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FLORIDA
EMPLOYMENT LAW LETTER

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EVIDENCE

11th Circuit offers guidance on standards for Title VII violations

by Jeff Slanker
Sniffen and Spellman, P.A.

The U.S. 11th Circuit Court of Appeals (whose rulings apply to all Florida employers) recently published a decision that outlines the legal standards for determining whether an employer has violated Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on race, sex, religion, and other protected characteristics. The opinion provides guidance to employers and their attorneys on what type of evidence employees must present to avoid dismissal of complaints alleging impermissible discrimination.

Facts of the case

Charles Flowers, the successful head football coach at Troup High School in Georgia, was let go by the school district for his role in impermissible recruiting of players. An investigation revealed that Flowers guaranteed rental payments within the school boundaries for two boys from a county in Alabama that borders Troup County, ostensibly so they could play for Troup High School.

Flowers subsequently brought suit against the school district and several individuals, alleging he was discriminated against on the basis of his race and that unlawful discrimination, not the recruiting concerns, was what led to his dismissal. The district court ruled that summary judgment in favor of the school board was appropriate and dismissed Flowers' lawsuit.

Even though there were a significant number of disputes over the reasons and legitimacy of the coach's termination, the court found that he didn't put forth enough evidence of discrimination to prevent his lawsuit from being dismissed. Flowers appealed that decision.

Decision of the appellate court

The appeals court held that there wasn't sufficient evidence to infer that Flowers was treated unfairly because of his race. In affirming the dismissal of his lawsuit, the 11th Circuit discussed and clarified the burden of proof for an employee who alleges unlawful discrimination and how he must establish his case. The court's decision ultimately reaffirmed the long-standing notion in the 11th Circuit that an employer's nondiscriminatory business judgment shouldn't be second-guessed by courts acting as super-personnel departments.

The appellate court analyzed Flowers' claims under the burden-shifting framework for employment claims based solely on circumstantial evidence. Circumstantial evidence, as opposed to direct evidence, doesn't directly signal

that discrimination occurred. Many employment cases turn on circumstantial evidence, or the motives of decision makers.

Under the burden-shifting framework, an employee must establish an initial inference of discrimination, which the employer can rebut with the real reason for its allegedly discriminatory action. Ultimately, the employee has the burden of proving that the employer's proffered reason isn't true and that discrimination likely occurred. Indeed, it's the employee's burden to show the employer's reason was a pretext, or an excuse, to discriminate.

Flowers argued that he submitted enough evidence of pretext to withstand the dismissal of his complaint. He claimed that he never committed the recruiting violations he was accused of, and the school district knew he was innocent and offered shifting reasons for discharging him. He also identified comparators outside his race who were treated differently than he was after they engaged in similar behavior. According to him, white coaches who also supposedly committed recruiting violations weren't disciplined as severely as he was.

The appellate court rejected Flowers' evidence as insufficient to overcome the school district's motion to dismiss his complaint. The court held that there was no proof the employer was motivated by his race when it discharged him. The district was entitled to fire him for a good reason, a bad reason, no reason, or a reason based on erroneous facts, as long as it wasn't a discriminatory reason. He failed to present any evidence that the reason for his discharge was connected to his race.

The court similarly rejected Flowers' argument that the school district's shifting or inconsistent reasons for the discharge decision were sufficient to show a pretext for discrimination and save his complaint from dismissal. The court held that he failed to provide any evidence that supported an inference of unlawful discrimination, and merely pointing to shifting reasons for the adverse employment action without more evidence was insufficient.

The court also held that Flowers' white comparators couldn't save his claim because the coaches he cited didn't engage in misconduct that was nearly identical to his alleged misconduct. Indeed, the comparators' recruiting violations weren't as severe or frequent as the violations Flowers was accused of. As a result, he was different enough from his proposed comparators that they couldn't be used to establish a case of pretext to save his case from dismissal. *Flowers v. Troup County, GA, School District, et al.,* Case No. 14-11498 (11th Cir., 2015).

Employer takeaway

The court held that an employee must present some type of evidence that shows illegal discrimination actually occurred and may not simply rely on establishing an initial inference of discrimination. The case provides guidance for employers that are dealing with employment discrimination claims and highlights the burden an employee must carry to avoid dismissal of his complaint after pretrial fact-finding reveals no real evidence of any discriminatory treatment.

