

MONTHLY BENEFIT

News and Developments
Employee Benefits

Retirement Plan Administrative Calendars Now Available

Milliman has released its administrative calendars, which provide key dates and deadlines for calendar-year retirement plans that are subject to ERISA and the Internal Revenue Code. The calendars are for defined contribution plans, single-employer defined benefit plans, and multiemployer defined benefit plans.

www.milliman.com/insight/

Upcoming Key Dates

4/15/14 (unless a later date applies) – New deadline for amending a retirement plan and applying for a determination that a Puerto Rico-based retirement plan complies with the PR Internal Revenue Code of 2011.

6/15/14 (fiscal years beginning after) – Effective date of GASB Statement 68, *Accounting and Financial Reporting for Pensions*, for public-sector pension plan sponsors and governmental nonemployer contributing entities.

6/30/14 – Last day of permitted use of IRS pre-December 2013 Forms 5300 and 5310 for requesting determination letters.

7/1/14 (plan years beginning on/after) – Applicable date of the Mental Health Parity and Addiction Equity Act final regulations.

7/1/14 (with earlier application permitted) – Applicable date of IASB's *Defined Benefit Plans: Employee Contributions (Amendments to IAS 19)*.

10/15/14 – New PBGC flat-rate premium filing due date for large single-employer and multiemployer calendar-year defined benefit pension plans.

Legislative Activity on the Benefits Front

Congress approved and the President signed into law the fiscal year 2014 omnibus spending bill (H.R.3547, P.L.113-76) for federal agencies, averting a federal government shutdown that would have occurred on Jan. 18 when a short-term funding law was set to expire. With the FY2014 appropriations process now closed, the appropriations committees will turn their attention to the FY2015 spending bills to cover government operations starting Oct. 1, 2014. Before doing so, however, Congress will act on raising the federal debt limit to ensure that the government does not default on its obligations. Some Republicans are eyeing this vehicle as a means to seek concessions (e.g., changes to the Affordable Care Act) from Democrats, but GOP leaders appear more willing to move forward with a clean bill. Treasury Secretary Jack Lew has urged Congress to act by the end of February, when he says the department will run out of so-called extraordinary measures it can take to remain under the debt limit.

Senate Democrats also are eager to address an extension of unemployment benefits for workers who are experiencing long-term joblessness. Senate Majority Leader Harry Reid (D-NV) made an extension a top priority when Congress failed to do so as part of the budget agreement in late December, but many Republicans want the three-month extension bill (S.1845) to be paid for with revenue offsets. One option under consideration would extend the "pension smoothing" provisions under the 2012 MAP-21 law that permit defined benefit retirement plan sponsors to make smaller pension contributions, thereby increasing taxable income and projected tax receipts and thus, more tax revenues.

Compensation and Benefits in the President's State of the Union Address

Meanwhile, the President's Jan. 28 speech to the nation sought two items of interest to employers: a hike in the federal minimum wage from \$7.25 to \$10.10 per hour; and creation of "myRA" retirement savings accounts. Regarding the former, the President expressed support for a bill (S.1737) that would provide an increase over three years and index rate to inflation. The bill also increases the minimum wage for tipped employees. In addition, the President announced he would sign an Executive Order to set a \$10.10 per hour minimum wage for federal government contracts. S.1737 is expected to reach the Senate floor sometime in March.

The President is promoting myRA as safe and affordable "starter" accounts for low- and middle-income workers. According to the White House Fact Sheet, the accounts would entail: automatic payroll deduction; a limit of \$15,000 (or 30 years), after which amounts must be rolled over to a private individual retirement account; participation limited to annual incomes of less than \$129,000 for individuals and \$191,000 for couples; permission for employers to offer myRAs alongside other retirement plans; principal protection (i.e., bonds backed by the U.S. government); and the same tax advantages of Roth IRAs. The President subsequently signed a Memorandum directing the Treasury Secretary to "finalize the development of a new retirement savings security that can be made available through employers to their employees" by Dec. 31, 2014.

