

MONTHLY BENEFIT

News and Developments
Employee Benefits

PBGC Data Tables

The Pension Benefit Guaranty Corporation updated its *Pension Insurance Data Tables*, and announced it will update the tables more often than annually. The tables, which provide statistics for single-employer and multi-employer defined benefit plans, quantify the numbers of people and plans that PBGC protects, the number of people receiving or eligible to receive PBGC benefits and the benefits paid, claims against the agency, and the funded status of PBGC-protected plans.

www.pbgc.gov

Upcoming Key Dates

6/15/13 (fiscal years beginning after) – Effective date of GASB Statement 67, *Financial Reporting for Pension Plans*.

6/30/13 (unless required later) – Deadline for Puerto Rico-based retirement plans to adopt required qualification amendments under the 2011 Puerto Rico Internal Revenue Code.

7/31/13 (for plan years ending 10/1/12 – 12/31/12) – First reporting and payment of the outcomes research fee by self-insured group health plan sponsors and group insurers.

9/23/13 – Required compliance with final rule on HIPAA privacy requirements by covered entities and business associates.

9/30/13 (unless required later) – Deadline for Puerto Rico-based retirement plans to file for updated qualification letters if timely amended to comply with the Puerto Rico tax code.

10/1/13 – Enrollment begins for 2014 health insurance exchanges.

10/1/13 – Deadline for defined benefit plan mass submitters to submit a request for an IRS advisory/opinion letter.

Legislative Activity on the Benefits Front

The across-the-board, automatic spending cuts to most federal programs went into effect on March 1, as the White House and Congress were unable to reach any agreement on avoiding the sequester. The Republican leadership stood firm on their “no tax increase” pledge, rejecting the President’s suggestion that both spending cuts and revenue increases were necessary in any deal to avert the \$85 billion cuts for the remainder of the federal fiscal year. The sequester requires spending cuts that are about evenly split between domestic and defense programs, but exempts a few mandatory programs such as Social Security, the unemployment trust fund, and Medicaid and other programs that target low-income individuals. In addition, the sequester provides a 2% cut to Medicare payments to doctors, hospitals, and other healthcare providers; it also makes cuts to programs under the Affordable Care Act (ACA).

Potentially more pressing, however, is the March 27 expiration of the short-term funding for federal agencies for the 2013 fiscal year that ends on Sept. 30. Unless the White House and Congress approve legislation to provide funding for the remainder of the fiscal year, federal agencies will be required to shut down. House and Senate leaders and the Administration are working to avoid such an outcome, but early posturing indicates another battle may be brewing. House Republicans, for example, expect to use the sequester’s lower level of spending as a baseline to begin negotiations. Doing so, they argue, would also be a step toward reducing the federal deficit. The White House again is expected to push for a combination of tax increases or the closing of certain tax provisions plus spending reductions through “entitlement” program reforms.

After addressing funding for the current fiscal year, lawmakers almost immediately will have to turn to the budget for the 2014 fiscal year. Failure to reach an April 15 deadline to reach an agreement will result in temporary pay suspensions for lawmakers in the House or the Senate (or both). And new legislation to raise the debt ceiling also will have to be considered soon after (possibly by mid-May, when the current, temporary suspension expires) to avoid the risk that the U.S. will default on its payment obligations.

Tax Reform and Employee Benefits?

While over the near term Congress and the Administration will continue to grapple with federal deficits, spending, and budgets, they also have begun early discussions about reforming the tax code, with the House leadership committed to doing so this year. The Ways and Means Committee announced the formation of bipartisan subgroups to address specific tax reform topics, including pensions/retirement and education/family benefits. The subgroups are expected to produce a report to the full committee by April 15.

In recent years, limiting the amounts employees may defer in tax-qualified retirement plans on a pretax basis and taxing a portion of employer-provided healthcare coverage have been discussed as possible revenue sources. Tax reform can also be expected to consider the expiration of the favorable tax treatment afforded to certain employee fringe benefits or restrictions on various employment-based wage credits for employers.

