

MONTHLY BENEFIT

News and Developments
Employee Benefits

The Cost to Repeal the ACA

The Congressional Budget Office and the Joint Committee on Taxation released *Budgetary and Economic Effects of Repealing the Affordable Care Act*, which notes that: repealing the ACA would increase the federal budget deficit by \$353 billion (or \$137 billion under “dynamic” scoring that takes into account macroeconomic effects) over the 2016-2025 period; repeal would present “major challenges”; and projections are subject to “substantial uncertainty,” but the effects would be so large after 2025 that the federal debt would not likely decrease.

www.cbo.gov

Upcoming Key Dates

9/1/15 (first day of open enrollment beginning on or after) – Application of the final rule on summary of benefits and coverage, for those enrolling or reenrolling in coverage.

9/30/15 – Expiration of E-Verify program that is mandatory for federal contractors and some employers in 19 states that require its use.

10/1/15 – Implementation of ICD-10 standard code sets and procedures by group health plans that engage in electronic transactions.

10/30/15 – New deadline to submit on-cycle applications for preapproved defined benefit plans, and opening of preapproved plan program for cash balance plans.

11/1/15 – 2016 open enrollment begins for health insurance under the ACA exchanges.

11/15/15 – Second annual reporting of enrollment of covered lives (for 2015) by self-insured and insured group health plans under the ACA transitional reinsurance program, as well as deadline to make final payment for 2014 if paying under the split schedule.

Legislative Activity on the Benefits Front

Following the House and Senate approval, the President signed the “Trade Preferences Extension Act of 2015” (H.R. 1295, P.L. 114-27), which includes a retroactive extension of the health coverage tax credit (HCTC) from Jan. 1, 2014, through Dec. 31, 2019. The law sets the tax credit at 72.5% of premiums paid by individuals for qualifying health insurance and prohibits claiming the credit alongside the Affordable Care Act’s (ACA) premium assistance credit for the same coverage month. The law retains the eligibility requirements (e.g., employees affected by jobs moving overseas, as well as those aged 55 years old or older receiving benefits from the Pension Benefit Guaranty Corporation).

Meanwhile, Congressional appropriations committees continue to work on bills to fund the federal agencies for the fiscal year that will begin on Oct. 1. Both the House and Senate committees have approved separate bills that would set spending that adheres to the 2010 Budget Control Act’s sequestration levels for the Departments of Labor, Education, and Health and Human Services. Those levels represent significant cuts for the various agencies from the 2014 levels and from the President’s budget proposal. Among the provisions in one or both bills are prohibitions on the use of funds for: the DoL’s fiduciary/conflict-of-interest rule implementation or the promulgation or enforcement of regulations to increase the minimum wage for certain jobs by federal contractors; a National Labor Relations Board “joint employer” standard; and the DHHS’s operational costs for state health insurance exchanges or “navigators” and the ACA’s “risk corridor” program. In addition, a provision would grant nondiscrimination protections to employees who have religious or moral objections to providing specific items or services (e.g., contraceptives, abortions). ■

Supreme Court Affirms Same-Sex Marriages and ACA Subsidies

The U.S. Supreme Court ruled, 5-4, that state laws barring same-sex marriages or failing to recognize same-sex marriages legally performed out of state are unconstitutional (*Obergefell v. Hodges* (No. 14-556, June 26, 2015)). The Court’s decision legalizes same-sex marriages across the nation.

The Court also ruled, by a vote of 6-3, that the Affordable Care Act’s federal personal income tax subsidies are available to people purchasing health insurance from all health exchanges, whether the exchanges are established by an individual state or run by the federal government (*King v. Burwell* (No. 14-114, June 25, 2015)). The decision ensures that people living in the states that did not establish an exchange will not lose the subsidies that make health insurance more affordable, and it relieves lawmakers from having to immediately craft legislation to address, maintain, or restore the subsidies for Americans availing themselves of the coverage.

