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Retirement and Pensions Update

Bipartisan Senate Resolution Praises Current Retirement Tax Scheme

On December 6th, Senator Richard Blumenthal (D-CT) introduced a Sense of Congress resolution calling for the current tax incentives for retirement savings to be maintained. Senator Blumenthal was joined by Senator Johnny Isakson (R-GA) and eight other lawmakers resolving that: "tax incentives for retirement savings play an important role in encouraging employers to sponsor and maintain retirement plans" and "existing tax incentives have increased the number of Americans who are covered by a retirement plan."

DOL Guidance on Abandoned Plans and Lifetime Income Options

On December 11th, DOL issued a notice of proposed amendment to the prohibited class exemption for services provided in connection with the termination of abandoned plans. Currently, the abandoned plans program "facilitates the termination of, and the distribution of benefits from, individual account pension plans that have been abandoned by their sponsoring employers." DOL also released proposed rules which would amend three ERISA regulations dealing with the termination of individual account pension plans abandoned by the sponsoring employer. The rules include a proposal to assist bankruptcy trustees in distributing assets from bankrupt companies' individual account retirement plans. A fact sheet on the proposed rules can be found here.

Borzi Says Fiduciary Re-Proposal Some Time Off

On December 6th, speaking at the American Institute of Certified Public Accountants' Employee Benefit Plans Accounting, Auditing and Regulatory Update, Assistant Labor Secretary for the Employee Benefits Security Administration Phyllis C. Borzi spoke on plans to re-propose the fiduciary rule. Borzi said DOL still has "a lot more work to do" and the re-proposal is still "months and months away." Still, Borzi said the revision of the fiduciary rule will include a "robust" economic analysis and amendments to prohibited transaction exemptions, among other things.

Borzi Ties American Retirement Crisis to Fiduciary Rule

Speaking at a symposium sponsored by the Women's Institute for a Secure Retirement, Assistant Secretary Phyllis Borzi said Americans are undergoing a crisis of confidence in retirement and financial planning and decision making. Borzi related this crisis to the Department's re-proposal of the fiduciary rule, saying it is clear Americans want and need help and also people "need to understand that when they get help, the people who hold themselves out as experts are accountable to them."

Treasury Exploring Social Security Bridge to Expand 401(k) Income Options

On November 29th, J. Mark Iwry, Deputy Assistant Secretary for Retirement and Health Policy at the Department of Treasury, said the agency sees the potential for a Social Security bridge option in employer-sponsored 401(k) plans. The Social Security bridge is an option allowing individuals who retire before the age of 62 to receive larger monthly pension checks until they are eligible to claim Social Security. The bridge is one of a number of ways the Treasury is examining to expand retirement income options in 401(k) plans, said Iwry, noting that the use of the bridge would be, in effect, "buying an annuity product from the 401(k) plan when you postpone Social Security."

Sandy Relief Does Not Include Waiver of Tax on Early Distributions

During a December 11th IRS phone forum, Eric Slack, Group 1 Acting Manager of IRS Employee Plans Technical Guidance, said the IRS has not waived the 10 percent tax on early distributions from qualified retirement plans or the Section 72(p) rules that treat loans as distributions for Hurricane Sandy victims. The IRS recently made an announcement about easements for those affected by Sandy but these applied mainly to documentation requirements. Following other natural disasters, such as Hurricane Katrina, Congress waived the 10 percent additional tax; however, it is unclear if Congress will do the same in this case.

IRS Official Says Internal Controls and Communication Key in Error Avoidance

On December 7th, a senior IRS official said 401(k) providers seeking to avoid errors must maintain good internal controls and open communications. Monika Templeman, Director of IRS Employee Plans Examinations, said the agency is hoping to "redouble" efforts in 2013 to review internal control and compliance. Currently, few plan sponsors take advantage of the free online resources that the IRS offers on its website and only about 65 percent of employers are aware of the voluntary compliance programs for addressing plan errors.

IRS Official Says Plans Should Document Analysis of Errors

In a December 5th Bloomberg BNA webinar, IRS Group Manager for Employee Plans Voluntary Compliance Avaneesh Bhagat said practitioners should document analysis for determining plan qualification errors insignificant in the self-correction program. The IRS uses seven factors to determine between insignificant and significant errors but there is no bright-line test to determine significance. While those who utilize the self-correction program do not have to pay filing fees, self-correction can only occur in a few instances, including when plan documentation did not account for hardship distributions or loans that are applicable to IRS rules.

IRS Updates December Weighted Average Rates

A recent IRS notice gave the December corporate bond weighted average interest rate, the range of permissible interest rates, guidance on the corporate bond monthly yield curve, and guidance on the 30-year Treasury securities interest rate. The notice reflects changes by the Moving Ahead for Progress in the 21st Century Act (MAP-21), which states applicable maximum and minimum percentages are based on 25-year period segment rates.

ABC Releases Survey On Potential Effects of Changes to Tax Treatment of 401(k)

On December 11th, the American Benefits Council (ABC) held a news briefing to release the results of a survey conducted by Mathew Greenwald & Associates Inc., on employer reactions to possible tax changes of 401(k) retirement plans. The survey found that close to two-thirds of employers said their employees could be expected to request an increase in compensation if contributions to 401(k) plans were no longer tax-deferred. ABC's President, James Klein, cautioned participants that a reduction in current tax deferrals for 401(k) plans could be on the table as a revenue raiser in fiscal cliff negotiations.

Milliman Finds Funding Deficit Decreased in November

On December 6th, Milliman released the Milliman 100 Pension Funding Index which highlights recent trends in the U.S.'s 100 largest defined benefit plan funding deficits, funding ratios, funding liabilities' discount rates, values of assets, and equity investment returns of index plan assets. In November, funding deficits decreased $33.2 billion from $499.3 billion to $466.1 billion, a 6.6% decrease. Funded ratios rose from 72.6 percent in October to 74 percent in November. The report notes that the decrease in the funding deficit is due to a modest rise in interest rates and equity gains.

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