

MONTHLY BENEFIT

News and Developments

Employee Benefits

Employee Benefits: Options to Reduce the Federal Deficit

The Congressional Budget Office released [*Options for Reducing the Deficit: 2017 to 2026*](#), a compendium of 115 policy options -- including advantages and disadvantages -- that would help to decrease federal spending or increase federal revenues over the 2017-2026 period. The CBO lists employee benefits and compensation changes that Congress could consider, such as: lowering or capping the annual amount of tax-deferred contributions to defined contribution retirement plans or suspending indexation of the limits; reducing the tax preferences for employment-based health insurance; and increasing the earnings subject to Social Security payroll taxes or the Medicare Hospital Insurance payroll tax rate.

Upcoming Key Dates

3/2/17 – New deadline to furnish to employees the 2016 forms to employer-provided health insurance offer and coverage.

4/10/17 – Application of the DoL's conflict-of-interest/fiduciary rule other than the "best interest contract" exemption.

4/30/17 – Revised deadline for sponsors of individually designed defined contribution plans to convert the plans into preapproved plans and apply for a determination letter.

6/15/17 (fiscal years beginning after) – Application of GASB Statement 75 by governments, requiring reporting of retiree healthcare liabilities on balance sheets.

7/31/17 (for plan years ending on/after 10/1/16 and on/before 10/1/17) – Fifth reporting and payment of the outcomes research ("PCORI") fee by self-insured group health plan sponsors and insurers.

Legislative Activity on the Benefits Front

Congress spent its few days in December on "must pass" and noncontroversial bills before adjourning. In approving short-term funding – through Apr. 28, 2017 – for federal agencies in the current fiscal year that began Oct. 1, Congress agreed to provide a four-month extension of healthcare benefits of retired coal miners whose benefits were slated to run out on Dec. 31. The bill (H.R.2028), which the President signed (P.L.114-254) did not address how to keep the retired coal miners' pension plan from becoming insolvent.

The Senate gave its final approval to the "21st Century Cures Act" (H.R.34), which includes mental health/substance use disorder parity and related provisions that affect employer-sponsored group health plans, as well as relief from certain penalties for health reimbursement accounts sponsored by qualified small employers under the Affordable Care Act (ACA). The President signed the bill into law (P.L.114-255).

Congress did not act on several benefits-, compensation-, or employment-related bills that remained pending at year end. Among the items left for members of the 115th Congress to introduce anew and consider are: a new composite pension plan design incorporating both defined benefit and defined contribution plans for multiemployer plan sponsors; relief from the nondiscrimination rules for frozen pension plans; multiple employer 401(k) plans for small- and medium-sized employers; certain employment tax credits that expired at the end of 2016; and tax technical corrections to fix drafting errors affecting mass transit parity and a failure to furnish payee statements.

115th Congress Priorities

With Republicans controlling Congress at the start of the 115th Congress on Jan. 3, GOP leaders have been working on an ambitious plan to overturn laws and pull back on or reverse regulations they view as having a harmful effect on the economy. A top priority is the repeal of the ACA, followed by a replacement plan that may take years to implement, because they have not coalesced around a comprehensive proposal and they remain mindful of the incoming President's desire to keep some of the current law's popular features. The "repeal" portion is likely to be done quickly via "budget reconciliation" procedures that require a simple majority vote for approval, but the task of "replacing" the ACA will be left to the various committees to draft. Republicans also will have to contend with the cost of repeal; the Congressional Budget Office in 2015 estimated that full repeal would cost \$353 billion over 10 years (or \$137 billion under favorable macroeconomic assumptions). Some GOP members remain disinclined to vote for legislation that adds to the federal deficit.

Other priorities for the next Congress are expected to include reversing regulations such as the salary test for employees exempt from overtime pay or the disclosure requirements on executive pay. And the President-elect has indicated a desire to move quickly to overturn his predecessor's various Executive Orders, including some that may affect pay or benefits by federal government contractors.

PBGC Participant and Plan Sponsor Advocate's Report

The PBGC's *2016 Annual Report of the Participant and Plan Sponsor Advocate* noted the following challenges experienced by participants and plan sponsors: adversarial and defensive interactions with the agency; a lack of transparency about the PBGC's assumptions; the agency's unwillingness to exercise judgment and discretion with participant claims and sponsor penalties; and the PBGC's demand for documentation, costly analysis, and historical records that businesses, governmental entities, or participants rarely, if ever, retain.

