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Cents-per-mile rule. The standard mileage rate you can use under the cents-per-mile rule to value the personal use of a vehicle you provide to an employee in 2009 is 55 cents per mile.

Increase in qualified parking exclusion and commuter transportation benefit. For 2009, the monthly exclusion for qualified parking increases to \$230 and the monthly exclusion for commuter highway vehicle transportation and transit passes increases to \$120.

Volunteer firefighter and emergency medical responder benefits. After 2007, gross income of volunteer firefighters and emergency medical responders who are part of a qualified volunteer emergency response organization shall not include any qualified state

Lily Ledbetter Fair Pay Act

The first bill signed into law by President Obama was the Lily Ledbetter Fair Pay Act, which overrules a controversial 5-4 decision by the Supreme Court, *Ledbetter v. Goodyear Tire & Rubber Co., Inc.*, issued in 2007.



Lily Ledbetter began working for Goodyear in 1979. In March 1998, she received an anonymous note which led to her discovery that she was earning significantly less than her male colleagues. She initiated a questionnaire with the EEOC in March 1998, and sued Goodyear following her early retirement in November 2008, alleging, violations of Title VII and the Equal Pay Act. Ms. Ledbetter asserted that her pay had been kept lower than male counterparts because several supervisors had in the past given her poor evaluations because of her sex. As a result, her pay had not increased as much as it would have if she had been evaluated fairly. Those intentionally discriminatory evaluations had kept her pay lower than male counterparts throughout her career at Goodyear. The crux of Ms. Ledbetter's claim was that each paycheck paying her less than male counterparts constituted an act of discrimination.

Discriminatory Intent

The jury found in favor of Ms. Ledbetter. Goodyear appealed, arguing that all claims for damages before September 26, 1997 (180 days before Ms. Ledbetter began the administrative process in March 2008) were void because of the statute of limitations. There was no evidence of discriminatory intent during that period. The Eleventh Circuit reversed, finding in favor of Goodyear, and the Supreme Court affirmed, holding essentially that an employee must file her charge within 180 days of an employer's initial decision to pay her less than a male employee. That is, Ms. Ledbetter needed to file her charge within 180 days of the intentionally discriminatory evaluations.

Unlawful Employment Practices

The Lily Ledbetter Fair Pay Act amends both the Title VII and the Age Discrimination in Employment Act and modifies the operation of the Americans with Disabilities Act and the Rehabilitation Act of 1973. The Act provides that in cases involving discrimination in

and local tax benefit and any qualified payment.

Qualified bicycle commuting reimbursement.

After 2008, qualified transportation fringe benefits include any qualified bicycle commuting reimbursement.

[Highlights of Recent Tax Changes](#)

[IRAs and Other Retirement Plans Changes](#)

Comprehensive Tax Guide Available for Free at IRS.gov

The IRS has placed its comprehensive tax guide for individuals on IRS.gov, updating it for tax year 2008. The updated on-line version of IRS Publication 17, "**Your Federal Income Tax**," contains more than 900 interactive links.

Publication 17 has been updated with important changes for 2008, including information on the new **Recovery Rebate Credit**, new first-time-homebuyer credit, and an additional standard deduction for real estate taxes.

As in prior years, the publication provides information on how to file an individual tax return, what to include as income, how to calculate capital gains and losses, how IRAs and other expenses can affect how much income to report, whether to take the standard deduction or itemize, and how to figure taxes and credits

- [Publication 17](#)
- Source: [IR-2008-142](#)
- More [IRS news](#)

compensation, under Title VII or the ADEA, an unlawful employment practice (which would trigger the running of the statute of limitations) occurs (1) when a discriminatory compensation decision or other practice is adopted; (2) when an individual becomes subject to a discriminatory compensation decision or other practice; or (3) when an individual is affected by application of a discriminatory compensation decision or other practice, "including each time wages, benefits, or other compensation is paid, resulting in whole or in part from such a decision or other practice." (emphasis added)

The Act further provides that in addition to the damages recoverable under the Civil Rights Act of 1991, 42 U.S.C. § 1981a, Title VII claimants may recover back pay for up to two years preceding the filing of the charge, "where the unlawful employment practices that have occurred during the charge filing period are similar or related to unlawful employment practices with regard to discrimination in compensation that occurred outside the time for filing a charge."

The provisions of the new statute are also extended to compensation claims under the Americans with Disabilities Act and the Rehabilitation Act of 1973.

Employers must now be made aware that discriminatory compensation decisions made in the past which have a continuing effect on one or more employees today could now give rise to a sustainable claim of discrimination.

About our Contributing Editor:

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Family and Medical Leave Act Highlights

As we have discussed in recent issues, new regulations have been issued with regard to the Family and Medical Leave Act (FMLA). In January 2008, President Bush signed the National Defense Authorization Act (NDAA), which, among other things, amended the FMLA to provide leave specifically for military families. The new regulations were effective January 16, 2009.