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DISCRIMINATION

Thin line between political and hate speech: What's acceptable at work

Picture it—it's a Friday afternoon at the end of a very long week, and just as you are about to sneak out early for the weekend, one of your employees walks into your office wearing a camouflage trucker hat emblazoned with the words "Make America Great Again." Oh perfect, you think to yourself, another Trump supporter. And before you can stop yourself, your (irrational and unproductive) irritation gets the best of you, and you find yourself remarking sarcastically, "Nice hat. Do you hate women, too?" The employee gives you a shocked look but leaves your office after getting an answer to an unrelated question, and as he walks away, you proudly tag Hillary Clinton in a tweet about how you stood up for women's equality.

A week later, you have to give the same employee a written warning for being late for the third time in the past two weeks, but when you ask him to sign the warning, he angrily accuses you of discriminating against him because he is a Republican and a Caucasian man. And he then files a complaint against you with HR.

Should you be concerned? Are you facing a legal risk you weren't aware of? Should you call your employment attorney? Maybe.

Free speech and other concerns

Political activity and affiliation are protected statuses only for certain employees and in certain places. For example, the First Amendment to the U.S. Constitution has been construed to prohibit public employers from using political affiliation as a factor when making employment decisions, and the Civil Service Reform Act of 1978 expressly protects federal employees from political affiliation discrimination. Additionally, in some states and municipalities—including California, Louisiana, New York, the District of Columbia, and the cities of Lansing, Michigan, Madison, Wisconsin, and Seattle, Washington—political affiliation is a protected class just like race, age, and disability, even for employees who work in the private sector.

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ANDY'S IN-BOX

Is a 'paid leave' law on the horizon in Florida?

by Andy Rodman
Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A.

Did you watch the Democratic presidential debate on October 13? If so, you heard the candidates make many promises, among them paid family leave. True, we already have the Family and Medical Leave Act (FMLA), but it only requires covered employers with 50 or more employees to provide *unpaid* leave, and employees are eligible for that leave only if they have worked for 1,250 hours in the 12 months preceding the leave.

Moreover, President Barack Obama signed an Executive Order on September 7, 2015, requiring federal contractors to allow employees to accrue paid sick leave under specified circumstances. But proponents of paid leave want more.

According to Bernie Sanders, "every other major country" in the world has paid family leave. On that point, perhaps he's right. In 2014, the International Labor Organization (ILO), an agency of the United Nations, revealed that the United States is among a handful of countries that doesn't provide workers with paid maternity leave. We share that "distinction" with countries like Papua New Guinea. Addressing a primary concern among opponents of paid family leave, Hillary Clinton believes that "we can design a system and pay for it that does not put the burden on small business."

Here in Florida, on September 9, Senator Dwight Bullard (D-Miami) introduced Senate Bill (SB) 384, titled "Paid Family Care Leave," which is designed to provide Florida employees with six weeks of paid leave to bond with a newborn child or a child placed with the employee for foster care or adoption. If it passes, here's how the state law would work:

- **Covered employers.** "Employer" is defined in SB 384 as any person employing 15 or more employees.
- **Covered employees.** An "employee" is any person (but not an independent contractor) who performs work for an employer for an average of 20 or more hours per week.
- **Type of leave permitted.** An employee could take family care leave for up to six weeks to bond with a minor child during the first year after the birth or placement of the child with the employee for foster care or adoption. The leave would be paid, and the employee would not lose any benefits or privileges of employment during the leave.
- **Leave concurrent with FMLA leave.** The six weeks of paid leave would run concurrently with FMLA leave, so an employee wouldn't be entitled to 12 weeks of FMLA leave plus an additional six weeks of family care leave under state law.
- **Adverse actions prohibited.** Employers would be prohibited from retaliating against employees who request or take family care leave.
- **Employer notice requirements.** Employers would be required to notify employees of their entitlement to family care leave and their rights under the law. You would be able to comply with the notice obligations by using a poster or model notice developed by the Florida Department of Economic Opportunity (DEO).
- **Rebuttable presumption.** There would be a rebuttable presumption that a violation occurred if an employer took adverse action against an employee within 90 days after the employee engaged in protected activity. The rebuttable presumption could be overcome by "clear and convincing evidence."

