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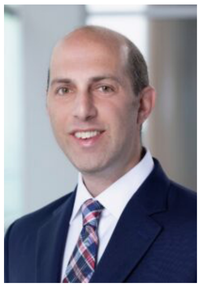
# Modernizing employee benefits and taxes for today's workforce | Viewpoint

■ MARC ASPIS

Long gone are the days in which, after working at the same company for several decades, an employee would get a firm handshake (and, if lucky enough, a gold watch) upon retirement.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Today's economy is undergoing a seismic shift with employees leaving their jobs in huge numbers across all industries, often by choice. According to the U.S. Chamber of Commerce, over 44 million Americans quit their jobs in 2023. Interestingly, the hiring rate has outpaced the quit rate, meaning that employees are not only quitting, but are finding new jobs as well. This trend, known variously as the "Great Resignation," the "Big Quit" or the "Great Reshuffle," stems from a myriad of factors. Workers across industries are prioritizing better work-life balance, better pay, flexible hybrid or remote policies, workplace culture, career advancement, training, attractive benefits, overall job satisfaction and other characteristics.

During the new hire onboarding process, employees face numerous adjustments — new systems, culture, team dynamic, roles, responsibilities and administrative tasks. Often lost in the shuffle are some benefits and tax-related rules that come with a new job. The rules and policies underlying these items often contradict each other, lack uniformity and, in some ways, fail to align with the realities of the modern workforce. Standardizing these rules would significantly improve personal financial planning, foster fairness and match the onboarding experience with today's employment experience.

## FICA

The federal government provides two important benefits to the elderly (and certain other groups): Social Security (retirement income) and Medicare (health insurance). These programs are primarily funded by a payroll tax pursuant to the Federal Insurance Contributions Act ("FICA"). Typically, the employer withholds 6.2% of an employee's gross wages for Social Security and 1.45% for Medicare, with the employers matching these contributions in the same percentage. Once an employee's annual salary reaches $168,600, indexed for inflation, employers no longer contribute to Social Security, but Medicare contributions continue as they are not capped.

If an employee switches jobs, the new employer deducts FICA contributions, *even if the employee made more than $168,600 at the previous employer.* High earners who switch jobs may very well pay FICA twice. Like any excess tax, the excess FICA tax is applied against outstanding taxes or refunded after filing. This "double payment" is problematic — it makes personal financial planning challenging, as many employees (including high earners) would prefer an additional 6.2% in their take-home pay. Additionally, overpaying taxes is akin to giving the government an interest-free loan, a concept that bothers many people.

## 401(K)

Employer-sponsored retirement benefits are an attractive feature of overall compensation. According to the U.S. Bureau of Labor Statistics ("BLS"), approximately two-thirds of private sector employees have access to some sort of employer-sponsored retirement benefits. For private sector, non-union employees in for-profit companies, the most popular option is a 401(k) plan. A 401(k) plan is a tax-favored, defined contribution plan subject to specific rules set forth in the tax code and in ERISA (the intricacies of 401(k) plans are beyond the scope of this

article). Employees can opt to contribute a pre-tax portion of their salary up to an annual limit (for 2024, the limit is $23,000 for employees under age 50), and certain plans may also include employer contributions. Gains in the 401(k) account grow tax-deferred, and participants can delay taking distributions from their account until age 73.

Importantly, a participant in a 401(k) plan is considered the owner of his/her account (although sometimes subject to vesting requirements for employer contributions). When switching jobs, an individual may transfer his/her account balance to the new employer's plan entirely tax-free, known as a "rollover." This ensures that the employee retains the benefit of the accrued contributions and gains in the employee's individual account.

Once the annual contribution limit is reached, further contributions cease, regardless of job changes. Put simply, switching jobs does not reset the annual contribution limit. Typically, the employee informs the new employer's payroll provider about previous contributions. In short, 401(k) account balances belong to the individual, and the annual limit is dependent on the calendar year, **not** the employer's identity.

## HEALTH INSURANCE

Like retirement benefits, health insurance is an important aspect of employee benefits. According to the BLS, nearly 90% of workers have access to employer-sponsored health care benefits. Like retirement benefits, health care benefits are governed by detailed rules, the specifics of which are beyond the scope of this article.

Employers often offer various health care plans to employees. An increasingly popular offering is the high-deductible health plan ("HDHP"). According to the BLS, access to HDHPs increased from 33% of workers in 2014 to 51% of workers in 2023. In an HDHP, participants must pay out of pocket for medical costs until the high deductible is met ($3,200 for family coverage in 2024), after which insurance benefits kick in. An important feature of an HDHP is a health savings account ("HSA"), which carries over year-to-year, can be invested and can be used to pay for medical expenses. An HSA offers a triple tax advantage: contributions (up to an annual maximum, $8,300 for families in 2024) are made pre-tax, gains grow tax-free, and distributions for qualified medical expenses are tax-free.

Similar to 401(k) plans, the HDHP/HSA construct contains somewhat divergent rules for new hires: annual contributions are capped, and individuals can transfer the HSA balance tax-free to a new account. However, the deductible resets with a new employer. If a participant hits the deductible at the previous employer, but then suffers a catastrophic medical event at the new employer, it is basically tough luck.

## CLOSING THOUGHTS

Employees changing jobs face a complex benefits and taxes landscape. Some limits are capped (401(k) and HSA contributions), while others are reset (FICA withholding). Some items can be transferred (401(k) and HSA accounts), while others cannot (deductibles). So where do we go from here?

In our opinion, the benefits/taxes aspect of new hire onboarding should be modified to be more employee-friendly. Regarding 401(k) and HSA accounts, their portability and annual contribution limits are sensible. FICA should adopt a similar model: the salary cap should consider salary (and withholding) from the previous employer. This adjustment is neither burdensome nor complex – payroll systems can easily be adjusted with just a few clicks. Deductibles (and similar health plan issues) should also consider expenses incurred at the previous employer. In fact, M&A agreements will often have a covenant stating something to the effect of "The Purchaser will honor any deductible, co-payment and out-of-pocket maximums incurred by the Seller Employees and their eligible dependents under the health plans in which they participated immediately prior to the Closing Date during the portion of the Calendar Year prior to the Closing Date."

Congress has the power to simplify the new hire onboarding process for financial planning purposes, align with the current employment landscape, and, most importantly, ensure greater fairness for employees. We hope that Congress uses its power wisely in this regard.

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