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INFORMATIONAL 2017 FORM 5500 ISSUED

The Department of Labor (DOL), together with the Internal Revenue Service (IRS) and Pension Benefit Guaranty Corporation (PBGC), **released** advanced informational versions of the 2017 Form 5500 series. As a reminder, plan administrators of welfare benefit and pension plans subject to ERISA, with certain exceptions, must file an annual return/report to the DOL on the Form 5500.

The 2017 information-only 5500 forms, schedules and instructions are available for viewing on the **DOL's website.** The 2017 Form is substantially similar to the 2016 version, with a few updates contained in the instructions relating to:

- The ability for service providers to sign electronic filings on behalf of the plan sponsor, the plan administrator, or the direct filing entity, where applicable;
- Reflecting a change in the plan name, if applicable;
- The increase in administrative penalties of up to $2,097 per day for a plan administrator who fails or refuses to file a complete or accurate Form 5500 report; and
- Removal of optional IRS-specific questions about preparer information, trust information or retirement plan compliance.

The Form 5500s and appropriate schedules are to be completed and filed electronically via DOL's EFAST2 website (http://www.efast.dol.gov). The Form, together with the relevant schedules, must be filed with the DOL's Employee Benefit Security Administration (EBSA) as quickly as possible, but no later than the last day of the seventh month following the close of the plan year.

Enhanced Disability Claim Rules Delayed

The Department of Labor's Employee Benefits Security Administration (EBSA) announced a 90-day delay for the effective date of implementing enhanced standards for plans that make disability determinations. These rules apply to any ERISA plan that makes a disability determination, including short and long term disability plans and retirement plans if such plan makes a disability determination. The enhanced claim standards are applicable to claims for disability benefits that are filed after April 1, 2018, rather than January 1, 2018.

Fiduciary Investment Advice Rules Delayed 18 Months

The DOL's Employee Benefits Security Administration (EBSA) released regulations on August 31, 2017 that proposed to delay, until July 1, 2019, full implementation of the fiduciary rule's Best Interest Contract (BIC) exemption, the Principal Transactions Exemption, and certain amendments to a Prohibited Transaction Exemption (see *Another Delay in Fiduciary Rule Implementation, Benefit Beat*, 9/11/17). On November 29, 2017, EBSA issued final rules affirming the 18-month delay of implementation of the fiduciary investment advice rules until July 1, 2019.

Missing, But Not Forgotten

Both the Internal Revenue Service (IRS) and Department of Labor (DOL) are committed to ensuring that all qualified plan participants and beneficiaries get their due, even if keeping track of them is a challenge for the plan sponsor.

A recent IRS Memorandum specifically addresses the issues relating to missing participants and beneficiaries and required minimum distributions. As background, certain qualified plans are required to begin distributing minimum accrued benefits from the plan when a terminated participant reaches age 70½. According to the Memorandum, the employer must take certain steps to locate a missing participant. These include:

1. Review of the plan and plan sponsor records for the individual's contact information;
2. Search publicly-available records or directories for alternative contact information;
3. Utilizing a commercial locator service, a credit reporting agency or a proprietary internet search tool for locating individuals;
4. Attempting to contact the individual by U. S. Postal Service (USPS) certified mail to the individual's last known mailing address; and
5. Attempting to contact the individual through any appropriate means, such as by email and phone.

As long as the employer follows these steps, then the IRS would not challenge plan qualification based on failure to provide the required minimum distributions.

The DOL has, arguably, more stringent standards that could also result in a breach of fiduciary duty if efforts are not made to ensure finding missing plan participants. A few years ago, the DOL released Field Assistance Bulletin (FAB) 2014-01 providing guidance on locating missing participants, specifically as it relates to terminated defined contribution plans (see *In Search of Missing Plan Participants, Benefit Beat*, 9/09/14).

This FAB includes similar methodologies contained in the IRS Memorandum in an effort to contact missing participants. The FAB further suggests to verify the individual's contact information with the human resources department, and in certain instances, with other employment-related records, as well as contacting the designated beneficiary, such as the spouse or child, for updated information. Public records such as obituaries and social media could be additional sources. The DOL has indicated that it will be providing further guidance in the near future for additional steps that could be taken to locate missing participants.

Best practices. It would be prudent and best practice for employers and plan sponsors to have a procedure in place to annually review its attempt to locate missing participants. If the employer/plan sponsor has a set process it follows consistently and regularly, it will go far in protecting it from a challenge either by the IRS or DOL.

Corrected Social Security Wage Base for 2018

On November 27, 2018, the Social Security Administration announced a correction to the 2018 wage base amount. At the time the initial cost of living amounts for 2018 were released in October (see *2018 Social Security Cost-of-Living Adjustment, Benefit Beat*, 11/2/17), the wage base was set to increase to $128,700 in 2018. The new amount for 2018, based on updated wage data reported to Social Security, has been lowered to $128,400.

2018 Medicare Premiums and Deductibles

The Centers for Medicare & Medicaid Services (CMS) released the 2018 premiums and deductibles for the Medicare Part A and Part B programs. Following are highlights of the changes.

Medicare Part A - Premium and Deductible

- Generally, there is no monthly Part A premium for those with 40+ quarters of Medicare-covered employment. Individuals who buy Part A will pay $422 per month in 2018.
- Part A deductibles in 2018 will be $1,340 for first 60 days of inpatient care; an additional $335 coinsurance per day for days 61 through 90, and additional $670 per day coinsurance beyond the 90th day.

Medicare Part B - Premium and Deductible

- For 2018, the annual deductible of $183 and premium of $134 for Part B remains the same as 2017. However, the amount of monthly premium is adjusted based on revised income levels, as reflected in the chart below:

Beneficiaries who file an individual tax return with income:	*Beneficiaries who file a joint tax return with income:*	*Income-related monthly adjustment amount*	*Total monthly premium amount*
≤ $85,000	≤ $170,000	$0.00	$134
>$85,000 and ≤ $107,000	> $170,000 and ≤ $214,000	53.50	187.50
> $107,000 and ≤ $133,500	> $214,000 and ≤ $267,000	133.90	267.90
> $133,500 and ≤ $160,000	> $267,000 and ≤ $320,000	214.30	348.30
> $160,000	> $320,000	294.60	428.60

Part B premiums for individuals who are married, live with their spouse at any time during the taxable year, and file a separate return are:

Beneficiaries who are married and lived with their spouse at any time during the year, but file a separate tax return from their spouse:	*Income-related monthly adjustment amount*	*Total monthly premium amount*
≤ $85,000	$0.00	$134
> $85,000	294.60	428.60

The monthly premium for Medicare Part C and/or Part D coverage vary by the selected plan.

Additional information about Medicare's premium and deductibles is available from Medicare's *2017 & 2018 Costs at a Glance* and CMS Fact Sheet.

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