

MONTHLY BENEFIT

News and Developments
Employee Benefits

Upcoming Key Dates

12/31/15 (last day of the plan year that begins in 2015) – Deadline for hybrid retirement plans to be amended to comply with the “market rate of return” and other requirements of IRS’s final rule, and for cafeteria plans to be amended to expand flexibility for certain employees who wish to purchase health insurance coverage through an exchange.

12/31/15 – Deadline for retirement plans that are dual-qualified under the U.S. and Puerto Rico tax codes and that participate in a U.S. group trust to spin off assets and liabilities to a stand-alone P.R. plan without triggering U.S. federal income tax consequences.

1/1/16 – Application of new penalties for failures to file correct tax information returns or to provide payee statements (e.g., IRS Forms W-2, 1099).

1/1/16 (plan year valuations) – Required use of IRS updated mortality tables for pension plan valuations, unless using approved, substitute credible tables.

1/1/16 (events occurring after) – Application of PBGC’s final rule on filing of certain reportable events.

1/15/16 – Deadline for health insurance issuers and third-party administrators on behalf of self-insured group health plans to make 2015 transitional reinsurance payments under the unified or split schedule.

2/1/16 – First notification by applicable large employers and health insurers to group health plan participants about calendar year 2015 offers of and enrollment in coverage.

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.

Legislative Activity on the Benefits Front

Congress approved and sent to the President a two-year budget agreement (H.R.1314, P.L.114-74) that contains several provisions affecting pensions and health benefits offered by employers. The “Bipartisan Budget Act of 2015” temporarily suspends the federal debt limit and eases the Budget Control Act’s discretionary spending caps, erasing fears of a possible federal default on Nov. 3. [The President signed the bill on Nov. 2.]

Key areas of the new law’s pension provisions include:

- An increase in the PBGC’s single-employer defined benefit plan premiums – The flat-rate premium increases to \$69 for 2017, \$74 for 2018, and \$80 for 2019, and then re-indexed for inflation. The variable-rate premium would continue to be indexed for inflation, but would be increased by an additional \$3 in 2017 and an additional \$4 in both 2018 and 2019 (and indexed in 2020 and later years).
- An extension of the current funding stabilization percentages – The corridor on interest rates remains at 10% through 2020, increasing by 5 percentage points per year through 2023 and then remains at 30%. The provision would generally be effective for plan years beginning after Dec. 31, 2015.
- A modification on the use of prescribed mortality tables – The determination of whether a pension plan has credible information will be made in accordance with established “actuarial credibility theory,” and the plan may adjust the tables from the Treasury if such adjustments are based on a plan’s experience.
- An acceleration of the PBGC premium due date – For plan years beginning in 2025, the premiums are due on the 15th day of the ninth calendar month beginning on or after the first day of the premium payment year.

In other areas, the law: repeals the requirement that large employer-sponsored group health plans automatically enroll new full-time equivalents or continue autoenrollment of current employees; reduces the 2016 basic Medicare Part B premiums for new or high-income beneficiaries (and does so again in 2017 if there is no cost-of-living increase for 2017); and calls for civil monetary penalties generally to be adjusted for inflation.

Meanwhile, the President signed the “Protecting Affordable Coverage for Employees Act” (H.R.1624, P.L.114-60), keeping the definition of “small group health plan” under the ACA at 50 or fewer employees unless states elect otherwise.

Separately, the House approved the “Retail Investor Protection Act” (H.R.1090), which would prohibit the Department of Labor from issuing a final rule on the definition of a “fiduciary” until the Securities and Exchange Commission completes its rule establishing standards of conduct for brokers and dealers. The House also approved a bill (H.R.3762) with provisions to repeal Obamacare provisions (e.g., the “Cadillac” tax, the employer mandate) under budget reconciliation instructions in an effort to allow the Senate to pass the measure by a simple majority (but it will not be enough to override a Presidential veto).

