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## Top Regulatory Changes Employers Should Know in 2011

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The new year ushers in regulatory, compliance and legislative changes that affect every small business. According to payroll and human resource services provider Paychex, Inc., these 11 issues top the list of business regulations in 2011.

- 1. Tax changes** — In 2011, businesses will confront the increasing complexity of the tax environment, including the implementation of a partial payroll tax holiday, the ability for businesses to expense 100 percent of their capital investments, and the retroactive extension of many temporary business tax incentives that expired at the end of last year.
- 2. Health care reform** — A key aspect for 2011 is the provision providing business tax credits for small employers that purchase health insurance, which is effective for tax year 2010 and carries into next year. It provides, with some limitations and requirements, incentives for providing health insurance to employees. Grandfathering will remain an important component of health care reform. Health plans that existed on March 23, 2010 are grandfathered, meaning that they do not need to add many of the new protections under the health care reform law. To remain grandfathered, health plans cannot make any significant changes to the plan.
- 3. FSA plans** — Effective Jan. 1, over-the-counter medicines and drugs other than insulin (i.e., aspirin) will no longer be eligible for reimbursement from a health FSA unless the item is prescribed by a medical practitioner.
- 4. Unemployment insurance changes** — Unemployment insurance (UI) funds in many states are at critically low levels due to the large numbers of people out of work for extended periods. Many employers will see a trend that promises to send state employer UI contribution rates higher in 2011 to replenish depleted UI trust funds and repay federal loans taken to allow states to continue to pay benefits. In addition, measures to reduce unemployment insurance fraud are in the works.
- 5. Employment law** — The U.S. Department of Labor and many states have enacted or are considering measures to provide greater transparency to workers on the wages they are owed, especially in key areas such as minimum wage and overtime requirements, and to increase penalties on those who fail to pay their workers the compensation they are entitled.
- 6. 401(k) disclosures/target date funds** — For employers offering 401(k) plans to their workers, regulations requiring disclosures pertaining to fees of the plan will be required; additionally, plans offering target date funds will likely see further disclosure requirements around those investments.
- 7. State budgetary challenges** — Many states are facing critical budget shortfalls, and as such may contemplate impromptu tax/fee increases or filing changes to raise badly needed revenue. Additionally, many state agencies are reducing staff, which could result in processing delays for businesses requiring licensing or other state services.
- 8. Federal Trade Commission requirements** — With the dramatic increase in the use of social media such as blogs, Facebook, and Twitter, the Federal Trade Commission has issued further regulatory guidance around the use of this media in advertising, especially regarding endorsements and misleading or dishonest product reviews. The agency has also recently proposed the creation of a "Do Not Track" tool for the Internet (similar to the telemarketing "Do Not Call" registry).
- 9. IRS enforcement** — To help collect more tax revenue in this era of budget deficits, the IRS is ramping up its enforcement efforts in several areas. In 2010, the IRS kicked off an employment-tax audit program that will carry into 2011. These audits are focusing on employee misclassification, executive compensation, fringe benefits, and adherence to general employment tax filing requirements. Further, the IRS is accelerating efforts to increase tax compliance among employees who collect tips.

**10. Privacy** — Most states have instituted laws requiring businesses to notify customers (and, in some states, governmental authorities) when sensitive data is breached. Some states have enacted laws requiring that businesses have processes to adequately safeguard sensitive client data. Businesses handling protected health information are subject to additional requirements governing the protection of that data.

**11. Employment verification/immigration** — U.S. Immigration and Customs Enforcement (ICE) continues to crack down on companies knowingly hiring undocumented aliens. Several different Congressional immigration reform proposals, which may present further employment verification obligations, are expected to get attention in 2011.

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