Violations of the law would result in a fine up to $125 for the first occurrence and up to $250 for each subsequent occurrence. An employee could also file a civil action in court without exhausting any administrative remedies and could be awarded (1) the monetary value of the denied leave, (2) any actual economic damages sustained, (3) up to three times their actual economic damages, (4) attorneys' fees and costs, and (5) other relief, such as reinstatement, back pay, and injunctive relief. The DEO may also investigate alleged violations and bring a civil action on an employee's behalf (or ask the Attorney General's Office to bring an action). Any bad-faith actions commenced by employees would be a first-degree misdemeanor.

SB 384 was referred to committee on October 9.

Andy Rodman is a shareholder and director at the Miami office of Stearns Weaver Miller. If you have any questions about this issue or any other employment law topic, you may contact Andy by e-mail at arodman@stearnsweaver.com or by phone at 305-789-3256. Please read the Stearns Weaver Miller employment law blog at BeLaborThePoint.com. ✣

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Phew, you might be thinking. None of those laws applies to us, so I have nothing to worry about, right? Not necessarily. Just because you are a private employer doing business in a state, county, and town that don't specifically protect employees from discrimination on the basis of political affiliation doesn't mean you should feel free to speak your mind the next time one of your subordinates gets on her soapbox about Bernie Sanders.

For one thing, employees have the right to discuss workplace conditions under the National Labor Relations Act (NLRA), and a conversation about a particular political party or candidate probably meets that description if it touches on how that party or candidate might lead to better or worse terms or conditions of employment.

Furthermore, voicing any type of political opinion leaves you vulnerable to allegations that you are biased against the employee on the basis of some other protected characteristic, such as race, national origin, or religion. Think about it—all political candidates have races, nationalities, religions, and other protected characteristics, and most also have strong opinions about race relations, foreign policy, religious freedom, the Second Amendment, immigration, gay rights, and other political issues that are directly related to characteristics that are protected by employment discrimination laws.

Accordingly, getting into a political debate with an employee about a candidate or a political issue risks inviting the employee to associate your political views with some type of prohibited discriminatory bias, particularly in the midst of a presidential campaign.

If you don't have anything nice to say . . .

So how can you best protect yourself and your company from unnecessary additional legal risk? Most important, make sure you know whether any federal, state, or local laws (like city and county ordinances) specifically protect your workforce from discrimination on the basis of their political affiliation or activities. As noted above, such laws exist in only a few states and the District of Columbia, but they can also be found in city and county ordinances like those that protect employees in Seattle, Lansing, and Madison. If such a law does apply to your company, make sure you understand what it covers—does it protect only political activities or overt expressions of political beliefs, or does it more broadly protect employees from discrimination on the basis of political affiliation or ideology—and be sure to educate your supervisory employees accordingly.

But even if you aren't subject to such a law, take the time to remind yourself and your supervisors just how easily a political opinion can be taken as a form of unlawful animus or bias, and encourage them not to get drawn into political discussions at work, particularly not with subordinate employees. They might "Stand with Rand," but is Rand going to stand with them when they have to defend themselves against allegations of discrimination or retaliation in court? Probably not. ✤

FMLA RIGHTS

Top 10 mistakes in FMLA policies

by Lisa Berg
Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A.

Although it was enacted more than 20 years ago in 1993, the federal Family and Medical Leave Act (FMLA) still presents numerous challenges for employers. Even the most adept and experienced HR professionals make mistakes when administering FMLA leave. In light of changes in the U.S. Department of Labor's (DOL) FMLA regulations over the past several years and the U.S. Supreme Court's recent decision recognizing the validity of same-sex marriage, some of you may find that your company's FMLA policy is out of date. This article provides an overview of the most common mistakes employers make when drafting an FMLA policy.

What your policy should address

(1) **Eligibility requirements.** To be eligible for FMLA leave, an employee must (a) have been employed by a covered employer for at least 12 months, (b) have worked at least 1,250 hours during the 12-month period immediately preceding start of the FMLA leave, *and* (c) be employed at or within 75 miles of a worksite where 50 or more employees are employed by the same employer. A court recently extended FMLA rights to an otherwise ineligible employee merely because the employer's policy didn't include all of the eligibility criteria. Therefore, you should update your policy to reflect all three eligibility requirements.

