CLIENT ALERT

EMPLOYEE BENEFITS AND EXECUTIVE COMPENSATION

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July 8, 2025

The "One Big Beautiful Bill Act, 2025" Makes Major Employee Benefits Changes

On July 4, 2025, the One Big Beautiful Bill Act, 2025 ("OBBBA") was enacted. Among other things, the OBBBA includes major changes to high-deductible health plans ("HDHPs") and health savings accounts ("HSAs"), fringe benefits, Affordable Care Act premium tax credits, executive compensation, and 529 College Savings and Achieving a Better Life Experience ("ABLE") accounts.

HDHPs and HSAs

Safe Harbor Extension for Absence of Deductible Telehealth Services

Effective for plan years beginning after December 31, 2024, the OBBBA makes permanent a safe harbor allowing HDHPs to provide first-dollar telehealth and other remote care services before participants have satisfied the statutory deductible.

Treatment of Direct Primary Care Service Arrangements

Effective for months beginning after December 31, 2025, direct primary care service arrangements will not be coverage that disqualifies an otherwise eligible individual from contributing to an HSA. The provision is limited to primary care services provided for a fixed fee that does not exceed $150 per month for an individual and $300 for more than one person (adjusted for inflation). These fees are also medical expenses that can be paid tax-free from an HSA.

Allowance for Bronze and Catastrophic Plans

Effective for months beginning after December 31, 2025, the OBBBA expands the types of health insurance that are treated as HDHPs to include bronze and catastrophic plans offered in the individual market on an Exchange.

Fringe Benefits

Employer Payments of Student Loans and Educational Assistance Programs

Effective for payments made after December 31, 2025, the OBBBA makes permanent the provisions from the Tax Cuts and Jobs Act allowing employers to make student loan reimbursement payments. The OBBBA also indexes the overall educational assistance program exclusion (currently $5,250) for inflation.

Modification of Qualified Transportation Fringe Benefits

Effective for taxable years beginning after December 31, 2025, the OBBBA permanently eliminates the exclusion for qualified bicycle commuting reimbursements. The OBBBA also modifies the inflation adjustment calculation used to determine the limitations on the exclusion for all qualified transportation fringe benefits.

Changes to Moving Expenses

Effective for taxable years beginning after December 31, 2025, the OBBBA permanently extends the suspension of the deduction for moving expenses and the exclusion for employer-provided qualified moving expense reimbursements. The provision makes an exception for certain members of the armed forces and the intelligence community.

Extension and Enhancement of PFML Credit

Effective for taxable years beginning after December 31, 2025, the OBBBA makes permanent the paid family and medical leave ("PFML") tax credit and allows employers to calculate the credit based on either wages paid to employees on leave or, newly, on premiums paid for family and medical leave insurance policies. The OBBBA also expands the definition of a "qualifying employee" to include those employed for at least six months (at the employer's elections) and customarily for a least 20 hours per week.

Enhancement of Employer-Provided Child Care Credit

Effective for amounts paid or incurred after December 31, 2025, the OBBBA increases the employer-provided child care tax credit up to $500,000 ($600,000 in the case of an eligible small business) on up to 40% of the employer's qualified child care expenses (50% in the case of an eligible small business).

Increased Dependent Care Assistance Program ("DCAP")

Effective for taxable years beginning after December 31, 2025, the OBBBA increases the DCAP maximum annual exclusion to $7,500 (or $3,750 for separate returns filed by a married individual) from $5,000. This amount is not subject to inflation adjustments.

ACA Premium Assistance Tax Credit

Premium Tax Credit Eligibility for Immigrants

The OBBBA modifies the eligibility for individuals to receive premium tax credits based on their immigration status, effective for plan years beginning on or after January 1, 2027. The necessary immigration status for individuals to be eligible to receive premium tax credits is either (i) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act, (ii) an alien who has been granted the status of Cuban or Haitian per section 501(e) of the Refugee Education Assistance Act of 1980, or (iii) an individual who lawfully resides in the United States in accordance with a Compact of Free Association. In addition, for taxable years beginning after December 31, 2025, the OBBBA makes lawfully present aliens with household incomes of less than 100% of the federal poverty level who are ineligible for Medicaid by reason of alien status ineligible for premium tax credits.

