

MONTHLY BENEFIT

News and Developments

Employee Benefits

Upcoming Key Dates

11/1/13 – Revised first open enrollment date for small employers buying health insurance through the SHOP exchanges for 2014.

12/31/13 – Deadline to amend 401(k), 403(b), or 457 governmental plans to provide loans or hardship distributions due to Hurricane Sandy.

12/31/13 (unless required later) – Deadline to amend single-employer defined benefit plans to comply with the restrictions on benefit accruals and optional benefit payment forms.

12/31/13 – Expiration of: health insurance coverage and small business healthcare tax credits; various employment tax credits; employer wage credit for activated military reservists; and temporary increase in the amount excludable for employer-provided mass transit/vanpool benefits.

1/1/14 (plan/policy years beginning on/after) – Depending on grandfathered or insured status and/or number of employees, applicable ACA requirements include: prohibitions on annual dollar limits, preexisting condition exclusions, and waiting periods longer than 90 days; restrictions on cost sharing; coverage for certain clinical trials; expanded wellness incentives; and coverage for adult children up to age 26.

1/1/14 (plan years beginning on/after) – PBGC flat-rate premiums increase for single-employer plans and variable-rate premiums adjusted for inflation plus amount of unfunded vested benefits; and multiemployer premiums adjusted for inflation.

1/31/14 – Deadline to file determination letter applications for retirement plans in Cycle C and for defined benefit preapproved plans in the second six-year remedial amendment cycle.

Legislative Activity on the Benefits Front

Following a five-week summer recess, Congress returned on Sept. 9 and immediately turned to legislation (H.J.Res.59) to keep the federal government running in the fiscal year 2014 that begins Oct. 1. Lawmakers were unable to reach any agreement, however, forcing agencies to shut down and/or operate with only “essential” workers. Federal agencies’ plans for closing indicate that about 800,000 employees will be furloughed, with uneven effects by department (depending on such factors as whether the workers are engaged in protecting life and property or are paid from funding outside of annual appropriations). For example, about 80% of the Departments of Labor’s and Treasury’s employees will not be working, while the Pension Benefit Guaranty Corporation remains open. For employee benefits, compensation, and related employment-based matters, this means a slowdown in regulatory releases, the E-Verify system to check whether job applicants are legally eligible for work will be closed, and telephone or email contact with agency personnel will cease. Tax filing or payment deadlines remain in effect, but no customer service will be available.

A significant faction of Republican House members – and to a lesser but still significant extent, GOP Senators – continue to remain at odds with Democrats and the White House on moving forward. A key sticking point for Republicans remains “defunding” of major portions of the Affordable Care Act (ACA), and they have included a variety of provisions in the House-approved versions of continuing resolutions to fund the agencies. The Senate has rejected the changes and the President has vowed to veto any bill that reaches his desk if it contains riders relating to the ACA. Senate Democrats and the Administration are seeking a clean bill, one that funds the agencies until mid-November, albeit at the House’s lower budget baseline that takes into account the effects of the across-the-board spending reductions referred to as the sequester.

The Debt Limit, Tax Reform

Congress also will have to grapple with legislation to raise the federal debt limit before Oct. 17, when the federal government risks defaulting on its obligations. Thus far, House Republicans have floated tying the increase to several of their priorities, including additional attempts to defund or delay the ACA and an expedited schedule for tax reform.

Regarding tax reform, House Ways and Means Committee Chairman Dave Camp (R-MI) has outlined what he expects to be included, even as talks remain ongoing. In general, his proposal is expected to call for: reduced individual and corporate tax rates; repeal of the alternative minimum tax; a broader tax base; and a territorial (rather than worldwide) system for taxing international income. Employee benefits can be expected to part of the tax reform discussions.

Sen. Max Baucus (D-MT), who chairs the Senate tax-writing committee, has not revealed his tax reform plans. He and Camp have jointly been rounding up grass-roots support in various cities for tax reform and remain committed to producing legislation later this year.

EPCRS Critiqued

The IRS's Advisory Committee on Tax Exempt and Government Entities' *Report of Recommendations* includes suggestions from the Employee Plans Subcommittee regarding the Employee Plans Compliance Resolution System.