CRS on the DoL's Proposed Fiduciary Rule

The Congressional Research Service released *Department of Labor's 2015 Proposed Fiduciary Rule: Background and Issues* (No. R44207), which discusses: background and regulations on pension plans and individual retirement accounts; the Securities and Exchange Commission's regulation of broker-dealers; protections for pension plan sponsors and participants; the Administration's views; stakeholders' perspectives; the timeline of the proposed rule; and legislation that has been introduced thus far this year regarding the proposed rule.

www.fas.org

GASB Accounting News

The Governmental Accounting Standards Board released:

- *Accounting and Financial Reporting for Pensions Provided through Certain Multiple-Employer Defined Benefit Pension Plans*, an exposure draft intended to help governments participating in certain multiple-employer pension plans to meet the reporting requirements of GASB Statement No. 68, "Accounting and Financial Reporting for Pensions."
- *Understanding Costs and Benefits – Other Post-Employment Benefits*, which summarizes how the GASB assessed the expected costs and benefits of its new OPEB standards and also outlines the process leading the Board to conclude that the expected benefits of the new standards justify the costs.

www.gasb.org

Mental Health and Substance Abuse Disorder Coverage

The Department of Health and Human Services' Office of the Assistant Secretary for Planning and Evaluation released

Consistency of Large Employer and Group Health Plan Benefits with Requirements of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, finding that large employer-based plans have made substantial benefit plan design changes in response to the 2008 law. It also noted that one in five large employer-based plans still required higher copays for in-network services than for comparable medical surgical benefits in 2011.

www.aspe.hhs.gov

Regulatory Roundup

Jointly from Treasury, Labor, and Health and Human Services:

- *Frequently Asked Questions Part XXIX* on the Affordable Care Act's (ACA) coverage of preventive services and wellness programs, and on the Mental Health Parity and Addiction Equity Act transparency reporting.

From the Treasury/IRS:

- *Proposed rule* on the neutral application of spousal terms (i.e., husband, wife) for federal tax purposes.
- *Revenue Procedure 2015-62*, updating the required contribution percentage used to determine whether an individual is eligible for affordable employer-sponsored minimum essential coverage and the table used to calculate an individual's premium tax credit under the ACA for 2016.
- *Rev. Proc. 2015-53*, providing the 2016 limits for qualified transportation fringe benefits, adoption assistance programs, long-term care premiums, health flexible spending accounts, and medical savings accounts.
- *Notice 2015-75*, announcing the dollar limits applicable to retirement plans for 2016 (see [Client Action Bulletin 15-9](#)).
- *Notice 2015-60*, announcing the applicable dollar amount to determine the Patient-Centered Outcomes Research Institute (PCORI) fees for plan years ending on or after Oct. 1, 2015, and before Oct. 1, 2016.
- *ACA Information Returns Submission Composition and Reference Guide*, providing guidance on the system the IRS uses to process the employer and insurer reporting of healthcare coverage information for tax year 2015.

From the Department of Labor:

- *Interim final rule* on wage garnishment of nonfederal workers indebted to the DoL.
- *Interpretive Bulletin 2015-01*, presenting DoL's supplemental view on a plan fiduciary's decision to invest in economically targeted investments.
- *Advisory Opinion 2015-01A* on whether the California Law Enforcement Association's long-term disability program is an employee welfare benefit plan.
- *Advisory Opinion 2015-02A* on whether an employer's stop-loss insurance policies purchased to manage risk associated with a self-insured contributory welfare plan constitutes plan assets.

From the Pension Benefit Guaranty Corporation:

- An *announcement* specifying the 2016 premium rates for single-employer and multiemployer pension plans.
- An *announcement* on the annual maximum guaranteed benefit for 2016.

From the Department of Health and Human Services:

- *Annual Enrollment and Contributions Submission Form Manual*, which provides instructions for contributing entities or their administrator/contractor to complete the submission process under the ACA Transition Reinsurance Program.

From the Social Security Administration:

- A *news release* announcing no cost-of-living adjustments for 2016 benefit levels.

From the Equal Employment Opportunity Commission:

- A *proposed rule*, *Questions and Answers*, and *Fact Sheet* on employer-sponsored wellness programs under the 2008 Genetic Information Nondiscrimination Act, addressing the extent to which an employer may offer employees an inducement for a covered spouse to provide information about the spouse's current or past health status as part of a health risk assessment.

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