

Benefits & Executive Compensation News

Truncated IRS Guidance Agenda Heartens Benefits Attorneys

By Warren Rojas

Nov. 30, 2020, 4:31 AM

- Most of projects already in the works
 - Guidance plan viewed as likely to survive presidential transition
-

A leaner IRS guidance plan for 2021 suits benefits advisers just fine. And those attorneys say they expect the noncontroversial tax priorities to survive the scrutiny of the presidential transition unscathed.

The tax agency recently trimmed its benefits agenda in half, highlighting 14 priorities for the coming year—down from the nearly two dozen projects regulators were still plodding through in late September.

More than half of the current projects have moved through the regulatory process within the past decade—including a handful of retirement-related tax breaks and pandemic relief efforts that saw bursts of activity over the past six months. Benefits professionals welcomed the surprise-free to-do list as a chance for everyone to play catch-up.

“This is not an ambitious plan but may be one of those years where Treasury and IRS have realistically stated what they may actually get done this year,” Christa Bierma, a principal at Ernst & Young LLP’s national tax practice, said in an interview.

And it’ll likely still look the same come Jan. 20, Elizabeth Dold, a principal at Groom Law Group in Washington, predicted. “Even with a change in administration, we don’t anticipate any changes to this line-up,” she said.

Retirement Policy Musts

The must-do’s Dold said her clients are most interested in focus on retirement policy.

At the top of that list is expanding tax-free employer-sponsored matching contributions to subsidize student debt relief. Plan sponsors have been clamoring for the added benefit since Abbott Laboratories scored a private letter ruling in 2018 regarding the loan repayment feature tied to its 401(k) program.

Tax officials have been promising to clarify things ever since. Meanwhile, lawmakers on both sides of the Capitol have floated proposals to bolster the debt reduction campaign.

“Even with pending legislation offering a similar solution, we are still eager to see an official IRS blessing of this approach,” Dold said of the desire for clear-cut instructions.

Other puzzle pieces her clients await include: complements to the new pooled employer plan (PEPs) rules that address non-compliant members (the “one bad apple” effect), as well as an explanation of how existing multiple employer plan (MEPs) rules gel with what’s coming next. They would also like more filling-in-the-blanks of SECURE Act-required changes to mandatory retirement plan payouts.

Continuing to flesh out the plan sponsor-focused tax relief in the Setting Every Community Up for Retirement Enhancement (SECURE) Act also appeals to Roberta Watson, a partner at Wagner Law Group PC in Tampa, Fla. As does resolving the student loan repayment questions and reconciling any MEPs/PEPs issues.

Other projects on her radar include ongoing work to reconnect “missing participants” with benefits payments owed to them and having the IRS provide its take on electronic disclosure rules Labor officials released earlier this year.

Sarah Touzalin, benefits counsel at Seyfarth Shaw LLP in Chicago, said some employers are keeping SECURE-related changes at bay until the IRS explains how expanded coverage for part-time workers and a seemingly open-ended repayment window for adoption/birth expenses should work.

“Many of my clients are holding off on plan amendments for these provisions until additional guidance is issued,” Touzalin said.

Projects Dropped—for Now

Bierma wasn’t surprised to see a project on affiliated service groups (Section 414) disappear. “We have lived without rules on affiliated service groups since the 1980s,” she said, but Bierma noted that it had dropped off the list.

Watson grumbled about anticipated Section 125 rewrites getting brushed aside once more. “I had understood they were working on a complete redo of those,” she said of the cafeteria plan rules.

The last time regulators tinkered with those benefit provisions was decades ago. An IRS official told tax professionals that the languishing rules have since “gone stale.”

“At this point, we’re probably have to re-propose them,” Office of Chief Counsel adviser Kevin Knopf said during an American Bar Association conference in late September.

To contact the reporter on this story: Warren Rojas in Washington at wrojas@bloomberglaw.com

To contact the editors responsible for this story: Fawn Johnson at fjohnson@bloombergindustry.com; Brent Bierman at bbierman@bloomberglaw.com

 **Documents****Guidance plan****Related Articles**

Employers Can Launch Pooled Retirement Plans Under Final Rule	Nov. 12, 2020, 12:05 PM
Bipartisan Retirement Bill May Move Fast With Lawmakers Bullish	Nov. 2, 2020, 4:46 AM
E-Delivery of Retirement Plan Info Is the Default Under New Rule	May 21, 2020, 11:36 AM
IRS Readies Guidance on Retirement-Related Student Loan Relief	May 10, 2019, 6:25 PM

Law Firms

Groom Law Group
Seyfarth Shaw
Wagner Law Group

Companies

Ernst & Young LLP
Abbott Laboratories

Topics

mandatory retirement
student loans
federal tax
401(k) plans
multiple employer retirement plans
part-time employees
excludable fringe benefits
cafeteria plans
loans to qualified plan participants
individual income tax

More from Bloomberg Law**Latest Stories in Benefits & Executive Compensation News**

Biden's Tools to Bolster Obamacare Include Reopening Enrollment

Reopening enrollment in the federal Obamacare exchange is one of the first steps President-elect Joe Biden can take to fulfill his pledge to shore up the landmark health-care law, policy experts say.

Law Firms Can Better Manage Revenue in a Downturn

New legal finance tools are available to help law firms to speed up collections and manage revenue at year end. Litigation finance company Burford Capital's Nicholas Cooper and Patrick Wackerly discuss some new options besides the traditional discounting and bank loans, and their potential utility for firms.

Congress Faces Deadlines on Spending, Stimulus and Shelton (2)

Congress faces a rapidly approaching deadline to pass a new round of funding for the U.S. government, with dimming odds both of confirming Judy Shelton to the Federal Reserve Board and hashing out another coronavirus relief package.

© 2020 The Bureau of National Affairs, Inc. All Rights Reserved