

MONTHLY BENEFIT

News and Developments

Employee Benefits

Top Federal Tax Expenditures

The Joint Committee on Taxation released *Estimates of Federal Tax Expenditures for Fiscal Years 2015-2019*, which notes that, at \$881.5 billion, the five-year exclusion of pension contributions and earnings for Keogh plans (\$61.1 billion), defined benefit plans (\$315.6 billion), and defined contribution plans (\$504.8 billion) costs the federal government more tax revenue than any other tax expenditure. The report also lists the \$769.8 billion for the exclusion for employer-provided health insurance as the second largest tax expenditure.

Upcoming Key Dates

2/1/16 – Deadline to submit to IRS on-cycle determination letter applications for retirement plans in Cycle E, and first day for Cycle A applications.

3/31/16 – Extended date for first notification by applicable large employers and health insurers to group health plan participants about calendar year 2015 offers of and enrollment in coverage.

4/30/16 – Deadline for sponsors of defined contribution preapproved plans to adopt new or restated plans and, if applicable, submit applications for individual determination letters.

5/31/16 – Extended date for first filing (on paper) to IRS by applicable large employers and group health insurers about calendar year 2015 offers of and enrollment in coverage.

6/30/16 – Extended date for first filing (electronically) to IRS by applicable large employers and group health insurers about calendar year 2015 offers of and enrollment in coverage.

Legislative Activity on the Benefits Front

Congress approved and the President signed the “Consolidated Appropriations Act, 2016” (P.L.114-113), a bill that provides funding for the federal agencies through the end of the current fiscal year that ends on Sept. 30, 2016. The law includes provisions to extend or make permanent numerous, popular tax breaks that expired in 2014 or that were set to expire in 2015. In the employee benefits arena, the law’s most significant provision is a two-year delay of the Affordable Care Act’s (ACA) 40% excise tax on high-cost employer-sponsored healthcare coverage that was set to go into effect in 2018. The so-called “Cadillac tax” now will be assessed beginning in 2020 and it will be deductible. The new law also:

- permanently extends parity in the excludable amount of employer-provided transit passes (and van pool benefits) with qualified parking benefits, retroactively to Jan. 1, 2015;
- permanently extends the 20% wage credit for small employers that continue to pay employees called to active military duty, while also expanding the credit beginning in 2016 to employers of any size;
- modifies the filing dates of returns and statements relating to employee wage information and nonemployee compensation (e.g., Forms W-2, W-3, 1099), establishes a safe harbor for de minimis errors on information returns and payee statements, and extends IRS authority to require truncated Social Security numbers on W-2 forms;
- provides clarifications for church retirement plans (e.g., aggregation under the nondiscrimination rules, maximum benefit accruals, automatic enrollment), as provided by the “Church Plan Clarification Act” (S.2308) the Senate approved on Dec. 10; and
- extends various employment-based tax credits (e.g., Work Opportunity, Indian employment).

Other Bills

As expected, Congress also passed and the President signed the “Fixing America’s Surface Transportation Act” (P.L.114-94), providing highway funding for the five years ending in 2020. The bill includes a provision that repeals the three-and-a-half month automatic extension of the Form 5500 due date that was included in a law enacted just six months earlier.

Also as expected, the Senate approved its amendments to and sent back to the House the “Restoring Americans’ Healthcare Freedom Reconciliation Act” (H.R.3762), which repeals significant parts of the ACA, including the individual and employer mandates. The House in January is expected to pass the bill as amended, but there will be insufficient votes to override a certain Presidential veto.

CBO on the ACA and on Social Security

The Congressional Budget Office released:

- [How CBO Estimates the Effects of the Affordable Care Act on the Labor Market](#), which estimates that the labor supply – measured as the total compensation paid to workers – would be 0.86% smaller in 2025, or about 2 million full-time-equivalent fewer workers than it would have been in the absence of the ACA.
- [Social Security Policy Options, 2015](#), which examines 36 policy options commonly proposed by policymakers and analysts. Most would improve Social Security's long-term finances, but only a few would significantly postpone the combined disability and old-age trust funds' exhaustion date of 2029, because most would be phased in slowly.

