



Legal Alert: DOL and Treasury Update 2015-2016 Regulatory Agendas for Employee Benefits

January 7, 2016

The principal regulators of U.S. employee benefits have recently published updates to their guidance plans for the coming months.

On November 19, 2015, the U.S. Department of Labor (DOL) updated its [Semi-Annual Regulatory Agenda](#). This publication takes the form of a Federal Register notice to comply with certain administrative requirements. The DOL's agenda and related materials include 15 pending projects related to employee benefits, which are listed in the chart below in order of the projected timetable for next steps. (In the ordinary course, the projected dates shown on the agenda may prove to be ambitious.)

On October 23, 2015, the U.S. Department of the Treasury and the Internal Revenue Service (IRS) released their [First Quarter Update](#) to the 2015-2016 Priority Guidance Plan, often informally referred to as the IRS Business Plan, which lists those issues that will be the subject of formal guidance from July 2015 through June 2016. The IRS Business Plan includes 32 pending items addressing retirement benefits and 16 pending items addressing executive compensation, health care and other benefits. They are listed on the chart below in the reverse order of when they first appeared on the agenda.

Projects added to the agendas since they were last published are shown in bold. There are 2 new DOL initiatives.

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Guidance Project	Type		Projected Date (DOL Only)	On Agenda Since:
	Tax	DOL		
Retirement Plans				
Regulations under 401(a)(9) on the use of lump sum payments to replace lifetime income being received by retirees under defined benefit pension plans	X			7/2015
Regulations regarding individual retirement accounts (IRAs) under §§ 219, 4973, 408, and 408A	X			7/2015 and 9/2011
Final regulations on multiemployer plan benefit suspensions under § 432(e)(9) as amended by the Multiemployer Pension Reform Act of 2014	X			7/2015

Guidance Project	Type		Projected Date	On Agenda
Additional guidance on issues relating to lifetime income from retirement plans and IRAs	X			7/2015
Regulations on closed defined benefit plans and related matters	X			8/2014
Guidance regarding substantiation of hardship distributions	X			8/2014
Guidance regarding Qualified Nonelective Contributions (QNECs) and Qualified Matching Contributions (QMACs)	X			8/2014
Guidance under §§ 401(k)(12) and (13) on safe harbor § 401(k) plans regarding certain mid-year changes and certain business transactions	X			8/2014
Guidance regarding the aggregation rules under § 414(m)	X			8/2014
Regulations under § 417(e) that update the minimum present value requirements for defined benefit plans	X			8/2014
Regulations relating to the reporting requirements under § 6057	X			8/2014
Revenue ruling relating to the recovery of basis under phased retirement program	X			8/2014
Guidance under § 404 on deductions for employer contributions to qualified plans	X			8/2013
Regulations under § 411(a)(11)	X			8/2013
Final Regulations under § 415 regarding § 7873 Treaty Fishing Rights income	X			8/2013

Guidance Project	Type		Projected Date	On Agenda
Guidance concerning § 4975	X			8/2013
Guidance providing clarification regarding the Voluntary Closing Program for failures not covered by Employee Plans Compliance Resolution System (EPCRS)	X			8/2013
Revenue procedure amending Revenue Procedure 2013-12 relating to EPCRS to provide guidance with respect to certain corrections	X			8/2013
Final regulations under § 417(e) to simplify the treatment of optional forms of benefit that are paid partly in the form of an annuity and partly in a more accelerated form	X			12/2012
Regulations on the definition of governmental plan under § 414(d)	X			12/2012
Regulations on the status of Indian tribal governmental plans as a governmental plan under § 414(d)	X			12/2012
Revenue procedure under § 430 relating to approval for funding method changes to reflect changes to the minimum funding requirements made by the Pension Protection Act (PPA)	X			12/2012
Guidance under § 3405 regarding distributions made to payees with an address outside of the United States	X			12/2012
Final regulations under § 402A on distributions from designated Roth accounts that are disbursed to multiple destinations	X			12/2012
Regulations on exceptions to additional tax under § 72(t) on early distributions from retirement plans and IRAs	X			9/2011

Guidance Project	Type		Projected Date	On Agenda
Guidance updating regulations for service credit and vesting under § 411	X			9/2011
Guidance on issues relating to pension equity plans	X			9/2011
Regulations on additional issues relating to funding and related rules for single-employer plans under §§ 430 and 436	X			9/2011
Final regulations relating to conforming amendments adopted in connection with final regulations under § 411(b)(5)	X			9/2011
Regulations on the application of the normal retirement age regulations under § 401(a) to governmental plans	X			Prior to Winter 2010
Regulations updating the rules applicable to employee stock ownership plans (ESOPs)	X			Prior to Winter 2010
Regulations on eligible combined plans under § 414(x), as added by PPA	X			Prior to Winter 2010
§ 408(b)(2) disclosure <ul style="list-style-type: none"> ▪ Guide to disclosure 		X	6/2014 (Comment period end)	1/2012
Target date funds <ul style="list-style-type: none"> ▪ Specific disclosure requirements 		X	7/2014 (Comment period end)	Prior to Winter 2010