The following are highlights of the new provisions:

- **New Military Caregiver Leave.** Eligible employees may now take up to 26 weeks of FMLA leave to care for a member of the Armed Forces (including members of the National Guard and Reserves as well as Regular Armed Forces) who has a serious injury or illness incurred "in the line of duty while on

active duty" for which the military person is undergoing medical treatment, recuperation, or therapy. The leave is available to the spouse, child, parent or "next of kin" of the military personnel.

- **New "Qualifying Exigency Leave" for Some Military Families.** In the event of certain defined "qualifying exigencies," the spouse, child, or parent of a member of the National Guard or Reserves may take up to 12 weeks of leave, provided that the military member is on active duty, or has been notified of an impending call or order to active duty in support of a contingency operation. The qualifying exigencies include short notice deployment, certain child care and related activities, and rest and recuperation of the military member. (The rest and recuperation leave is limited to five days.)
- **Serious Health Condition.** The meaning of "serious health condition" is clarified.
- **FMLA Notices.** If you do not have an employee handbook or similar document distributed to all employees which explains FMLA leave to employees, you must give a general FMLA notice to each employee at the time of hiring that employee.
- **Designating FMLA Leave.** Once you as an employer have sufficient information to determine that an employee's leave is covered by the FMLA, you must notify the employee within 5 business days of his or her eligibility (this is an increase from the current 2 day requirement).
- **Scheduling Intermittent Leave.** Employees who take intermittent leave for scheduled medical treatment, now have a statutory obligation to make a "reasonable effort" to schedule the leave so as not to unduly disrupt the employer's business operation. Under the old regulations, employees were required only to "attempt" to schedule leave with the employer's needs in mind.

Form I-9 Confusion

All U.S. employers are responsible for completion and retention of Form I-9 for each individual they hire for employment in the United States. This includes citizens and noncitizens.



On the form, the employer must verify the employment eligibility and identity documents presented by the employee and record the document information on the Form I-9. The list of acceptable documents has been amended, and can be found on page 4 of the form.

There seems to be some confusion regarding the proper form I-9 that is required for Employment Eligibility Verification, and understandably so. The confusion stems from the fact that USCIS has issued confusing and conflicting releases in the past months.

A June 16, 2008 release read: Form I-9, Employment Eligibility Verification. New version, dated 6/16/08, to reflect one year extension of OMB control number. No other significant changes. Prior versions may not be used.

While a **June 26, 2008 release announced:** Form I-9, Employment Eligibility Verification. Revision dated 6/5/07 restored. Form reflects

one year extension of OMB control number. Prior versions may not be used.

The correct form(s) to be used are as follows:

- [I-9 \(Rev. 06/05/07 N - only for use BEFORE April 3, 2009\)](#) (408KB PDF)
- [I-9 \(REV. 02/02/09 N - Only for use On and AFTER April 3, 2009\)](#) (444KB PDF)
- [I-9 \(Revisado en 6/5/07 N – para utilizarse sólo ANTES del 3 de abril de 2009\)](#) (818KB PDF)
- [I-9 \(Revisado en 02/02/09 N – para utilizarse sólo EN y después del 3 de abril de 2009\)](#) (443KB PDF)

For additional information, please see the USCIS Form I-9 page at www.uscis.gov/i-9.

Health Savings, Spending and Reimbursement Programs Comparison

| Plan | Description | Additional Information |
|--|---|---|
| Health Savings Accounts (HSA) | A tax-exempt trust or custodial account that you set up in conjunction with a HSA eligible plan to pay or reimburse certain medical expenses you incur. | <ul style="list-style-type: none"> • Unused funds remain available for use in later years. • The interest or other earnings on the assets in the account are tax free • Portable • Owned by the employee • The employee, employer or any third party can contribute. |
| Health Reimbursement Arrangement (HRA) | An employer-funded arrangement used to reimburse employees for qualified medical expenses | <ul style="list-style-type: none"> • Must be funded solely by the employer. • The employer controls the account • Employees are reimbursed tax-free for qualified medical expenses • Reimbursements of qualified claims are tax-deductible for the employer. • Not portable. |
| Medical Savings Account (MSA) | An account created to help self-employed individuals and employees of certain small employers meet the medical care | <ul style="list-style-type: none"> • Account designed for employers with 50 or fewer employees. • The employee or the employer can contribute, but not both. |

| | | |
|---|---|---|
| | costs of the account holder, and family. | <ul style="list-style-type: none"> • Portable. |
| Health Flexible Spending Arrangements (FSA) | An arrangement that allows an employee to set aside a portion of his or her earnings to pay for qualified medical expenses. | <ul style="list-style-type: none"> • Account can only be established by the employer. • FSAs are subject to an end-of-the-year "use it or lose it" requirement that limits their ability to protect against unexpected out-of-pocket medical expenses. • Not portable. |

Newsletter created by: HR and Benefits Essentials
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