

2017: Reading the Tea Leaves

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With the beginning of a new year and a new Presidential administration, it was a fair statement to say that change was coming for employers in 2017. Would the Affordable Care Act be repealed? Would the new salary basis threshold under the Fair Labor Standards Act be implemented? What changes would be in store for immigration law and employer-sponsored visas? As we approach the end of the first quarter of 2017, we are generally left with still more questions than answers.

The House of Representatives introduced the American Health Care Act as an alternative to the Affordable Care Act, and a vote on the bill was expected to occur by today at the latest. The White House framed the timeline for a vote in terms of an “ultimatum”, with President Trump stating that he would leave the Affordable Care Act in place if a vote on the American Health Care Act did not happen today. After failing to garner enough support, the bill was pulled this afternoon and will not be voted on. It remains to be seen if President Trump will follow through on his statements in light of this development, and if Congress will go back to the drawing board on an alternative to repeal or replace the Affordable Care Act.

Outside of the health care realm, the injunction on the new salary basis rule under the Fair Labor Standards Act remains in place, but the Department of Labor is still mulling whether the rule will be dropped completely or replaced in some form. Changes have already started taking shape in the immigration realm, including the suspension of H-1B premium processing beginning on April 3, 2017, but more changes are expected as the year goes on. In addition, new appointees to the various federal administrative agencies are still being filled, so the direction of agencies like the U.S. Equal Employment

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Opportunity Commission and National Labor Relations Board has not been set. It is widely assumed that appointees of the new administration will be pulling back on regulatory action, but enforcement proceedings will certainly still be in play. For now, reading tea leaves may be as accurate as any other method for determining what is to come in 2017. As changes do occur, Koley Jessen's Employment, Labor and Benefits practice group will be prepared to provide additional guidance to employers operating in this ever-shifting regulatory landscape.