(2) **Definition of spouse.** Earlier this year, the DOL issued a final rule redefining "spouse" that allowed eligible employees to take FMLA leave to care for same-sex spouses, regardless of whether they lived in a state that recognized their marriage, as long as their marriage was lawfully entered into in another state. On June 26, 2015, the Supreme Court ruled that same-sex marriage is a constitutional right and states can no longer prohibit same-sex couples from marrying. Despite the Supreme Court's decision, many employers have outdated policies that refer to the DOL's old definition of "spouse" as "husband and wife" or include the outdated definition of "spouse" from the 2015 final rule. You should review your policy and replace any references to "husband and wife" with "spouse."

(3) **Designation of the FMLA year.** The FMLA entitles eligible employees who work for covered employers

to take unpaid job-protected leave during a defined 12-month period for specified family and medical reasons. Generally, an employer may select one of four options to establish the 12-month period: (1) the calendar year, (2) any fixed 12 months, (3) the 12-month period measured forward from the first date an employee takes FMLA leave, or (4) a "rolling" 12-month period measured backward from the date an employee uses any FMLA leave. According to the DOL, if an employer fails to select one of those 12-month measuring periods, the employer must use the 12-month period that is most beneficial to employees.

(4) **Calculation of FMLA leave increments.** According to the DOL's regulations, an employer "must allow employees to use FMLA leave in the *smallest* increment of time the employer allows for the use of other forms of leave, as long as it is no more than one hour." If you allow employees to take sick leave in 30 minute increments, you must also allow employees who are approved for intermittent FMLA leave to take it in 30-minute increments. You should address intermittent leave usage in your policy.

FMLA-covered employers are required to display the DOL's "general notice" poster.

(5) **Circumstances for concurrent paid leave.** If paid leave (such as vacation, sick, or personal time) is to be substituted for FMLA leave (i.e., run concurrently with the unpaid FMLA leave), your policy should state when and under what circumstances that rule applies.

(6) **Definition of qualifying events.** Many FMLA policies fail to explain which types of absences qualify for FMLA leave or address any restrictions on leave (including eligibility for spouses employed by the same employer). Many employers also forget to include the FMLA's military family leave provisions in their policy (i.e., entitlement to 12 weeks of leave for certain qualifying exigencies and 26 weeks of leave to care for a covered servicemember during a 12-month period). Make sure your policy addresses these issues.

(7) **Formal procedure for requesting leave.** Under the FMLA, you can require an employee to comply with your usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances. For example, you may require that an employee follow your call-in policy, and if the employee doesn't comply with that procedure and no unusual circumstances justify his failure to follow procedure, you may delay or deny FMLA-protected leave. Your FMLA policy should therefore specify the procedures for requesting foreseeable and unforeseeable leave (e.g., providing written notice 30 days in advance of foreseeable leave), and indicate the penalty for failing to comply with the requirements. Enforce those procedures uniformly for all employees who take FMLA leave or have other forms of absences.

(8) **Publication of general notice.** FMLA-covered employers are required to display the DOL's "general notice" poster in each location where they have any employees and where it can be readily seen by employees and job applicants. If you have any FMLA-eligible employees, you must also include the general notice in your employee handbook, policy manual, or other written guidance on employee benefits or leave rights. If your company doesn't have a handbook or other guidance, you must give each new employee a copy of the general notice when he is hired. If you have a handbook, the entire general notice must be included as an appendix or the contents of the general notice must be included in your FMLA policy. One of the most common mistakes employers make is failing to satisfy this publication requirement.

(9) **FMLA forms.** The DOL updated its FMLA forms on May 31, 2015. The new forms, which have an expiration date of May 31, 2018, are available at www.dol.gov/whd/fmla/. Make sure you've downloaded and are using copies of the updated FMLA forms.

(10) **Return to work.** Your FMLA policy should address what happens if an employee doesn't return to work following FMLA leave (e.g., the policy should include language addressing the availability of additional leave but require employees to contact you to request it or provide an update on their status). The policy should not have an automatic termination provision for employees who don't return upon the expiration of their leave. It's also advisable to include a statement explaining that you will administer your FMLA policy in accordance with the Americans with Disabilities Act (ADA).