GASB on Implementation of Pension Standards

The Governmental Accounting Standards Board published *Guide to Implementation of GASB Statement 68 on Accounting and Financial Reporting for Pensions* to help preparers and auditors of state and local government financial statements when the standard becomes effective beginning after June 15, 2014.

www.gasb.org

SEC on Pension Plan Investment Advisers

The Securities and Exchange Commission's Office of Compliance Inspections and Examinations issued a *Risk Alert* on the due diligence processes that investment advisers to pension plans used when they recommend or place clients' assets in alternative investments such as hedge funds, private equity funds, or funds of private funds. The alert describes current industry trends and practices in advisers' due diligence, and notes that advisers with detailed policies and procedures that require adequate documentation are more likely to have consistent processes that incorporate compliance oversight and guide business operations.

www.sec.gov

EEOC Settles Genetic Discrimination Case

The Equal Employment Opportunity Commission announced a settlement with a nursing and rehabilitation center that illegally asked applicants for family medical history as part of a preemployment medical examination. The EEOC indicated that this was the first systemic case the agency pursued under the 2008 Genetic Information Nondiscrimination Act (GINA).

www.eeoc.gov

GAO on FLSA

The Government Accountability Office released *Fair Labor Standards Act: The Department of Labor Should Adopt a More Systematic Approach to Developing Guidance* (GAO-14-69), which examines questions raised about the DOL's enforcement and compliance assistance efforts as the number of lawsuits have increased.

www.gao.gov

Regulatory Roundup

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

- *Frequently Asked Questions (FAQs) Part XVIII* on implementing the Affordable Care Act (ACA) and the Mental Health Parity and Addiction Equity Act, including coverage of preventive services; insured expatriate health plans; and wellness programs.

From the Department of Treasury/IRS:

- *Announcement 2014-4*, extending the on-cycle application deadline to Feb. 2, 2015, for defined benefit mass-submitter providers.
- *Taxable Fringe Benefits Guide for Governmental Entities (Publication 5137)*, a reference for state and local governmental units.
- An announcement in *Employee Plans News* stating that prior versions of the Forms 5300 and 5310 may be used through June 30, 2014, to request determination letters or for determination letters for terminating plans, and that new user fees apply starting Feb. 1, 2014, even though the new user fee forms (Forms 8717 or 8717-A) for certain applications are not yet available.
- A *chart* and *FAQs* outlining submission procedures for individually designed plans' initial five-year cycle (EGTRRA).
- Updated *web postings* on: cafeteria plans for government entities; Form W-2 reporting of employer sponsored health coverage; qualified retirement plan sponsors' responsibilities and fiduciary responsibilities; determination letters subject to mandatory review and acknowledgement notices; and the results of a study of small defined contribution retirement plans.

From the Department of Labor:

- *Form M-1 (Report for Multiple Employer Welfare Arrangements (MEWAs) and Certain Entities Claiming Exception (ECEs)), Instructions, and Self-Compliance Tool* for 2013.

From the Pension Benefit Guaranty Corporation:

- A *final rule* moving the flat-rate premium due date for large single-employer and multiemployer defined benefit pension plans from Feb. 28, 2014, to Oct. 15, 2014, for calendar-year plans (see **Benefits Alert 14-2**).
- A *proposed rule* applicable to multiemployer plans that would reduce the number of actuarial valuations required for certain small terminated but not insolvent plans, shorten the advance notice requirements for certain mergers, and remove certain insolvency notice requirements.

From the Department of Health and Human Services:

- A *notice* announcing the 2014 Federal Poverty Level figures that are used to determine financial eligibility for certain federal programs.
- An updated set of *common questions* on recordkeeping and record disposal under the Early Retiree Reinsurance Program.
- *Applications* for Medicare Advantage, Prescription Drug Plan, and Employer/Union-Only Group Waiver Plans for 2015.

U.S. Supreme Court Denies Pay for Protective Clothes-Changing Time

The U.S. Supreme Court ruled that workers need not be paid for the time they spend putting on protective gear for their jobs (*Sandifer v. United States Steel* (No. 12-417, Jan. 27, 2014)). In its unanimous decision, the Court rejected the workers' claims that federal law requires payment, even though their union had agreed that they need not be paid for time spent "changing clothes." The Court interpreted "clothes" as including the protective gear the workers put on as part of their jobs, stating, "We see no basis for the proposition that the unmodified term 'clothes' somehow omits protective clothing."

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