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update

Compliance News for Plan Sponsors

November 12, 2015

Bipartisan Budget Act of 2015 Affects Health Benefits and Retirement Plans

On November 2, 2015, President Obama signed into law the Bipartisan Budget Act of 2015 (Act).[1] The Act includes a two-year budget agreement that raises the debt limit until March 15, 2017, sets the federal government budget levels for fiscal 2016 and 2017 and raises spending caps for both defense and nondefense spending. In addition to numerous other provisions, it also adjusts the 2016 Medicare Part B premium and repeals the Affordable Care Act's auto-enrollment rule.[2] The spending increases incorporated in various provisions of the Act are paid for (in budget terms) in part by changes to retirement plan rules. This *Update* discusses the health benefit and retirement plan provisions.

New Law Highlights:

- Medicare premiums are adjusted.
- The Affordable Care Act's auto-enrollment requirement is repealed.
- PBGC flat and variable rate premiums are increased, payment of 2025 premiums is accelerated, the use of substitute mortality tables is facilitated, and funding interest rate stabilization relief is extended.

Health Benefit Provisions

The Act makes changes to Medicare and the Affordable Care Act.

Medicare Premiums for 2016

The Act adjusts the Medicare Part B premium because about 30 percent of Medicare beneficiaries were scheduled to face a significant premium hike in 2016 (from $104.90 per month to $159.30 per month). Under current law, most Medicare beneficiaries are "held harmless" from Part B premium increases when there is no increase in Social Security payments (as is the case for 2016), so their premium will remain at the current rate of $104.90. For those who are not "held harmless" (because they do not have their Part B premiums withheld from Social Security and their Part B premiums are paid some other way, such as by Medicaid, or they are high-income beneficiaries or new enrollees), the Act sets a new 2016 Part B premium at $120.00 instead of $159.30. However, to make up the shortfall from a lower premium increase for those paying an increase, the general Treasury will loan money to the Supplemental Medical Insurance Trust Fund. Consequently, Medicare beneficiaries who would have to pay $120.00 will pay an additional monthly surcharge until the loan is repaid. On November 10, 2015, the Centers for Medicare & Medicaid Services (CMS) announced that the basic surcharge will be $1.80 for 2016, making the Part B premium for this group $121.80 for 2016.

[1] When the Bipartisan Budget Act of 2015 (Public Law 114-74) is available online, it will be accessible from the Government Publishing Office website.

[2] The Affordable Care Act is the shorthand name for the Patient Protection and Affordable Care Act (PPACA), Public Law No. 111-48, as modified by the subsequently enacted Health Care and Education Reconciliation Act (HCERA), Public Law No. 111-152.

For high-income Medicare beneficiaries whose income exceeds $85,000 ($170,000 for married couples filing a joint income tax return), the amount of the surcharge will be higher.[3] If there is no Social Security cost-of-living adjustment in 2017, the Act will repeat this process.

Repeal of the Affordable Care Act's Auto-Enrollment Rule

The Affordable Care Act amended the Fair Labor Standards Act to require employers with more than 200 employees to automatically enroll new full-time equivalents into one of the employer's health plans, and to automatically continue enrollment of current employees. Implementation of the provision has been indefinitely delayed by the Department of Labor, and many commentators had raised concerns as to whether it was administratively feasible. The Act repeals the auto-enrollment rule in its entirety.

Retirement Plan Provisions

In order to help pay for the budget agreement, Medicare Part B premium adjustment and other spending provisions, the Act also includes a number of changes, all treated as revenue-raisers for Congressional budgeting purposes, affecting single-employer defined benefit pension plans.

Single-Employer Pension Benefit Guaranty Corporation (PBGC) Premium Increase

The Act raises the single-employer flat-rate premium to $69 for 2017, $74 for 2018 and $80 for 2019, after which the rate is indexed for inflation. The variable-rate premium continues to be indexed for inflation, but also is increased by an additional $3 in 2017, an additional $4 in 2018 and an additional $4 in 2019. This provision is effective for plan years beginning after December 31, 2016.

PBGC Premium Payment Acceleration

The premium payment due date for plan years beginning in 2025 (only) will be the 15th day of the 9th calendar month, not the 10th calendar month as is currently the case, beginning on or after the first day of the premium payment year.[4]

Plan-Specific Substitute Mortality Tables

For purposes of determining pension liabilities, plans that wish to use plan-specific substitute mortality tables (tables not prescribed by Treasury) must obtain Treasury approval to do so. The proposed tables must satisfy certain requirements, including the requirement that the table be based on credible information. Under the Act, the credible information determination is made in accordance with "established actuarial credibility theory," which should be more easily satisfied than the criteria in the current rules. The provision also permits the use of existing Treasury-provided tables adjusted to reflect plan experience. This provision is effective for plan years beginning after December 31, 2015.

Extension of Single-Employer Funding Stabilization Percentages

The interest-rate corridors put in place in 2012 by the Moving Ahead for Progress in the 21st Century Act and revised in 2014 by the Highway and Transportation Funding Act are further revised in the Act as follows:

- The 90 percent to 110 percent interest-rate corridor, currently in effect through 2017, will remain in effect through 2020.

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[3] The Medicare premiums for high-income beneficiaries were published on November 10, 2015, and will be addressed in a separate *Update*.

[4] Under the budget rules, this one-month acceleration, which appears to apply to multiemployer premiums as well as to single-employer premiums, permits inclusion of the 2025 premium revenue to help pay for the changes made by the Act. It is quite possible that this provision will be undone in future legislation when accelerated payment is no longer necessary to ensure that the 2025 revenue is included.

- The corridor will then increase by 5 percentage points each year until 2024, as shown in the table below. For 2024 and years after, the corridor will remain at 70 percent to 130 percent.

Corridor by Plan Year

Plan Year Beginning	Corridor	
	Minimum Percentage	*Maximum* Percentage
2021	85%	115%
2022	80%	120%
2023	75%	125%
2024 and Years After	70%	130%

This provision is effective for plan years beginning after December 31, 2015.

Implications for Plan Sponsors

For plan sponsors that provide retiree health, 2016 Medicare premiums and deductibles will be addressed in a separate *Update*. Large employers that have been concerned about the Affordable Care Act's new auto-enrollment requirements no longer need to be concerned now that the requirements are repealed.

With regard to the Act's retirement plan provisions, Congress has again increased PBGC premiums in order to raise revenue. Employers that have not already done so should begin to consider how to lessen the impact of this new PBGC premium increase and how to take advantage of the ability to change mortality tables, if possible. Further, although there is already a disconnect between the accounting rules and the funding rules with regard to interest-rate sensitivity, the "funding stabilization" changes may extend or magnify that disconnect and this might be considered in any de-risking strategy. Sibson consultants are available to help identify the various options and the policy and financial implications of each.

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If you would like additional information about this news, please contact your Sibson consultant or the Sibson office nearest you. Sibson can be retained to work with plan sponsors and their legal counsel on compliance issues.

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