PBGC Still “High Risk”

The Government Accountability Office's *High Risk Series: An Update*, which annually reviews government operations identified as high risk due to, among other things, the need for transformation to address economy, efficiency, or effectiveness challenges. Although progress has been made, the PBGC continues to carry a large net deficit (\$34 billion at the end for the 2012 fiscal year) and continues to have challenges related to its governance and funding structure, the report states.

www.gao.gov

ACA and the Federal Budget

The Congressional Budget Office issued *The Budget and Economic Outlook: Fiscal Years 2013 to 2023*, which anticipates that the health reform law will cost about \$1.3 trillion over the next 10 years. The CBO projects that 26 million people will enroll in the Exchanges by 2022 and that more employers will pay penalties for failing to offer healthcare coverage than was expected in the agency's August estimate.

www.cbo.gov

Benefits as Tax Expenditures

The Joint Committee on Taxation's *Estimates of Federal Tax Expenditures for Fiscal Years 2012-2017 (JCS-1-13)* lists as among the top 15 individual tax expenditures: the exclusion for employer contributions for healthcare, insurance premiums, and long-term care insurance premiums; the net exclusion of pension contributions and earnings; and the exclusion of benefits provided under cafeteria plans. The report projects that tax expenditures associated with retirement plans will increase to \$212.2 billion for defined benefit plans, and to \$335.6 billion for defined contribution plans.

www.jct.gov

Census Looks at Health

The Census Bureau's *Employment-Based Health Insurance: 2010* indicates that among working individuals, employment-based health coverage declined, from 76% in 1997 to 70.2% in 2010. The study also found that 65.6% of firms with 1,000 or more employees offered multiple plans.

www.census.gov

Regulatory Roundup

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

- *Proposed rules, a news release, a fact sheet, and Frequently Asked Questions (FAQs) Part XII* on the Affordable Care Act's (ACA) coverage of certain preventive services.

From the Department of the Treasury/IRS:

- *Revenue Ruling 2013-2*, providing the tables of covered compensation for the 2013 plan year.
- *Notice 2013-11*, providing guidance on the 25-year average segment rates that adjust the otherwise applicable 24-month average segment rates used to compute the minimum contribution requirements for single-employer defined benefit plans for plan years beginning in 2013.
- *Notice 2013-4*, providing guidance on an interim method for determining the adjusted applicable federal rates and the adjusted long-term rate.
- *Voluntary Correction Program Submission Kit* for 403(b) plan sponsors that missed the deadline to adopt a written plan document, and a *403(b) Fix-It Guide* to help plan sponsors find, fix, and avoid common errors.
- *FAQs* on required minimum distributions for retirement plans.
- *2012 Annual Report and 2013 Work Plan*, which highlights recent and upcoming guidance, examination projects, and outreach efforts.

From the Department of Labor (DOL):

- *Final rule*, an updated *poster*, revised model *forms*, and *FAQs* on the Family and Medical Leave Act, including information on military leaves, airline flight crews, and related topics.
- *Final rule* and related revised *forms* to implement the reporting requirements of multiple employer welfare arrangements (MEWAs), along with two *final rules* and a *fact sheet* on enforcement by the agency under the ACA.
- *Interim final rule* providing protections for whistle blowers who report violations under the ACA.
- *Advisory Opinion 2013-01A*, discussing the fiduciary status of those who clear swaps for retirement plans under the ERISA prohibited transaction provisions.
- *Target Date Retirement Funds – Tips for ERISA Plan Fiduciaries*, providing suggestions for selecting and monitoring TDFs and other investment options in 401(k) and similar plans.

From the Department of Health and Human Services (DHHS):

- *Final rule* outlining standards for the Exchanges and insurance issuers regarding the ACA's coverage of essential health benefits and actuarial value.
- *Final rule* on health insurance market and insurance rate reviews.
- The 2014 *Advance Notice* that provides the standard deductibles for Medicare prescription drug plans for 2014.
- A *Research Brief* from the Office of the Assistant Secretary for Planning and Evaluation that explains how the ACA's essential health benefits provisions will expand mental health and substance use disorder benefits and federal laws requiring that mental health benefits be equal to, or have “parity” with, other health benefits in the individual and small group markets.

From the Social Security Administration (SSA):

- *Individual Changes Modifying Social Security*, which provides long-range financial estimates for various options to change the Social Security program.

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