

MONTHLY BENEFIT NEWS AND DEVELOPMENTS

December 2007

Upcoming Key Dates

12/24/07 – DOL final regulations on qualified default investment alternatives (QDIAs) are effective.

1/1/08 – New funding rules (minimum required and maximum deductible) commence for Single Employer and Multiemployer Plan sponsors with calendar plan years under PPA 2006.

1/1/08 – Direct rollovers allowed from qualified retirement plans to Roth IRAs (for those not having an adjusted gross income above \$100,000, nor married and filing a separate return).

1/1/08 – Qualified Automatic Contribution Arrangements under defined contribution plans are allowed. The 90-day withdrawal period for automatically enrolled employees begins.

1/1/08 – Calendar-year plans must start applying new minimum lump sum standards.

1/1/08 – Non-collectively bargained ERISA plans must offer an optional Joint and Survivor Annuity Option of at least 75%.

1/1/08 – 2008 calendar-year cash balance plans and other hybrid plans must comply with accelerated vesting and interest credit rules.

1/31/08 – W-2s, 1099s, and 1099-Rs must go out to employees and retirees.

3/30/08 – Annual certification of status for multiemployer plans is due (90 days after beginning of the plan year).

4/1/08 – First date benefit restrictions may apply for defined benefit plans underfunded in 2007 and on a calendar plan year. ■

Legislative Activity on the Benefits Front

The 110th U.S. Congress took a two-week recess for Thanksgiving, returning to work in early December. With two weeks of legislating slated for this month, only the most pressing governmental issues are likely to be tackled. Employee benefits legislation may have to take a back seat to the remaining 11 appropriation bills needed to fund federal agencies. Continued funding for the war in Iraq is also a priority. Many bills will likely be put off until Congress reconvenes in January 2008.

The only completed appropriations bill (H.R. 3222), funding the Department of Defense (DOD), was signed into law in November (P.L. 110-116). It includes a measure to prevent would-be DOD contractors from gaining an unfair advantage over in-house bidders. DOD contractors are now required to provide employee health coverage that is at least as comprehensive as what the DOD provides. ■

Reports of Interest

From the Government Accountability Office:

The GAO report, *Social Security: Issues Regarding the Coverage of Public Employees*, GAO-08-248T, issued Nov. 6, is available at: www.gao.gov/new.items/d08248t.pdf. ■

From the Congressional Budget Office:

The Congressional Budget Office (CBO) estimates that, barring federal action, total health care spending will rise from 16% of gross domestic product in 2007 to 25% in 2025. The CBO report, *The Long-Term Outlook for Health Care Spending*, can be found at: <http://www.cbo.gov/ftpdocs/87xx/doc8758/11-13-LT-Health.pdf>. ■

Regulatory Roundup

From the Securities and Exchange Commission:

The SEC announced that it is dropping its requirement that international companies filing financial statements in the U.S. reconcile their filings using the U.S. accounting standard – Generally Accepted Accounting Principles (GAAP). Now they can simply submit their finances using International Financial Reporting Standards (IFRS).

The SEC also proposed amending the forms that mutual fund companies use in order to enhance information disclosure to investors. The goal is to provide key information to investors in plain English, in a clear, concise format, while making it possible to deliver more detailed information upon request. Comments on this proposal should be made to the SEC by Feb. 28, 2008. ■

“Regulatory Roundup” continued on next page

Regulatory Roundup (cont.)

From the DOL:

The DOL, Treasury, IRS, and PBGC released final regulations and revisions to the 2007 Form 5500 Annual Return/Report. Published in the Nov. 16 Federal Register, they can be found at: www.access.gpo.gov/su_docs/fedreg/a071116c.html.

A new DOL report, *Retirement and Health Care Coverage: Questions and Answers for Dislocated Workers*, is available: www.dol.gov/ebsa/publications/dislocated_workers_brochure.html. ■

From the PBGC:

The Pension Benefit Guaranty Corporation issued *Technical Update 07-2*, which gives guidance on changes made by the Pension Protection Act of 2006, including PBGC regulations on Annual Financial and Actuarial Information Reporting (29 CFR part 4010) and Reportable Events and Certain Other Notification Requirements (29 CFR part 4043).

Technical Update 07-3 provides guidance on lump sum calculation issues for single-employer plans that terminate in standard terminations (and in certain distress terminations). This update provides that if a plan terminates before the effective date of the Pension Protection Act of 2006's changes to the interest rate and mortality table used to determine minimum lump sum values, the pre-PPA assumptions apply for determining lump sum payments made on or after that effective date. See www.pbgc.gov. ■

From the Department of the Treasury/IRS

Following the Department of Labor's final guidance on Qualified Default Investment Alternatives (QDIAs), the IRS released

proposed companion guidance on Automatic Enrollment for defined contribution (DC) plans. These rules clarify several key provisions for employers who are considering adding automatic enrollment features to their DC plan. These automatic contribution arrangements are available to 401(k), 403(b), and 457(b) governmental plans, effective for plan years beginning on and after January 1, 2008. ([Client Action Bulletin 07-14](#)).

Posted a sample "Automatic Enrollment Notice" to inform defined contribution plan participants about eligible automatic contribution arrangements (EACAs) and qualified automatic contribution arrangements (QACAs) at: www.irs.gov/pub/irs-tege/sample_notice.pdf.

Issued final regulations defining a *salary reduction agreement* for 403(b) plans that are purchasing annuity contracts for employees. Effective Nov. 15, 2007.

Issued model plan language to assist public schools either in adopting a written Section 403(b) plan in accordance with the final 403(b) regulations or in amending such a plan so that it conforms to the new rules. Available at: www.irs.gov/pub/irs-drop/rp-07-71.pdf.

Notice 2007-94, which provides the "2007 Cumulative List of Changes in Plan Qualification Requirements" for individually designed plans in Cycle C, including Section 414(d) governmental plans, among which are governmental multiemployer plans and multiple employer plans. The cumulative list can be found at: www.irs.gov/pub/irs-drop/n-07-94.pdf.

Notice 2007-100, which allows employers to correct certain operational failures to comply with tax code section 409A, which concerns nonqualified deferred compensation.

IR-2007-187, providing a saver's credit for low- and moderate-income workers who contribute voluntarily to an IRA or 401(k) retirement plan in 2007 and the years ahead. Workers claim the credit by filing Form 8880.

Revenue Ruling 2007-71, which provides covered compensation tables for 2008, which are to be used in determining contributions to defined benefit plans and permitted disparity.

Updated model Form 5305-B (Health Savings Trust Account) and model Form 5305-C (Health Savings Custodial Account) for health savings account (HSA) trustees and custodians respectively to use to establish the vehicle for employees to set up health savings accounts. ■

From U.S. Supreme Court:

The U.S. Supreme Court chose not to review the 4th Circuit U.S. Court of Appeals' ruling on a statute of limitations dispute involving a disability claim case against Sun Life Assurance Co. of Canada (*Sun Life Assurance Co. of Canada v. White*, U.S., No. 07-331, cert. denied, 11/13/07). The appeals court ruling, holding that ERISA-governed plans do not have the right to set their own statute of limitations' starting dates, was allowed to stand. Since ERISA requires participants to exhaust their administrative remedies before they can file a lawsuit in federal court, plans cannot start the clock running early on the statute of limitations for making a civil claim. They must wait for all internal appeals to be pursued and allowed to run their course. ■