

July 2015 Employee Benefits Update

Select Compliance Deadlines and Reminders

Payment of Patient-Centered Outcomes Research Fee Due by July 31

The Patient Protection and Affordable Care Act ("ACA") imposes fees on plan sponsors of applicable self-insured health plans to fund the Patient-Centered Outcome Research Institute ("PCORI"). The fee, based on the average number of lives covered under the policy or plan, is required to be reported annually on the second quarter Form 720 and to be paid by July 31.

Internal Revenue Service ("IRS") Form 5500 Due for Calendar Year Plans

Administrators or sponsors of employee benefit plans subject to Employee Retirement Income Securities Act ("ERISA") must generally submit the Form 5500 by the last day of the seventh month following the end of the plan year. For calendar year plans, the Form 5500 is generally due July 31. Extensions are available if certain steps are satisfied; employers should consult their advisors for specific compliance requirements.

IRS Issues Draft ACA Information Reporting Forms for Employer

On June 16, 2015, the IRS released draft 2015 forms by the ACA for reporting information related to ACA compliance. IRS Forms 1094-C and 1095-C are used to report offers of health coverage and employee enrollment in health coverage for applicable large employers, which means employers with 50 or more full-time employees (including full-time equivalent employees). Employers that are not "applicable large employers" (those with less than 50 full-time employees) but that still sponsor self-funded health plans will need to complete Forms 1094-B and 1095-B for each individual provided minimum essential coverage during a calendar year. The draft forms are substantively similar to the most recently released version of the IRS forms. Once finalized, each form is required to be filed with the IRS by February 29, 2016, or March 31, 2016 if filing electronically. Copies of Form 1095-C must be provided to full-time employees by February 1, 2015.

Retirement Plan Developments

IRS Establishes Permanent Penalty Relief Program for "One-Participant

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Plans" and Certain Foreign Plans

On June 1, 2015, the IRS published Revenue Procedure 2015-32 to establish a permanent program providing administrative relief to plan administrators and plan sponsors of certain retirement plans from the penalties otherwise applicable under the Internal Revenue Code (the "Code") for failing to timely comply with the annual reporting requirements.

This permanent program replaces the temporary pilot program. The administrative relief applies only to plan administrators and plan sponsors of retirement plans that are (1) small business (owner-spouse) plans and plans of business partnerships (together, "one-participant plans") that do not provide benefits for anyone except the owner and/or the owner's spouse or one or more partners; and (2) certain foreign plans not subject to Title of 1 of ERISA. The payment for each submission is \$500 for each delinquent return for each plan, up to a maximum of \$1,500 per plan.

IRS Establishes Permanent Penalty Relief Program for "One-Participant Plans" and Certain Foreign Plans

The IRS issued Revenue Procedure 2015-36 updating existing IRS guidance on master and prototype, and volume submitter plan applications for opinion and advisory letters. The IRS highlighted several of the important changes in the new revenue procedure:

- extending the application deadline for preapproved defined benefit plans from June 30 to October 30, 2015,
- opening the preapproved plan program to cash balance plans for submission by October 30, 2015, and
- expanding the preapproved plan program to employee stock ownership plans ("ESOPs") during the defined contribution application period beginning February 1, 2017.

IRS and PBGC Release Guidance under the Multiemployer Pension Reform Act of 2014 ("MEPRA")

On June 16, 2015, the IRS and Pension Benefit Guaranty Corporation ("PBGC") issued proposed regulations, together with temporary regulations and a Revenue Procedure, to implement MEPRA's suspension of benefit rules for multiemployer

plans. According to the preamble of the proposed regulations, it is expected that no application proposing a benefit suspension will be approved prior to the issuance of final regulations.

- Temporary Regulations. The temporary regulations, which are immediately applicable, provide guidance for a plan sponsor to apply for approval of a suspension of benefits. The temporary regulations provide general guidance regarding suspension of benefits, including guidance regarding the meaning of the term "suspension of benefits," the general conditions for a suspension of benefits, and the implementation of a suspension after a participant vote.
- Proposed Regulations. The proposed regulations are not immediately applicable. The proposed regulations provide additional guidance regarding suspension of benefits, including guidance relating to the standards that will be applied in reviewing an application for suspension of benefits and the statutory limitations on a suspension of benefits.
- Revenue Procedure. The IRS also issued Revenue Procedure 2015-34 prescribing the specifics of the application process for approval of a proposed benefit suspension (including a 40-point checklist for the application). The revenue procedure also provides a model notice that a plan sponsor proposing a benefit suspension may use to satisfy the statutory notice requirement.

If a plan sponsor submits an application for approval of a proposed benefit suspension before the issuance of final regulations, then the plan sponsor may need to revise the proposed suspension (and potentially the related notices to plan participants) or supplement the application to take into account any differences in the requirements relating to suspensions of benefits that might be included in the final regulations.

IRS Publishes New VCP Submission Kit

On June 16, 2015, the IRS released a new Voluntary Correction Plan ("VCP") Submission Kit for plan sponsors who failed to make timely required contributions to money purchase pension plans or target benefit pension plans.

The [VCP Submission Kit](#), among other topics, includes guidance on completing the necessary forms and determining the VCP fee.



Health and Welfare Plan Developments

Final SBC Regulations Released

The Department of Health and Human Services ("HHS"), the Department of Labor ("DOL") and the IRS (collectively, the "Departments") finalized the Summary of Benefits and Coverage ("SBC") proposed regulations without substantive change. The regulations codify much of the informal guidance previously issued by the Departments. Accordingly, plan administrators may not need to make any updates to their SBCs this year (other than any benefit changes) if their SBCs already complied with the informal guidance.

The Departments reiterate that the revised SBC template will not be required for the upcoming open enrollment period/plan year. The revised SBC template will be finalized in early 2016 for use beginning with 2017 coverage (i.e., the 2016 open enrollment period).

Supreme Court Upholds Subsidies Under the ACA

On June 25, 2015, the Supreme Court issued its decision in *King v. Burwell*, concluding that the IRS permissibly construed provisions of the ACA to extend federal tax credits to individuals who purchased health coverage through the Exchange established by the federal government. In rejecting the challengers' argument that tax credits were available only to individuals enrolled in an Exchange established by a state, the Supreme Court's ruling ensures that tax credits remain available to the millions of individuals who purchased coverage in the 34 states using the Federal Exchange. Reinhart Employee Benefits attorneys provide a detailed discussion of the decision and its impact on employee benefit plans in [this recent e-alert](#).

Supreme Court Strikes Down State Laws Banning Same-Sex Marriage

On June 26, 2015, the Supreme Court issued its decision in *Obergefell v. Hodges*, striking down state laws banning same-sex marriage. The Court, reversing the decision of the Sixth Circuit upholding such bans, held that the Fourteenth Amendment requires a state to license a marriage between two people of the same sex, and to recognize marriages between two people of the same sex lawfully licensed and performed in another state. Reinhart Employee Benefits attorneys provide an overview of the decision and its impact on employee benefit plans in [this recent e-alert](#).



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