Minimum Wage Rule for Federal Contractors

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration released a [final rule](#) establishing a minimum wage for federal government contractors. The rule amends the Federal Acquisition Regulation to implement Executive Order 13658 and a Department of Labor final rule.

GASB Accounting Rules

The Government Accounting Standards Board released [Statement No. 78, Pension Provided through Certain Multiple-Employer Defined Benefit Pension Plans](#), providing guidance to governments that participate in certain private or federally sponsored multiple-employer defined benefit plans (such as Taft-Hartley plans and plans with similar characteristics).

In addition, GASB issued the following exposure drafts:

- [Fiduciary Activities](#), proposing guidance on reporting fiduciary activities in fiduciary fund financial statements; and
- [Pension Issues](#), which proposes to amend [Statements Nos. 67, 68, and 73](#) to address: the presentation of payroll-related measures in required supplementary information; the selection of assumptions and the treatment of deviations from the guidance in Actuarial Standards of Practice for financial reporting purposes; and the classification of payments made by employers to satisfy employee (plan member) contribution requirements.

Regulatory Roundup

From the Department of Treasury/IRS:

- [Final rule](#) on "minimum value" under the Affordable Care Act's (ACA) premium tax credit and employer shared responsibility provisions.
- [Revenue Procedures 2016-01 through 2016-08](#), providing procedures for IRS issuance of letters, rulings, determination letters, and technical advice on employee benefit matters in 2016.
- [Rev.Proc.2016-11](#), which specifies the inflation-adjusted items for penalties related to returns and statements filed with the IRS after Dec. 31, 2015.
- [Notice 2016-04](#), extending the due dates for large employer and minimum essential coverage provider reporting and filing of the 2015 information about offers of and enrollment in healthcare coverage, along with an [alert](#) showing changes to the Instructions for Forms 1094-B and -C and 1095-B and -C, as well as updated [Publications 5164 and 5165](#) on the electronic filing of the forms via the ACA Information Returns (AIR) processing system.
- [Notice 2016-01](#), providing the 2016 optional standard mileage rates for computing the deductible costs of operating an automobile for business.
- [Notice 2015-87](#), providing guidance on ACA provisions, such as: penalty relief for "good faith" efforts to comply with the information reporting requirements; employer shared responsibilities; the affordability threshold and safe harbor; and health reimbursement accounts, health flexible spending accounts, and health savings accounts.
- [Notice 2015-86](#) on the effect of the U.S. Supreme Court's same-sex marriage ruling on retirement and health plans under federal tax laws.
- [Notice 2015-84](#), setting forth the 2015 Cumulative List of Changes in Plan Qualification Requirements for retirement plan determination letter applications for the period ending Jan. 31, 2017.
- [Frequently Asked Questions](#) on the 2015 Form 5500 series compliance questions.
- [Publications 15 and 15-A \(Circular E, Employers' Tax Guide and Supplemental Tax Guide\)](#), providing information on the federal tax treatment of employment taxes and on employer-provided fringe benefits.

From the Department of Labor:

- Advance copies of [Form 5500](#), [Form 5500-SF](#), and [Instructions](#) for the annual returns/reports filed by employee benefit plan sponsors.

From the Pension Benefit Guaranty Corporation:

- [Final rule](#) on partitions of eligible multiemployer plans.
- [Risk Transfer Study, Plan Years 2009-2013](#), identifying plans that appear to have executed risk transfer events by lump-sum payments and bulk purchases of annuities.
- [2016 Comprehensive Premium Filing Instructions](#), covering information for filings made for plan years beginning in 2016.

From the Department of Health and Human Services:

- A [web posting](#) about changes in the communications process at the Retiree Drug Subsidy (RDS) Secure Website.

From the Equal Employment Opportunity Commission:

- [Questions and Answers for Employers: Responsibilities Concerning the Employment of Individuals Who Are, or Are Perceived to Be, Muslim or Middle Eastern](#), and a complementary publication explaining workplace rights for employees.
- [Helping Patients with HIV Infection Who Need Accommodations at Work and Living with HIV Infection: Your Legal Rights in the Workplace under the ADA](#).

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