

MONTHLY BENEFIT News and Developments

Employee Benefits

Tax Reform Preview?

The Republican staff of the Senate Finance Committee released "Comprehensive Tax Reform for 2015 and Beyond," which provides background on the tax system and possible direction for future efforts. The committee will have a major role in developing and advancing any legislation to overhaul the tax system.

The report notes that the principal policy decision on employer-provided health coverage is "whether to maintain (or strengthen)" the system. On retirement plans, the report indicates that having uniform or harmonized rules for eligibility, contribution, and withdrawals could be helpful.

www.finance.senate.gov

Upcoming Key Dates

2/2/15 – Deadline to request an IRS determination letter by: individually designed defined benefit and defined contribution plans in Cycle D; and multiemployer retirement plans.

2/17/15 – First new deadline for small defined benefit plans to file 2014 Comprehensive Premium Filing and to pay premiums.

4/30/15 – Revised deadline for 403(b) preapproved plans to submit applications for opinion and advisory letters.

6/2/15 – Expiration of IRS's penalty relief pilot program for sponsors of non-ERISA and foreign plans subject to the Form 5500 reporting requirements.

6/30/15 – Revised deadline for preapproved defined benefit plans to submit applications for opinion and advisory letters for the second six-year remedial amendment cycle.

Legislative Activity on the Benefits Front

Before adjourning the 113th Congress in mid-December, the House and Senate approved two "must pass" bills, both of which include benefits-related provisions:

- The "Consolidated and Further Continuing Appropriations Act, 2015" (P.L. 113-235, signed into law on Dec. 16) provides \$1.1 trillion in spending to keep most federal agencies operating during the fiscal year that began Oct. 1. (It funds the Department of Homeland Security only through February 2015, and thus sets up a potential battle field on immigration issues between the White House and the Republicans who control both bodies of the 114th Congress.)

For multiemployer pension plans, the new law includes: remediation methods for deeply troubled plans; measures to strengthen the Pension Benefit Guaranty Corporation, including an increase in the annual premium from \$13 per participant to \$26 per participant; more flexibility for the PBGC in facilitating mergers and partitions; and some technical corrections to the PPA's funding rules.

For other pension plans, the law includes provisions addressing "substantial cessation of operations," the definition of "normal retirement age," and certain cooperative and small employer charity pension plans.

In addition, the law includes: special rules, definitions, and clarifications under the Affordable Care Act (ACA) for "expatriate plans," including those provided by employers that sponsor such plans; funding to extend the Trade Adjustment Assistance for Workers program through fiscal year 2015, including the provision of benefits to those individuals certified as eligible after Dec. 31, 2014; and preservation of the Labor Department's Employee Benefits Security Administration's "ability to promulgate a fiduciary standard."

- The "Tax Increase Prevention Act" (P.L. 113-295, signed into law on Dec. 19) provides an extension of numerous expiring tax breaks, but only through 2014. (Some congressional leaders anticipate tackling permanency of these tax breaks as part of comprehensive tax reform legislation.) As part of this new law, Congress attached provisions to allow certain disabled individuals to fund savings accounts to help pay for qualified expenses.

The new law extends the tax-parity treatment for employer-provided mass transit and parking benefits, equalizing the maximum monthly exclusion amount. The law also extends the 20% small-employer wage credit for employees who are active duty members of the uniformed services. As part of the disabled-savings provisions, the law gives the IRS authority to certify "professional employer organizations" that would assume sole responsibility for their customers' employment taxes, and adjusts for inflation certain civil penalties, such as for failures to file correct information returns and payee statements.

