Voluntary Benefits: Tackling 2017’s Top Tax & Compliance Issues
About the Webinar

• Lines Are Muted
• Use Arrow To Minimize Menu
• View Slides in Full Screen Mode
• Enter Questions for Q&A Session
In order to receive the HRCI & SHRM Credits:

• Must have signed in with your unique registration link
• Must attend the entirety of the webinar
• Must answer the applicable polls for HRCI credits
• An HRCI certificate with ID# will be sent to you upon completion of all of the above

*The use of this seal confirms that this activity has met HR Certification Institute’s (HRCI) criteria for recertification credit pre-approval. This activity has been approved for 1 HR (General) recertification credit hours toward aPHR, PHR, PHRca, SPHR, GPHR, PHRI, and SPHRI recertification through HRCI.

**Crawford Advisors is recognized by SHRM to offer Professional Development Credits (PDCs) for SHRM-CP or SHRM-SCP. This program is valid for 1 PDC for the SHRM-CP or SHRM-SCP. For more information about certification or recertification, please visit shrmcertification.org.
Since 1994, Steve’s been in the voluntary benefits industry and advocates a professional, consultative approach that encourages suitability over carrier-specificity. Steve is revered as a voluntary benefits expert among his peers and has been awarded as such. Steve stays involved with the insurance and financial community through his National Association of Insurance and Financial Advisors membership and currently serves on the Greater Chesapeake Charitable Foundation Board.
Agenda

- ERISA
- Pre-Tax vs. Post-Tax
- Supplemental health plans taxation questions
- Life & Disability taxation questions
- HSA compatibility
ERISA & Voluntary Benefits

- Employee Retirement Income Security Act – 1974
- Applies regardless of number of employees
- Numerous reporting and disclosure requirements
- Voluntary benefits safe harbor is defined
Voluntary Benefits Safe Harbor

- Certificate or policy does not provide the primary coverage and must be specifically designed to fill the gaps in primary coverage
- 4 standards to be exempt from ERISA
- Does not apply to group plans but could toward some individual plans
Voluntary Benefits Safe Harbor

1. No contributions are made by an employer
2. Participation is completely voluntary
3. Sole function of an employer with respect to the program are, without endorsing the program, to permit the insurer to publicize the program, to collect premium through payroll deductions, and to remit to the insurer
4. Must receive no compensation other than reasonable amount for administrative services
How many standards are there in the Erisa voluntary benefits safe harbor provision?

a. 1  
b. 2  
c. 3  
d. 4  
e. 14
What could disqualify an employer?

“Endorsing the program” examples include:

- Selecting the insurer
- Linking coverage to employee status
- Using company name on advertising materials
- Associating the plan with other employee benefits
- Recommending the plan to employees
- Making contributions for the plan
- Pre-tax deductions
- Assisting with claims or disputes
Safe Harbor Confusion

- Employer allows their broker to publicize, advertise, and sell?
- Mandatory meetings?
- Active enrollment online?
- Pre-tax deductions
A recent analysis from ComplianceBug showed more than 80% of voluntary benefit offerings are subject to ERISA.

Many employers and brokers assume the products are not governed by ERISA.

Safe harbor is sometime misconstrued as a pass since most are self-explanatory.

If offering other ERISA plans, probably easier to bring voluntary plans into existing ERISA reporting requirements than trying to stay exempt.
Question #2

Which of the 4 standards of the voluntary benefits safe harbor is the most difficult to comply with?

a. No contributions are made by an employer
b. Participation is completely voluntary
c. Sole function of an employer with respect to the program are, without endorsing the program, to permit the insurer to publicize the program, to collect premium through payroll deductions, and to remit to the insurer
d. Must receive no compensation other than
Tax Implications – Pre & Post Tax Deductions

- Life Insurance
- Disability Insurance
- Supplemental Health Insurance Plans (accident, critical illness and hospital indemnity)
Voluntary Life Insurance

- Premiums for amounts over $50,000 of employee coverage are included as income if they are paid pre-tax

- The $50,000 threshold includes basic life coverage

- Example, $10,000 basic, and $200,000 of voluntary life – taxability of premiums?

- Permanent life insurance (WL or UL) is always a post-tax deduction

- Solution is to always have VTL post-tax
Straddle rule applies to voluntary term life and is defined as:

- The employer arranges for the premium payments and the premiums paid by at least one employee subsidize those paid by at least one other employee (the “straddle” rule).

- Based on IRS table rates, not actual premiums of the plan – use Table 1 rates.
Because the employer is affecting the premium cost through its subsidizing and/or redistributing role, there is a benefit to employees. This benefit is taxable even if the employees are paying the full cost they are charged. You must calculate the taxable portion of the premiums for coverage that exceeds $50,000.

Employees under the Table 1 rate are subject to tax on the premium difference, whereas employees over the rates are not.

