



EMPLOYEE ENGAGEMENT

Marketing a Modern Benefits Package

Each year can bring new challenges for successfully implementing and marketing a modern employee benefits package. Participation is critical—without it, companies cannot offer the kind of benefit savings that they are expected to. Add this to the state of the “talent crisis” as it stands with the current job market, and your HR team has quite a tall order. There are many skill shortages in today’s labor market, which makes it easier for employees to jump from job to job in search of better compensation and benefits.

Because of this, companies need to make employee benefit marketing a priority in order to attract and retain their best team members. As it turns out, a little organization goes a long way when you are planning what is going to be most attractive to your employees in 2020.

1. Turn Employees into Brand Ambassadors

Designating one employee to be the gatekeeper of your brand is the trick to getting everyone else on board. While senior leadership or HR promoting a brand is expected, leveraging a key influencer from your own team is the key to making your message stick. Appoint one of your team members with great leadership skills and understanding of your product and have them set up webinars or lunch-and-learn sessions with your team to review benefit changes and options for 2020.

2. Use Portals and Third Party Websites

Email campaigns, newsletters, and portals are going to be your friend when it comes to distributing a unified message to all employees and outlining the next steps and action items that need completion. When you can get all of your communications in one place, you’ll have better response times from team members and greater rates of participation.

3. Enlist the Support of Benefit Plan Administrators

Employee benefit plan administrators can be essential in managing and helping your team, though many companies don’t use them to their fullest potential. Benefit plan administrators can act as project managers for getting your entire team reaching benefit milestones.



4. Use Common Sense.

Your company doesn't have to be Google to provide a benefits plan people care about. In fact, research shows that employees care more about the basics benefits than the haircuts or sleep pods Google provides its employees. Providing sensibly-costing insurance, plenty of sick time, and vacation goes a long way when you're determining what your benefits package will offer. In fact, things like time off or an occasional work-remote policy consistently rank higher on the list of items employees actually care about, compared to boutique offerings like yoga or nap rooms.

ADMINISTRATION

Implications of California's AB 5 for I-9 for Managers and Employees in 2020

I-9 compliance is fundamental for an HR team when onboarding new employees. Its primary function is to verify the identity and employment authorization of individuals hired in the United States. All U.S. employers must ensure proper completion of Form I-9 for each individual they hire for employment in the United States. I-9 becomes more complicated with the new addition of California's Assembly Bill 5 (AB 5), which deals primarily with an employee's hiring status. Under current federal immigration law, independent contractors do not have to be in compliance with I-9. However, with the addition of AB 5, if those contractors are classed as employees their path to compliance will change.

First, some brief background: On September 18, 2019, California Governor Gavin Newsom signed AB 5 into law. AB 5 defines a strict set of requirements that employers must use for determining whether a worker is an employee or an independent contractor. The law, which goes into effect on January 1, 2020, had its beginnings in a 2018 California Supreme Court case involving a same-day courier service that had started to reclassify its workers as independent contractors. ([LawLogix](#)).

Currently, California businesses are subject to a variety of tests of employee status, depending on the law in question. However, as of January 1, 2020, the default standard for independent contractor treatment will be the "ABC test." A worker will be considered an employee rather than an independent contractor if:

- A. The worker is free from the control and direction of the hiring entity in performing the work, both in the contract for performance and in fact.
- B. The worker performs work that is outside of the usual course of the hiring entity's business.
- C. The worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed for the hiring entity.

Under this ABC set of criteria, there will be huge implications for "gig economy" workers with companies such as Uber, Lyft, and Doordash — a sector that has steadily contributed to California's overall economic growth.



The Aftermath of AB5

Many employers are wondering whether AB 5 is retroactive and if there will be repercussions outside of California. The legislature included language in AB 5 that is retroactive for Industrial Welfare Commission Wage Orders and violations of the Labor Code “relating to wage orders.” Despite this, it [remains unclear](#) what Labor Code violations are sufficiently related to the wage orders to qualify for retroactive application. While there will not be immediate effects of AB 5 outside of California, experts are saying the legislation makes it easier for other states to follow suit and change the classification of independent contractors.

The largest implication of AB 5 will be for those employed within the gig economy, entitling millions of people who were previously not covered to overtime, workers’ compensation, paid sick leave, and business expense reimbursement to name just a few. And there are implications beyond a benefits package. Unlike a salaried or full-time employee, freelance contractors can’t apply for unemployment insurance when they lose a job. They also aren’t required to be paid minimum wage or overtime and aren’t allowed to form a union, as employees are. The repercussions of AB 5 that will be felt in California and potentially around the country will be that these contractors and freelancers will be entitled to similar rights as a salaried or full-time employee.

FINANCE

DOL Releases Final Overtime Rule, Effective January 1, 2020

For many employers, overtime is a tricky issue. Should you offer it to all employees? Only hourly employees? How much time should they work before they are eligible? Effective January 1, 2020, this will be decided for any employers struggling to classify overtime status. Last September, the U.S. Department of Labor (DOL) [announced a final rule](#) to make 1.3 million American workers eligible for overtime pay under the Fair Labor Standards Act (FLSA). This final rule will reclassify employees across dozens of industries, though it will have the most impact on those falling below the newly designated salary threshold.