Two Reports on Health: 2014 Uninsured Rates and 2013 Spending

▪ In the first government report on the number of uninsured adults since the launch of the health insurance exchanges, the *National Health Interview Survey* (NHIS) finds that the percentage decreased from 20.4% in 2013 to 17% in the first six months of 2014. The NHIS is part of the National Center for Health Statistics at the Department of Health and Human Services' Centers for Disease Control and Prevention.

www.cdc.gov/nchs/

▪ The Office of the Actuary at the Centers for Medicare and Medicaid Services released *National Health Expenditures 2013*, reporting that health spending grew at 3.6% and total national health expenditures reached \$2.9 trillion, or \$9,255 per person. The study notes that health spending continued a slow growth pattern for five consecutive years, and that the share of the economy devoted to health remained unchanged over this period at 17.4%.

www.cms.gov

CBO on Social Security

The Congressional Budget Office's *2014 Long-Term Projections for Social Security: Additional Information* provides updated information on the agency's July 2014 report projecting the Social Security program's long-term revenues and outlays. The new study finds that if some future legislation shifted resources from the Old-Age and Survivors Insurance trust fund to the Disability Insurance trust fund, the combined OASDI funds would be exhausted in 2030.

www.cbo.gov

Report on Reinsurance

The Treasury Department released *Breadth and Scope of the Global Reinsurance Market and the Critical Role Such Market Plays in Supporting Insurance in the United States*, summarizing the history of reinsurance and providing an overview of the various functions of reinsurance. The report notes that global reinsurers are vital to U.S. insurers and thus are important for the nation's general economic prosperity. The report indicates that billions of dollars from pension funds and other nontraditional players have been moving into the reinsurance business in recent years.

www.treasury.gov

Regulatory Roundup

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

- *Proposed rule* on the Affordable Care Act's (ACA) summary of benefits and coverage requirement, along with proposed template, instructions, and other materials, for use in plan years beginning on or after Sept. 1, 2015.
- *Proposed rule* on the circumstances under which employer-provided healthcare coverage that wraps around and supplements individual health insurance may be treated as "excepted" benefits.

From the Departments of Treasury/IRS:

- *Final rule* on the savings bond available only for the "MyRA" retirement program.
- *Proposed rule* to create consumer protections for prepaid financial products, such as non-gift cards or other devices capable of being loaded with funds (e.g., wages) and usable at unaffiliated merchants or for person-to-person transfers.
- *Revenue Ruling 2014-34*, providing the 2015 covered compensation tables for retirement plans.
- A *notice and request for comment* on draft Form 5500-SUP, a paper-only form to be used by retirement plan sponsors and administrators to satisfy certain reporting requirements.
- *Notice 2014-79*, providing the 2015 optional standard mileage rates for operating an automobile for business and other purposes.
- *Notice 2014-77*, containing the 2014 Cumulative List of Changes in Plan Qualification requirements for retirement plan sponsors applying for determination letters in Cycle E.
- *Notice 2014-74*, amending the safe harbor rollover notices for revised allocation rules and in-plan Roth conversions.
- *Announcement 2015-01*, describing changes to the processing of employee plans determination letters that will take effect in 2015.
- *2015 Publication 15-B (Employer's Tax Guide to Fringe Benefits)*, containing information on the employment tax treatment of accident and health coverage, adoption assistance, and other fringe benefits.
- *Instructions for Form 8959*, regarding the additional Medicare tax.

From the Department of Labor:

- *Final rule* prohibiting federal contractors and subcontractors from discriminating on the basis of an employee's sexual orientation and gender identify.
- An *Information Letter* stating that employers facilitating employee savings through a "MyRA" will not be establishing an ERISA-covered "employee pension benefit plan."

Jointly from the Department of Defense, GSA, and NASA:

- An *interim final rule* on the payment of minimum wages for contractors.

Supreme Court: Security Screening Time Not Compensable under FLSA

The U.S. Supreme Court unanimously ruled that the time employees spend waiting to undergo and undergoing security screenings is not compensable under the Fair Labor Standards Act (*Integrity Staffing Solutions, Inc. v. Busk* (No. 13-433, Dec. 8, 2014)). The Court held that the screenings were not an "integral and indispensable" part of the workers' normal job of retrieving products from warehouse shelves and packaging them for shipment. This view is consistent with a 1951 Labor Department opinion letter that found pre-shift screening conducted for employee safety and post-shift search conducted to prevent employee theft were noncompensable, the Court concluded.

Milliman Monthly Benefit News and Developments contains general information that is not intended to constitute the rendering of legal, tax, investment, or accounting advice. Application to specific circumstances should rely on further professional guidance.