All premiums in a voluntary term life plan must be equal to or on one side or the other of the table rates to avoid potential tax issues.
Voluntary Disability Insurance

- Pre-tax deductions mean taxable benefits
- Post-tax deductions mean tax-free benefits
- Contributory plans follow the same guidelines
- Difference between 60% benefit as taxable income vs. 60% benefit income tax free can be significant when out of work.
- All taxes are not taken out of the disability payment- employee still owes at tax time
Voluntary Disability Insurance

- Reporting Requirements
  - If paid pre-tax, added to taxable income in W-2
  - If paid post-tax, reportable as non-taxable income in Box 12 (J)
- Voluntary disability should always be a post-tax deduction for the employee.
The straddle rule for life insurance is based on which of the following rate tables?

a. Actual plan rates of any particular employer group

b. Table 1 IRS rates
Supplemental Health Plans

- Accident, Critical Illness, Cancer and Hospital Indemnity
- Excepted benefits under ACA
- Historically can be enrolled on a pre-tax basis but what about tax-free benefit status?
- Some carriers allow/support pre-tax deductions, (Aflac, Colonial, Transamerica, for example)
- Some carriers do not (Unum, Voya, for example)
Pre-tax vs. Post Tax – Advantages and Disadvantages

1. Employer and employee savings
2. Status changes
3. Coverage terminations – employer and employee
When the premium amounts are paid on a pre-tax basis (i.e., employer paid or employee pre-tax salary reduction) we believe that benefits are excludable to the extent of the recipient’s unreimbursed medical care expenses. Any claim payments (combining the total from all health and medical policies/plans) that exceed the amount of I.R.C. § 213 medical expenses would be taxable.

Form 1099s are not issued with regard to such benefits because we do not know what portion, if any, of the insurance benefits paid will be taxable as income to the policyholder. Generally, only the policyholder will know whether he or she received taxable excess indemnification amounts from insurance companies over and above the policyholder’s total § 213 medical expenses.
• IRS Memo dated 12-12-16 – just received late January

• Employees electing to participate in the fixed indemnity health plan pay premiums by salary reduction through Section 125

• Because the premiums for the fixed indemnity health plan are paid with amounts that are not included in the employee’s gross income and wages, the exclusions under Section 105(b) and 104(a)(3) do not apply to the payments and any amount paid by the plan are included in the employee’s gross income and wages, regardless of the amount of any medical expenses incurred by the employee upon which the payment is conditioned.
Supplemental Health Plans

- When the premiums on such policies are paid for by the policyholder on an after-tax basis, the benefit amounts from such policies are not taxable. See I.R.C. § 104(a)(3)

- When post-tax, also are not included on the employee W-2 under health benefit costs for the ACA reporting purposes

- Supplemental health plan deductions should be done on an after tax basis moving forward
If an employee is enrolled and paying for a supplemental health plan, under which of the conditions can benefits (all or a portion) be taxable income?

a. Post-tax
b. Pre-tax

c. Direct pay
Supplemental Health Plans – HSA Compatibility

- HSA’s - employee owned
- Contribution limits for 2017 are $3,400 for an individual and $6,750 for family
- Projected growth is to 27 million policies by 2019 with $50 billion in assets (average of just less than 2K per account)
- Most employer groups have one HDHP option or more, and/or are considering them
• If an employee owns an HSA account, can also have “permitted” policies such as accident, CI, HI, (fixed daily benefit) as well as LTC, dental, vision, and disability

• Need for supplemental health voluntary benefits has dramatically increased due to ACA

• Still, many employee have not accumulated enough in an HSA to help with the needed out of pocket cash expense of a major accident or illness
Question #5

HSA growth in assets is expected to hit which milestone in the year 2019?

a. $20 million
b. $100 million
c. $20 billion
d. $50 billion
HSA Compatibility

- Employee has a financial risk of fines and taxes for enrolling in a supplemental plan that is not HSA compatible
- Critical Illness Plans – typically ok
- Accident Plans – typically ok
- Carriers are now identifying HSA compatible plans for these benefits
Hospital Indemnity Plans – inpatient lump sum and daily benefits are ok. However, outpatient, surgical and anesthesia were not.

Can have dual options based upon HSA medical plan and another medical option.

Carriers designate plans now as HSA compatible or non-HSA compatible.

Compliance is ultimately on the participant.

Annual reviews, as medical options change, should be done to stay compliant.
Voluntary benefits have become more integrated with core benefits over the last 5 years and should be implemented and maintained in that fashion.

Appropriateness, price, underwriting, participation, communication, administration, and service all have to be taken into account initially and every year.

Tax and compliance issues are added to this list and also need to be reviewed annually.
If you have any further questions about the information discussed in this webinar please feel free to contact us at:

Crawford Advisors, LLC

- HQ: 200 International Circle | Suite 4500 | Hunt Valley, MD 21031
- 1813 Sweetbay Drive | Suite 10 | Salisbury, MD 21804
- 201 King of Prussia Road | Suite 650 | Radnor, PA 19087
- 280 Granite Run Drive | Suite 250 | Lancaster, PA 17601
- 2975 W. Executive Parkway | Lehi, UT 84043

(800) 451-8519 | www.crawfordadvisors.com

Download Slides | www.crawfordadvisors.com/webinars/

Questions & Requests | info@crawfordadvisors.com