

Greater Cincinnati Compensation and Benefits Association
The Devil is in the Details
December 1, 2011 Meeting Overview

The December meeting of the Greater Cincinnati Compensation and Benefits Association (GCCBA) focused on key compliance and hot buttons that compensation and benefits professionals need to know for 2012. The speakers were attorneys from Graydon Head who specialize in the key areas covered in the presentation. Here is an overview of the topics that were covered:

- **Fair Labor Standards Act (FLSA):** The Wage and Hour Division of the DOL enforces FLSA. They are hiring aggressively and will be stepping up reviews and enforcement. They have been more punitive in recent years and they are targeting certain industries, employers and small businesses. Because FLSA can ask for more information than they need, the speakers recommend that you keep your files, know what is in those files and audit them.
- **Benefit Annual Notices:** This is an area that many employers are struggling with. Key items to be aware of include:
 - The **404A Fee Disclosure** (participant fee disclosure for retirement plans) is new for 2012 and should be added to the other retirement plan notices you send to employees. Talk to your Third Party Administrator (TPA) to see if they will provide this disclosure for you.
 - **Group Health Plan Notices** need to be sent your employees both initially and each year (depending on the notice). While the information can be shared through paper or email, you should make sure that your method complies with IRS requirements for distribution. Notices that are often overlooked by employers include Medicare Part D Reporting, Children's Health Insurance Programs and Women's Health and Cancer Rights Act.
 - If you have **missed sending annual notices**, there is a program for reporting these failures and paying a penalty (there is no statute of limitations for failing to send notices) through IRS Form 8928. Talk to your attorney for more information.
 - The 2010 changes to **HIPPA** strengthened enforcement. In November 2011, they started audits of health care providers and group health plans.
- **Tax Developments:** There are a number of changes to taxing of deferred compensation for executives, the deductibility of performance-based pay and the deductibility of bonuses. For Workers' Compensation, there is also a change in the penalty for misclassifying employees and contractors.

Two other tax developments that professional need to know. First, W-2 reporting under Health Care Reform is effective for W-2's issued in January 2013. Second, the effective date for nondiscrimination testing of fully insured plans has been delayed pending further guidance.

Because of the technical and detailed nature of this program, please be sure to carefully review the slides from the meeting for more information about each of these areas. Contact info for the Graydon Head attorneys is provided in the presentation as well if you have questions specific to the material.