The overtime rule has implications for the minimum salary threshold, which is what makes an employee eligible for overtime. The minimum salary threshold for “white collar” exemptions from overtime will increase from \$455 per week (\$23,660 annually) to \$684 per week (\$35,568 annually) ([American Payroll](#)). The ruling will additionally allow employers to use bonuses, commission, and incentive payments paid at least annually to be in consideration of the minimum salary threshold. All employees who are paid a salary falling below this holistically considered salary threshold will be categorically non-exempt, or in other words, eligible for overtime for all hours worked over 40 in a workweek. The DOL final rule will not target people within the gig economy or short-term contract workers.

The DOL estimates that approximately 1.3 million additional workers will now be eligible for overtime based on the new standards. Employers should consider auditing their wage practices to ensure that in 2020 all non-exempt employees are being properly paid overtime to avoid high-penalty FLSA claims. Employers in states with more stringent overtime standards, such as California, should continue complying with their state wage laws, as the FLSA does not preempt any stricter state laws. Because there is variation in stricter states, it is prudent for employers to



research and discuss with counsel before assigning changes to employees' regular rates, since those must be in compliance with the DOL's new rule.

"For the first time in over 15 years, America's workers will have an update to overtime regulations that will put overtime pay into the pockets of more than a million working Americans," [said](#) Acting U.S. Secretary of Labor Patrick Pizzella. "This rule brings a common-sense approach that offers consistency and certainty for employers as well as clarity and prosperity for American workers."

OFFICE CULTURE

Leading the Social Enterprise: Building a Culture of Community Experience

If you've been considering developing a social responsibility plan for your company in 2020, now is the perfect time. Experts are predicting that the future of success for organizations lies in their ability to make a marked difference in their community — an initiative that is directly tied to boosting the bottom line.

This sentiment was summarized in Deloitte's emerging [2019 Global Human Capital Trends report](#), which noted that in order to be successful, organizations need to go beyond merely fulfilling their initially stated corporate social responsibility goals. According to Deloitte's report, there is a profound shift happening to business leaders worldwide: the rapid rise of what is now referred to as "social enterprise." This shift reflects the growing importance of social capital in shaping an organization's purpose, guiding its relationships with stakeholders, and influencing its ultimate success or failure.

The reason for this shift in perception is that 2019 has brought on an intensifying combination of economic, social, and political issues that are challenging business strategies. Faced with the never-ending acceleration of artificial intelligence, cognitive technologies, and automation, 86 percent of respondents to Deloitte's Global Human Capital Trends survey believe they must [reinvent](#) and pivot where they are allocating energy, and what they are learning from. For respondents, this looked like more investment in social responsibility, diversity, and environmental issues.

In order to integrate this sentiment into your 2020 corporate business plan, it's important to remember that social enterprise is beneficial not only for influencing your bottom line but also for creating an attractive employer brand. When your company's external corporate social responsibility is successfully combined with growing social capital within your networks, you'll start to onboard better candidates, clients, customers, and projects. The data is plentiful to support this insight. In fact, one [recent study](#) found that as many as 86 percent of U.S. consumers expect companies to act on social and environmental issues and 87 percent will buy a product because a company advocated for an issue they cared about.



EMPLOYER WEBINAR

What Employers Need to Know about the New Final Rules on Health Reimbursement Arrangements, Part 2

Tuesday, January 14, 2019 • 2:00 p.m. ET / 11:00 a.m. PT

This webinar will provide an overview of the new final rules on health reimbursement arrangements regarding individual coverage HRAs with an emphasis on the proposed rules regarding nondiscrimination and affordability by:

- Describing what a health reimbursement arrangement (HRA) is
- Describing the new individual coverage HRA
- Describing the types of individual coverage that can and cannot be integrated with an HRA
- Illustrating how the integration rules apply to an individual coverage HRA that is integrated with Medicare, emphasizing that Medicare eligible or entitled employees is not a class under the final rules
- Explaining how an employer would structure an individual coverage HRA, including the nondiscrimination rules, classes of employees, minimum class size, opt-out and reimbursement waiver provisions, individual coverage substantiation, and notice requirements
- Describing how Section 105(h) nondiscrimination applies to individual coverage HRAs, including the exceptions for increases in HRA amounts due to age and family size
- Describing how the individual coverage HRA interacts with the employer shared responsibility provisions, including the affordability safe harbors and the new look-back month safe harbor and location safe harbor
- Describing best practices in offering HRAs under the final rules and proposed rules

This 60-minute intermediate level webinar will help employers understand individual coverage HRAs.

Registration

[Register here for the webinar](#). The presentation will be posted on the [UBA website](#) the afternoon before the webinar.

About the Presenter

[Tiffani Greene](#) from Fisher Phillips will be the presenter. Tiffani is a member of the Employee Benefits Practice Group and the Prevention and Compliance Team. She brings a unique mix of experience in the complex areas of employee benefits law and corporate compliance. From counseling on the day-to-day operations of employee benefits plans to assist with regulatory risk mitigation, she has a deep understanding of her clients' needs and how to create effective solutions.

Certification

This webinar has been submitted to the [Human Resource Certification Institute](#) and the [Society for Human Resource Management](#) to qualify for 1 recertification credit hour.