

GOODMAN & COMPANY **CERTIFIED PUBLIC ACCOUNTANTS**

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Potential Penalties for Employers

COBRA: Congress passed the Consolidated Omnibus Budget Reconciliation Act (COBRA) health benefit provisions in 1986. An employer who violates COBRA may be subject to both civil and tax penalties. Penalties for non-compliance with COBRA include the following:

- IRS excise tax penalty of \$100 per day for each violation. This fine can be increased to \$200 per day in which there was more than one qualified beneficiary per family.
- An ERISA (Employee Retirement Income Security Act) penalty of \$110 per day payable to each qualified beneficiary for each day the employer was not in compliance.
- The employer can be held liable for legal fees, court costs, and even for medical claims incurred by a qualified beneficiary.

I-9 Forms: U.S. Immigrations and Customs Enforcement (ICE) requires Form I-9, [Employment Eligibility be completed, before hiring a new employee](#). An employer who does not comply with I-9 requirements may incur penalties, which include the following:

- The U. S. Department of Labor conducts random audits and can fine companies an average of \$100 to \$1,000 per employee. Companies can be fined up to \$100 per day, per employee since the date of hire.

FLSA: The Fair Labor Standards Act (FLSA) regulates minimum wage, child labor, overtime pay, and record-keeping requirements such as exempt vs. non-exempt employee classifications.

- Fines range from \$1,000 to \$10,000 per employee.
- The statute of limitations from the U.S. Department of Labor may require an employer to pay back wages for up to 2 years on employees who have been misclassified or mispaid.

State Unemployment Insurance Claims: State Unemployment Insurance (SUI) is an unemployment tax, which is computed by multiplying taxable compensation, up to the wage limit, by the employer's SUI tax rate.

- Up to 10% of all SUI claims are sent to the wrong employer
- Claims that are unnecessarily paid affect the employer's tax rate, which results in higher insurance premiums.

This information is courtesy of Paychex, Inc. payroll service, June 26, 2009. If you would like more advice, please call Goodman & Company, CPAs, **610-253-2745**.

Bill

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Certified Public Accountant