Bottom line

The DOL likely will be increasing on-site investigations of employers' FMLA practices in an effort to increase compliance with the statute. Therefore, you are

AGENCY ACTION

EEOC announces $17 million verdict against farm employer. The Equal Employment Opportunity Commission (EEOC) in September 2015 announced a federal jury verdict awarding a total of $17,425,000 to five former female employees of Moreno Farms, Inc., a produce growing and packing operation in Felda, Florida, who suffered sexual harassment and retaliation. According to the EEOC's suit, two sons of the owner of Moreno Farms and a third male supervisor engaged in graphic acts of sexual harassment against female workers, including regular groping and propositioning, threatening female employees with termination if they refused the supervisors' sexual advances, and attempting to rape and raping multiple female employees. All five women were ultimately fired for opposing the three men's sexual harassment.

New York employer settles EEOC suit for $3.8 million. The EEOC and New York Attorney General Eric T. Schneiderman in September announced that Consolidated Edison Company of New York, Inc. (Con Edison), would pay $3.8 million to resolve charges by a class of female workers who claimed the employer subjected them to sexual harassment and/or various forms of sex discrimination. The joint settlement agreement between the EEOC, the Attorney General's Office, and Con Edison resolves allegations of ongoing sexual harassment and discrimination against women in field positions. The agreement requires Con Edison to reserve up to $3.8 million to be distributed among eligible settlement group members.

EEOC race discrimination suit settled for $1.6 million. A U.S. district court in South Carolina in September ordered BMW Manufacturing Co., LLC, to pay $1.6 million and provide job opportunities to settle a race discrimination lawsuit filed by the EEOC. The suit claimed that BMW excluded African-American logistics workers from employment at a disproportionate rate when the company's new logistics contractor applied BMW's criminal conviction records guidelines to incumbent logistics employees.

DOL, Vermont sign misclassification agreement. The U.S. Department of Labor (DOL) and the Vermont Department of Labor announced in September that they had signed a three-year memorandum of understanding intended to prevent the misclassification of employees as independent contractors. Under the agreement, both agencies may share information and coordinate law enforcement. The DOL has similar agreements with Alabama, Alaska, California, Colorado, Connecticut, Florida, Hawaii, Illinois, Idaho, Iowa, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Missouri, Montana, New Hampshire, New York, Rhode Island, Texas, Utah, Washington, Wisconsin, and Wyoming. ✤

well-advised to consult with experienced employment counsel and conduct a self-audit of your FMLA policies, forms, and practices to reduce your liability if you're ever faced with a DOL audit or a lawsuit filed by an employee.

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LABOR LAW

11th Circuit upholds NLRB order finding drivers' discharge unlawful

by Jeff Slanker
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The 11th Circuit recently upheld an order of enforcement in which the National Labor Relations Board (NLRB) found that two employees were retaliated against for engaging in union activities. The case highlights the danger of treating employees differently based on their support of a union or participation in a union organizing campaign.

Facts of the matter

Allied Medical Transport, Inc., which provides emergency and nonemergency medical transportation for individuals, has a contract to provide such services in Broward County. Its workers sought to unionize and, after a campaign and election were held, voted to organize into a bargaining unit. The owner of Allied made his opposition to the union known during the organizing campaign.

After the union was approved, two drivers who were active in the union organizing campaign, Renan Fertil and Yvel Nicolas, were terminated for having fare delinquencies. Drivers are required to remit their fares to Allied, and the company alleged that Nicolas and Fertil didn't remit their full fares. The employees had a similar explanation for the discrepancy, but instead of investigating their claims, Allied referred the matter to the local police department and eventually terminated them. Before the

union organizing campaign, two other employees who had similar issues with delinquent reimbursements were not terminated.

The General Counsel of the NLRB filed a complaint against Allied for several violations of the National Labor Relations Act (NLRA). The NLRB alleged that Allied violated the NLRA by, among other things, illegally retaliating against Nicolas and Fertil for their union activities. It's impermissible under the NLRA for an employer to retaliate against someone for engaging in union activities.

An NLRB administrative law judge (ALJ) ruled that Allied didn't retaliate against Nicolas and Fertil, but the ALJ's decision was overturned by the NLRB, which found that Allied had in fact retaliated against the drivers and it couldn't show it would have taken the same action had there been no union activity. The NLRB ordered Allied to reinstate the employees and provide them with back pay. Allied appealed to the 11th Circuit.

The company didn't attempt to verify the employees' explanations for the fare discrepancy.