Required Exchange Verification of Eligibility for Health Plan

Effective for taxable years beginning after December 31, 2027, the OBBBA will prohibit passive enrollment in individual health insurance plans through an Exchange. An individual's eligibility for the premium assistance credit and any cost-sharing reductions must be verified by the Exchange using enrollment information provided by the individual.

Disallowing Premium Tax Credit During Special Enrollment Periods

Effective for plan years beginning after December 31, 2025, the OBBBA disallows the premium tax credit where the individual enrolls during special enrollment periods provided by an Exchange to address changes in an individual's expected household income.

Advance Payment Recapture Limitation

Effective for taxable years beginning after December 31, 2025, the OBBBA removes the limitations on liability for excess advances payments made to individuals with household income below 400% of the federal poverty level.

Executive Compensation

Excessive Employee Remuneration – Code Section 162(m)

Effective for taxable years beginning after December 31, 2025, certain related entities will be aggregated for purposes of the Internal Revenue Code Section 162(m) limit on the deduction for remuneration in excess of $1 million for certain employees, as well as for allocation of the deduction.

Tax on Excess Compensation Within Tax-exempt Organizations

Effective for taxable years beginning after December 31, 2025, the OBBBA expands the rules under Internal Revenue Code Section 4960—which subjects certain tax-exempt organizations to an excise tax for certain remuneration in excess of $1 million to certain covered employees—to apply with respect to ALL employees or former employees of the organization or its predecessor, rather than only to certain employees.

529 and ABLE Accounts

Expansion of Qualified Higher Education Expense for 529 Accounts

Effective for distributions made after the date of the enactment of the OBBBA, "qualified higher education expense" for purposes of 529 plans now includes certain post-secondary credentialing expenses and additional expenses in connection with enrollment or attendance at an elementary or secondary school (public, private, or religious), including tuition, curriculum and curricular materials, instructional materials (e.g., books), online education, tutoring, fees for certain tests, and certain educational therapies.

Additionally, effective beginning after December 31, 2025, the OBBBA increases the amount of expenses for tuition in connection with enrollment or attendance at an elementary or secondary school (public, private, or religious) that may be treated as higher education expenses from $10,000 to $20,000.

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Increased Limitation on ABLE Accounts/Enhancement

Effective for contributions after December 31, 2025, the OBBBA permanently extends the current contribution limit for ABLE accounts and extends an additional year of inflation adjustment for the base amount of the contribution limit.

Increased Savers Credit Allowed for ABLE Contributions

Effective for taxable years after December 31, 2026, the OBBBA makes permanent the Saver's Credit available to designated beneficiaries who make qualified contributions to their ABLE accounts, and increases the credit amount from $2,000 to $2,100.

Rollover Extensions from Qualified Tuition Programs to ABLE Accounts

The OBBBA makes permanent tax-free rollovers from qualified 529 tuition programs to ABLE accounts.

"Trump Accounts"

Effective for taxable years beginning after December 31, 2025, the OBBBA creates new tax-preferred accounts for children referred to as a "Trump Account," that can be established for children under the age of 18 with contributions of up to $5,000 per year (subject to adjustment). The accounts are generally treated as traditional individual retirement accounts ("IRAs"), which provide tax-deferred investment growth.

Employers may contribute up to $2,500 annually (adjusted for inflation) to "Trump Accounts" of an employee or any dependent of an employee. An employer must adopt a separate written plan that includes specific requirements to contribute to "Trump Accounts."

The OBBBA also creates a pilot program for "Trump Accounts" where the Treasury will pay a one-time credit of $1,000 to the Trump Account of United States citizen children born after 2024 and before 2029.

Next Steps

To address the OBBBA, employers should:.

- Consider design changes to HDHPs for low- or no-deductible telehealth services and direct primary care services.
- Review transportation fringe benefit plans to address the exclusion of bicycle commuting reimbursements and inflation adjustments.
- Determine whether to revise educational assistance programs to incorporate the inflation-adjusted amount.
- Decide whether to amend their DCAPs to allow for increased contributions.
- Consider whether to establish a plan to make contributions to the new "Trump Accounts."
- If subject to executive compensation limits above, consider changes to compensation structures to avoid tax or loss of deduction.

If you have questions about about the OBBBA or how its changes impact your employee benefit plans, contact one of the members of the Kutak Rock's Employee Benefits Practice Group.