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## CONGRESS KILLS OSHA ERGONOMICS STANDARD

Last month we reported that the new OSHA ergonomics standard survived the Bush Administration's order postponing many of the last-minute regulations issued by the outgoing Clinton Administration. We are pleased to report, however, that both Houses of Congress have now passed a resolution overturning the controversial regulations. President Bush has pledged to sign the measure.

## MONITORING THE ELECTRONIC WORKPLACE—10 TIPS FOR MINIMIZING YOUR LIABILITY

Electronic mail (e-mail) has become the preferred means of communication in today's workplace. Although e-mail has many advantages, it also can be a liability. Many employees use their companies' e-mail systems for personal reasons that waste time and decrease productivity. Some employees also use e-mail or the Internet for more sinister purposes, like sending offensive material to coworkers or accessing and downloading material from pornographic websites. You don't have to search too far to find examples of inappropriate e-mail messages that have landed companies, both large and small, in a world of trouble. As a result, employers increasingly are monitoring their employees' e-mail, telephone, and Internet usage to maintain control of their workplaces. The following "tips" may be helpful to you in developing an effective policy on e-mail and Internet use at work:

- 1) Your policy should notify your employees that your e-mail system is intended for business use and that you reserve the absolute right to review, audit, and disclose all matters sent or received over your systems or placed into its storage.
- 2) Your policy should state specifically that employees are prohibited from using your system to send or receive any improper communications, *e.g.*, any material that is derogatory, defamatory, obscene, or otherwise inappropriate for the workplace.
- 3) Your policy should relieve your employees of any possible expectation of privacy in their use of your system.
- 4) Include your employees' use of online message boards in your policy.

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You can be held liable for information your employees post on message boards, even those not sponsored by your company. Your policy should inform your employees that posting unlawful information (for example, insider trading information) or messages that violate company policy will subject employees to disciplinary action.

5) Your policy should be accompanied by a form that employees are required to sign to acknowledge their agreement as a condition of employment that you have an absolute right to monitor their use of your system and access any information contained in your system.

6) Your policy should be consistent with your no-solicitation/no-distribution of literature rule. Your policy should include all solicitations and distributions for charitable, personal, business, or other purposes. Without mentioning it, the reference to "other" solicitations will allow you to prohibit union solicitations as long as your policy is consistently applied.

7) Your policy should contain a warning that deleting a message from your e-mail system may not fully eliminate the message from your system.

8) Your policy should clearly state that any violation will result in disciplinary action up to and including discharge.

9) Even with a strong policy statement allowing your company to monitor your employees' e-mail and Internet use, actual monitoring of electronic communications should be limited to situations where your monitoring is necessary to protect your business purposes. You should use the least intrusive method of monitoring your employees' communications and minimize intrusion into personal communications.

10) To reduce the risk of defamation or invasion of privacy claims by your employees, limit distribution of information obtained from monitoring employee e-mail to managers who have a legitimate need to know.

Remember, your policies are only as good as your enforcement mechanism. Your goal should be to permit the free flow of legitimate business-related information while, at the same time, establishing firewalls that protect you from inappropriate use of your e-mail and Internet access systems. Like any other policy, your electronic monitoring program should be enforced on an even-handed, consistent basis to ensure fairness to all your employees.

- Thomas P. Hubert and Stephanie C. Moore

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## 2001 RETIREMENT PLAN COST OF LIVING ADJUSTMENTS

Several retirement plan limitations in the Internal Revenue Code have been adjusted for inflation, affecting the maximum level of contributions to and benefits from retirement plans. No major changes were made to defined contribution plan limitations. The limit on annual deferrals remains \$10,500; the annual compensation that can be considered under a qualified plan remains unchanged at \$170,000; and the threshold for being deemed a highly compensated employee remains \$85,000.

The limitation on the total amount that can be contributed to all defined contribution plans sponsored by an employer has increased to the lesser of \$35,000 or 25% of compensation (up from \$30,000 or 25% of compensation). For small employers that sponsor "SIMPLE" retirement accounts, the amount that can be deferred to a SIMPLE IRA was increased to \$6,500 (up from \$6,000). For defined benefit plans, the maximum annual benefit was increased from \$135,000 to \$140,000. All limitations are effective January 1, 2001.

On a related note, the amount of earnings subject to Social Security taxes has increased to \$80,400 (up from \$76,200) for 2001. For an employee earning this amount or more in 2001, this translates into additional Social Security taxes of \$260.40 for both the employee and his or her employer.

*-Timothy P. Brechtel*

## TOLL-FREE NUMBER FOR FORM 5500 QUESTIONS

If you're responsible for preparing your company's Form 5500's for your employee benefit plans, you need to know that the Department of Labor (DOL), IRS, and Pension Benefit Guaranty Corporation (PBGC) are using a substantially revised Form 5500 under the new ERISA Filing Acceptance System (EFAST) for plan years starting in 1999 and following.

Starting March 1, 2001, you can get help in completing your Form 5500 annual reports/returns by calling the DOL's Pension and Welfare Benefits Administration (PWBA) at a new toll-free number: **1-866-463-3278**. This new toll-free number will provide plan filers with easy access to technical assistance from the PWBA, the DOL, the IRS, and the PBGC.

### Labor Relations and Employment

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*Remember that these legal principles may change and vary widely in their application to specific factual circumstances. You should consult with counsel about your individual circumstances. For further information regarding these issues, contact::*

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