<http://tinyurl.com/ACT>

Reports on Health Insurance

- The Department of Health and Human Services' Office of the Assistant Secretary for Planning and Evaluation released *Health Insurance Marketplace Premiums for 2014 Databook*, which provides information as of Sept. 18, 2013, on qualified health plans in the 36 states in which the DHHS will support or run a health insurance exchange.

<http://aspe.hhs.gov>

- The Census Bureau issued *Income, Poverty and Health Insurance Coverage in the United States, 2012*, which reports that the percentage of people without health insurance coverage declined to 15.4%, down from 15.7% in 2011. The percentage of people covered by private health insurance remained unchanged at 63.9%; the percentage covered by employment-based health insurance also was not statistically different from 2011, at 54.9%.

www.census.gov

Public Pensions Data

The Census Bureau's *Summary of the Quarterly Survey of Public Pensions for 2013: Q2*, found that for the 100 largest public employee retirement systems, cash and security holdings totaled \$2,943.5 billion in the second quarter of this year, the highest level since the agency began collecting data in 1968.

www.census.gov

Employment Tenure

The Bureau of Labor Statistics' *Spotlight on Statistics: Tenure of American Workers*, examines trends in employee tenure between 1992 and 2012, finding that median tenure increased 1.1 years since 2000, the gap in median tenure between men and women has been narrowing since 1996, and women have accounted for a relatively large share of the employment growth in management and professional occupations since 1996.

www.bls.gov

Regulatory Roundup

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

- Two additional *Frequently Asked Questions (FAQs Part XVI)* on notice of the Affordable Care Act's (ACA) coverage options and the 90-day waiting period limit.
- Guidance (DOL *Technical Release 2013-03* and IRS *Notice 2013-54*, and CMS concurrence) on ACA provisions relating to health reimbursement arrangement, health flexible spending accounts (FSAs), and other employer-provided group health plans.

From the Department of Treasury/IRS:

- Revenue Ruling 2013-17* and *FAQs*, addressing tax-related issues under same-sex marriages, domestic partnerships, and civil unions, along with *Notice 2013-61*, providing the procedures for requesting refunds or adjustments of overpayments of employment taxes.
- A *letter* to the House Ways and Means Committee stating that an individual with health coverage from a single-employer or multiemployer plan would not be eligible to receive a premium tax credit under the ACA.
- Proposed rules* under the ACA relating to: large-employer information reporting of health insurance coverage; minimum essential coverage reporting; and small-employer tax credits.
- A *proposed rule* on filing certain employee retirement benefit plan statements, returns, and reports on magnetic media.
- Notice 2013-57*, clarifying that providing preventive care without a deductible is permitted under high deductible health plans.
- FAQs* on the additional Medicare tax required by the ACA.
- FAQs* on retirement plan automatic contribution increases.

From the Department of Labor:

- A *final rule* from the Office of Federal Contract Compliance Programs to implement disability nondiscrimination and affirmative action standards for federal government contractors and subcontractors.
- Advisory Opinion 2013-04A*, which deems the delivery of a summary prospectus to a second fiduciary as satisfying the prospectus distribution requirement of section II(d) of Prohibited Transaction Exemption 77-4.
- Technical Release 2013-04*, guidance on applying the terms "spouse" and "marriage" for ERISA-covered plans, along with an updated *Fact Sheet* on qualifying leaves under the Family and Medical Leave Act to include same-sex spouses.
- A *FAQ* specifying that no penalty will apply for employers that fail to issue the notice to employees describing healthcare exchanges by Oct. 1, 2013.
- EBSA Needs to Provide Additional Guidance and Oversight to ERISA Plans Holding Hard-to-Value Alternative Investments*, a report from the Office of Inspector General.
- Private Pension Plan Bulletin* reflecting data from the 2011 Form 5500.

From the Department of Health and Human Services:

- An *announcement* that the Small Business Health Options Program (SHOP) Exchanges will be open for online applications one month late (i.e., Nov. 1, 2013).
- Retiree Drug Subsidy Program User Guide Version 18* and *Scenario-Based Mini Lessons and Tip Sheets*.

From the Securities Exchange Commission:

- A *proposed rule* for publicly held companies' employee/executive pay-ratio disclosure.

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