Guidance Project	Type	Projected Date	On Agenda
Standards for Brokerage Windows ▪ Review the use of brokerage windows in participant-directed individual account retirement plans	X	11/2014 (Comment period end)	11/2013
Savings Arrangements Established by States for Non-Governmental Employees ▪ Guidance regarding methods states may use to offer retirement savings arrangements to private-sector employees	X	11/2015 (Proposed regulation)	11/2015
Amendment to claims procedure regulation ▪ Amendment to strengthen, improve and update current rules governing internal claims and appeals processes	X	11/2015 (Proposed regulation)	Prior to Winter 2010
Expand Voluntary Fiduciary Correction Program ▪ Expand scope of some transactions eligible for correction and streamline procedures for others	X	12/2015 (Interim final regulation)	5/2014
Definition of “fiduciary” ▪ Expand to include more persons, such as pension consultants, as fiduciaries	X	12/2015 (Analyze comments)	Prior to Winter 2010
Abandoned plan program ▪ Amend to expand the scope of individuals entitled to be a “qualified termination administrator”	X	1/2016 (Final rule)	Prior to Winter 2010
Modernize Form 5500 ▪ Joint project with IRS and Pension Benefit Guaranty Corporation (PBGC) to streamline Form 5500, making it data mineable	X	2/2016 (Proposed regulation)	5/2014
Top hat plan electronic filings ▪ Amend current rules to permit electronic filing of certain reporting and disclosure requirements	X	03/2016 (Final regulation)	5/2014

Guidance Project	Type		Projected Date	On Agenda
Pension benefit statements ▪ Implement PPA § 508		X	11/2016 (Proposed regulation)	Prior to Fall 2010
Lifetime income in defined contribution plans ▪ Safe harbor for annuity selection		X	Undetermined (Proposed regulation)	11/2013
Executive Compensation				
Guidance under §§ 3511 and 7705 on Certified Professional Employer Organizations as added by § 206 of the Stephen Beck, Jr. Achieving a Better Life Experience (ABLE) Act of 2014	X			7/2015
Guidance to update prior § 409A self-correction program guidance	X			8/2014
Guidance on the application of § 1402(a)(13) to limited liability companies	X			8/2014
Guidance under § 6053 regarding tips	X			8/2014
Regulations under § 86 regarding rules for lump-sum elections	X			8/2013
Guidance under §§ 280G and 4999(a) on change in ownership	X			Prior to Winter 2010
Final regulations on income inclusion under § 409A	X			Prior to Winter 2010
Regulations under § 457(f) on ineligible plans	X			Prior to Winter 2010
Health Care and Other Benefits				

Guidance Project	Type		Projected Date	On Agenda
Guidance on the application of COBRA to certain § 125 arrangements	X			8/2015
Guidance on shared responsibility for employers regarding health coverage under § 4980H	X			8/2015
Regulations under § 4980I regarding the excise tax on high-cost employer-provided coverage	X			8/2015
Guidance under §§ 119 and 132 regarding employer-provided meals	X			8/2014
Regulations amending § 1.419A-2T relating to collectively bargained welfare benefit funds	X			12/2012
Revenue procedure under § 6402 on employee consents obtained by employer to claim a refund of FICA taxes	X			12/2012
Revenue ruling under § 419A on the definition of post-retirement medical benefits	X			9/2011
Final regulations under § 512 explaining how to compute the unrelated business taxable income of voluntary employees' beneficiary associations described in § 501(c)(9)	X			Prior to Winter 2010
Notice of Proposed Rulemaking for Health Care Continuation Coverage <ul style="list-style-type: none"> ▪Eliminates model notice in the appendix of § 2590.606-1, among other changes, and allows the Department of Labor to place updated model notices on its website 		X	7/2014 (Comment period end)	5/2015
Final Rules under the Affordable Care Act <ul style="list-style-type: none"> ▪Final rules regarding grandfathered plans, preexisting condition exclusions, lifetime and annual limits, 		X	11/2015 (Final rule)	11/2015

Guidance Project	Type		Projected Date	On Agenda
rescissions, dependent coverage, appeals, and patient protections				
Improved fee disclosure for welfare plans <ul style="list-style-type: none"> ▪ Rules to ensure that plan fiduciaries of welfare plans can access information necessary to determine whether an arrangement for services is reasonable 		X	Undetermined timetable	11/2013

If you have any questions about this Legal Alert, please feel free to contact any of the attorneys listed under 'Related People/Contributors' or the Sutherland attorney with whom you regularly work.