involves dividing the selection rate by the rate of the most selected category. From there, the average score of individuals in a given category will be compared to the value of the highest-scoring category.

Government responses to AI

Various government bodies are scrutinizing the use of AI and automated tools in employment decision-making. The EEOC has issued technical guidance, warning employers that the use of these tools could violate disability protections under the Americans with Disability Act.

The Department of Commerce has appointed 27 members to the National Advisory Committee, which is the group that oversees AI. The White House has released a blueprint for an AI Bill of Rights, which includes provisions related to employment decisions using AI tools.

The Federal Trade Commission has also issued reports expressing concerns about the use of AI and automated tools in decision-making without human review. The EEOC has issued guidance on the use of AI to assess job applicants and employees with regard to ADA protections. Two pending federal bills would require the FTC to mandate impact assessments of automated hiring systems and algorithm usage.

Several states are taking action

California is proposing draft revisions to expand existing discrimination and employment laws that are related to liability risks for employers and vendors selling or administering automated hiring tools that leverage AI. Colorado, Vermont and Washington have created task forces to study AI. And Illinois and Maryland have enacted laws regulating the tools to some extent, though not as comprehensively as New York City.

When it comes to using AI in hiring, there are a few things to keep in mind. The definition of AI can be broad and unclear. It's important to understand what constitutes AI use in an automated hiring tool, and your legal counsel can help with this assessment. When using automated hiring decision tools, consider data retention and work with third-party vendors to ensure compliance with any new laws or regulations. Be prepared to address any implementation issues.

Although automated employment decision tools have the potential to improve efficiency, the use of these tools in employment decision-making will soon require transparency and accountability, as well as clear standards for auditing the processes.

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