(See [Client Action Bulletin 15-7](#) for a summary of the decisions and their implications for employer-sponsored health and retirement benefit plans.) ■

GASB and FASB Accounting Items

■ The Governmental Accounting Standards Board published: Statement No. 74, *Financial Reporting for Postemployment Benefit Plans Other than Pension Plans*; Statement No. 75, *Accounting and Financial Reporting for Postemployment Benefits Other than Pensions*; and Statement No. 73, *Accounting and Financial Reporting for Pensions and Related Assets that are not within the Scope of GASB Statement 68, and Amendments to Certain Provisions of GASB Statements 67 and 68*.

www.gasb.org

■ The Financial Accounting Standards Board released Accounting Standards Update No. 2015-10, *Technical Corrections and Improvements that amend and correct standards relating to defined benefit plans, multiemployer plan disclosure, and employee stock ownership plans*.

www.fasb.org

Public Pension Funds

The U.S. Census Bureau released *2015 1st Quarter Survey of Public Pension Funds*, showing that the 100 largest retirement systems had \$3.398 trillion in assets as of March 31, a 1.6% increase from three months earlier. The increase was due primarily to \$80.2 billion in earnings on investments and \$34.3 billion in contributions, partially offset by \$61.8 billion in benefit payments.

www.census.gov

BLS on 401(k) Plans, Wages

The Bureau of Labor Statistics released:

■ *Automatic Enrollment, Employer Match Rates, and Employee Compensation in 401(k) Plans*, which finds that employer match rates are negatively and significantly correlated with automatic enrollment: maximum match rates averaged 3.5% and 3.2% for plans without and with automatic enrollment, respectively.

■ *A Look at Pay at the Top, the Bottom, and In Between*, which examines how the measures of earnings and wages change over time and how they differ within a geographic area, industry, or occupation. The study also looks at how participation in employee benefit plans differs across wage categories.

www.bls.gov

Regulatory Roundup

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

- *Final rule* on the Affordable Care Act's summary of benefits and coverage requirements.

From the Treasury/IRS:

- *Temporary and proposed rules* on suspension of benefits in multiemployer pension plans that are in "critical and declining" status, as well as *Revenue Procedure 2015-34*, which describes the process for such plans to apply for approval from the IRS (see *Multiemployer Alert 15-1*).
- *Revenue Procedure 2015-36*, which expands the scope of the preapproved program to include defined benefit plans containing cash balance features and defined contribution plans with employee stock ownership plan features, and extends the deadline to submit on-cycle applications for opinion/advisory letters for preapproved defined benefit plans.
- *Notice 2015-43*, providing interim guidance for expatriate health plans as defined under the temporary relief available in *ACA Implementation FAQs Part XIII*.
- A *series* of explanations, worksheet (alert guidelines), and deficiency check-sheets that IRS specialists use when reviewing retirement plan documents.
- *Nonqualified Deferred Compensation Audit Techniques Guide*, providing insights into the IRS's audit procedures.
- *Analysis and Recommendations Regarding 403(b) Plans*, an advisory report providing guidance in four specific areas, as well as an updated *403(b) Fix-It Guide* that addresses potential problems in plan administration.
- *VCP Submission Kit* for plan sponsors that failed to make timely required contributions to money purchase or target benefit plans.
- Draft versions of forms *1095-A, Health Insurance Marketplace, 1095-B, Health Coverage, 1095-C, Employer-Provided Health Insurance Offer and Coverage, and 1094-C, Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns*, for reporting 2015 information.

From the Department of Labor:

- An *announcement* of the release of its proposed rule (under the Fair Labor Standards Act) on overtime pay for executive, administrative, and professional workers.

From the Pension Benefit Guaranty Corporation:

- *Interim final rule* regarding partitions of eligible multiemployer plans, along with *FAQs* and model notices (see *Multiemployer Alert 15-1*).

From the Department of Health and Human Services:

- *Technical guidance* for insurance issuers and self-insured, nonfederal governmental group health plans on the election of a federally administered external review process.

From the Securities and Exchange Commission:

- *Interpretive guidance* on the use of the terms "spouse" and "marriage" in light of the U.S. Supreme Court's *Windsor* ruling in 2014.
- A *memorandum* from the SEC's Division of Economic and Risk Analysis to help the agency develop final rules on pay ratio disclosure.
- An *announcement* about the launch of a multiyear "Retirement-Targeted Industry Reviews and Examinations" (ReTIRE) initiative to conduct examinations of SEC-registered investment advisers and broker-dealers that will focus on select areas where retail investors saving for retirement may be harmed.

From the Social Security Administration:

- *Final rule* on the revised government pension offset regulations affecting individuals who receive governmental pensions and worked in jobs not covered by Social Security.

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.