GASB Guidance

The Governmental Accounting Standards Board (GASB) issued Statement No. 83, *Certain Asset Retirement Obligations* (AROs) for state and local governments, addressing legally enforceable liability associated with the retirement of a tangible capital asset known as AROs. The guidance helps governments determine the timing and pattern of recognition for liabilities and corresponding deferred outflow of resources related to AROs.

Defined Contribution Plans: Prevalence and Costs

The Bureau of Labor Statistics' *Beyond the Numbers: Defined Contribution Retirement Plans - Who Has Them and What Do They Cost?* looks at five types of private employer-sponsored defined contribution retirement plans, categorized on the basis of tax code requirements and variations in contribution methods. The article shows the overall employee participation rates, participation rates by type of plan, and overall employer and worker participation costs.

2015 Health Expenditures

The Centers for Medicare and Medicaid Services' Office of the Actuary released *National Health Expenditures 2015 Highlights*, noting that U.S. healthcare spending increased 5.8% over 2014 to reach \$3.2 trillion, or \$9,990 per person. The ACA's coverage expansion that began in 2014 continued to affect healthcare spending, with 2015 growth in spending driven by private health insurance, hospital care, physician and clinical services, and the continued strong growth in Medicaid and retail prescription drug spending. The overall share of the U.S. economy devoted to healthcare spending was 17.8% in 2015, up from 17.4% in 2014.

Regulatory Roundup

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

- [Frequently asked questions](#) about the ACA's special enrollment, preventive services, and qualified small employer health reimbursement arrangements.

Jointly from the Defense, General Services Administration, and National Aeronautics and Space Administration:

- An [interim rule](#) to implement an Executive Order and the DoL's final rule on paid sick leave for federal contractors.

From the Department of Treasury/IRS:

- [Final rule](#) relating to the health insurance premium tax credit available to eligible individuals who enroll in Exchange coverage.
- [Proposed rule](#) on applicable mortality tables used by single-employer defined benefit plans to determine minimum funding requirements.
- [Notice 2017-1](#) on the eligibility for an exemption from user fee requirements for employee plans determination letter applications filed on or after Jan. 1, 2017.
- [Notice 2016-80](#), providing the "Required Amendments List" of statutory and administrative changes that retirement plan sponsors must adopt no later than Dec. 31, 2018 under the tax code's qualification requirements.
- [Notice 2016-79](#), announcing the 2017 optional standard mileage rates to calculate the deductible costs of operating an automobile for business purposes.
- [Publication 15 \(Circular E\). Employer's Tax Guide](#), for 2017.
- Web updates on the ACA's tax provisions: [Employer Shared Responsibility](#); [Information Reporting by Employers on Form 1094-C and Form 1095-C](#); and [Information Reporting of Offers of Health Insurance Coverage by Employers \(Section 6056\)](#).
- A [web update](#) requesting that applicants of defined benefit plan determination letters identify whether the plan has lump-sum risk transfer language in either the cover letter to their application or as an attachment.
- A [web update](#) of FAQs for employers adopting pre-approved retirement plans.
- A [letter](#) approving, for the first time, an application for a multiemployer pension plan's to suspend participants' benefits, as permitted by the Multiemployer Pension Reform Act.

From the Department of Labor:

- [Final rule](#) on savings arrangements established by qualified state political subdivisions for non-governmental employees.
- [Final rule](#) and [fact sheet](#) on claims procedure for plans providing disability benefits.
- [Interpretive Bulletin 2016-1](#), providing guidance on voting of proxies on securities held in employee benefit plan investment portfolios, the maintenance of and compliance with statements of investment policy, and the exercise of other legal rights of a shareholder.
- [Information Letter](#) (unnumbered) permitting target-date funds that have lifetime income products with delayed liquidity (such as annuities) to be qualified default investment alternatives.
- [Private Pension Plan Bulletin Abstract of 2014 Form 5500 Annual Report, 2016](#).

From the Department of Health and Human Services:

- An [announcement](#) by the Retiree Drug Subsidy Program of a change in retiree processing that expedites cost reporting and reconciliation tasks.

From the Securities and Exchange Commission:

- [Guidance Update](#) 2016-06, which addresses certain procedural issues relating to mutual fund fee structures under the DoL's fiduciary rules.

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