

Keeping Pace-What's New in HR

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Tuition Reimbursement – legislation passed on 1/1/13 to prevent the U. S. from going over the “fiscal cliff” made permanent Section 127 of the Internal Revenue Code which permits employees to exclude up to \$5,250 of employer provided tuition assistance from their taxable income. Section 127 was created in 1978 and has been renewed ten times. It expired on 12/31/12 but the 1/1/13 legislation has now made it a permanent part of the tax code. Employees must be enrolled in associate, undergraduate or graduate programs to be eligible.

New FMLA Ruling – The Family and Medical Leave Act permits covered employees to take up to twelve weeks of unpaid, job-protected leave for certain designated family or medical reasons. If covered by health insurance, that insurance must remain in effect during the leave period. Among the specified reasons for entitlement to the leave is for the care of a child who has a serious medical condition. New guidance from the Department of Labor (Administrator’s Interpretation #2013-1, issued on January 14, 2013) clarifies the definition of child (son or daughter) under the act to include individuals of all ages who are incapable of self-care because of either physical or mental illness. The age of onset of the illness is irrelevant. Thus a parent may be eligible to take leave to care for a 42 year old daughter undergoing chemotherapy when she is unable to care for herself. Guidance is available at the Department of Labor’s website.

NLRB – On January 25, 2013 the U. S. Court of Appeals in the District of Columbia Circuit issued its opinion in *Noel Canning v. National Labor Relations Board (NLRB)* in which it declared that the recess appointment of three members of the Board violated the Constitution and that the Board’s orders were unenforceable. President Obama made three recess appointments to the Board in January, 2012. The court ruled that the Senate was not in “the recess” during that period and that any appointments were required to be “with the advice and consent of the Senate”. The NLRB must have a quorum to make any decisions, requiring three of the five Board members to be present. Because the recess appointments of three members were invalidated by the decision, the Board lacked a quorum and theoretically all Board decisions from January 3, 2012 until the Senate approves at least three members are invalid. It is expected that the Obama administration will appeal this ruling to the Supreme Court. However, at this point, NLRB rulings/decisions since January, 2012 appear to be illegal and unenforceable.

Minimum Wage – President Obama proposed to raise the minimum wage from \$7.25 to \$9.00 in stages by 2015 in his State of the Union speech on 2/12/13. In addition, future minimum wage increases would be automatically indexed to inflation, not requiring Congressional action. Also the minimum wage paid to “tipped employees” (largely waiters and waitresses in restaurants) would be indexed to inflation. Currently employers pay these employees \$2.13 an hour in wages as long as their tips add up to the actual minimum wage. Congressional action will be required to effect the proposed increases/changes.