Decision of the appellate court

The appellate court upheld the order of the NLRB, finding that Nicolas and Fertil were retaliated against for engaging in union activities. The court found that substantial evidence supported the Board's finding that the employees' termination constituted retaliation.

The 11th Circuit relied on several key facts in upholding the NLRB's order. For example, the court pointed to evidence indicating that Allied knew about the employees' support for the union, the adverse action occurred soon after the vote in favor of the union, and Allied's owner had expressed antiunion animus. The evidence that the employer's antiunion animus, not its concerns about employee theft, motivated the firings was circumstantial.

The court also held that the evidence showed Allied wouldn't have discharged the employees if they hadn't engaged in union activity. The court pointed to the fact that the company didn't attempt to verify the employees' explanations for the fare discrepancy, despite its promise to investigate the matter. Moreover, the court noted that other employees accused of similar misconduct before the union campaign weren't treated as severely as Nicolas and Fertil. *National Labor Relations Board v. Allied Medical Transport, Inc.*, Case No. 14-15033 (11th Cir., October 13, 2015).

Employer takeaway

The easiest way to avoid claims of discrimination and retaliation is to be consistent when you discipline employees and make sure you apply your workplace policies evenhandedly. Be mindful of the inferences that can be drawn from disparate treatment, and refrain from retaliating against employees for exercising their rights to organize or participate in union activities.

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TAXES

IRS issues guidance on tax treatment of identity protection in data breaches

Businesses affected by a data breach often offer some form of free credit monitoring or identity theft protection to persons affected by the breach. In fact, effective October 1, 2015, Connecticut became the first state to require businesses to provide at least one year of identity theft prevention and/or mitigation services to residents affected by a data breach.

Although these services may be unable to prevent further fraudulent activity entirely, they do provide an added benefit by alerting breach victims of suspicious activity. And where there's someone receiving an added benefit, there's typically someone else waiting to tax it.

So after providing these free identity protection services to customers and employees, many organizations began to wonder if there were tax implications for doing so. In other words, if an employer provides credit monitoring or identity theft protection to employees, must the value of the service be included in gross income?

IRS says no

In a recent Internal Revenue Bulletin, Announcement 2015-22 confirms that the IRS "will not assert" that the value of these services is taxable. That means that if you, as an individual (and a loyal Target or Home Depot customer), receive identity protection services as a result of a data breach, then you aren't required to report the value of the protection services in your personal income.

It also means that an employer that has provided identity protection services to employees whose personal information may have been compromised in a breach of the company's record-keeping system isn't required to include the value of those services in the employees' gross income and wages. Therefore, the value of these services isn't required to be reported on workers' Forms W-2 or 1099.

Now for the fine print

There are a few exceptions.

First, at this point, this tax-exempt status applies only to identity protection provided as a direct result

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of a data breach. If your company provides identity protection services, such as data breach insurance, to all employees as part of their standard compensation and benefits package, then the value of these services is still considered taxable income.

Second, the tax-exempt status doesn't apply to cash received in lieu of identity protection services. If you give data-breached employees the option to substitute their preferred identity protection service and then reimburse the cost of that service, the reimbursement will be taxable.

Finally, the tax-exempt treatment doesn't apply to payouts received from an identity theft insurance policy. Identity theft insurance recoveries will be treated the same as any other insurance recovery under tax law.

Although most state departments of revenue will follow this federal guidance, employers should still be aware that state income tax treatment for these services may differ.

Treasury will review related circumstances via public comments

Does your company provide identity protection services in circumstances other than a data breach? For example, do you provide these services as part of your total compensation package or to employees who engage in international travel?

Fortunately, the U.S. Department of Treasury and the IRS requested additional comments from organizations that seek further guidance for circumstances just like these. The agencies will review the comments and, if necessary, provide additional instruction (and, perhaps, tax relief).

Although the comment deadline of October 13 has passed, you should feel encouraged that the Treasury Department and IRS are not only considering but also specifically requesting input from those the regulations actually affect. It's also a helpful reminder that when federal agencies propose new regulatory changes, there is an opportunity to respond during the public comment period and to ensure that the unique needs of your workforce are not overlooked entirely.

If desired, additional comments and questions may still be directed to notice.comments@irscounsel.treas.gov with "Announcement 2015-22" in the subject line. Note, however, that the comments may not be considered in the current review. ✤

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