

# Monthly Benefit News & Developments

## JOINT TAX COMMITTEE REPORTS

The Joint Committee on Taxation's (JCT) [\*Estimate of Federal Tax Expenditures for Fiscal Years 2019-2023\*](#) contains discussions of the concept and the measurement of tax expenditures, along with various estimates for fiscal years 2019-2023. Tables show the distribution of tax returns by income class, and distributions of selected individual tax expenditures by income class.

The JCT also issued [\*Estimated Budget Effects of the Revenue Provisions Contained in the House Amendment to the Senate Amendment to H.R. 1865, The Further Consolidated Appropriations Act, 2020\*](#). This is the bill, signed into law, with the retirement benefit plan provisions from the "Setting Every Community Up for Retirement Enhancement (SECURE) Act." Separately, the Congressional Budget Office released [\*Estimate for Rules Committee Print 116-44, the Further Consolidated Appropriations Act, 2020 \(H.R. 1865\)\*](#).

## UPCOMING KEY DATES

**3/2/20** – Extended deadline (instead of 1/31/20) for employers, insurers, and other providers of minimum essential coverage to furnish IRS Forms 1095-B or 1095-C for 2019 to covered individuals.

**3/31/20** – Last day of the remedial amendment period for 403(b) plans.

**4/30/20** – Deadline to apply for an IRS individual determination letter under the second six-year remedial amendment cycle for defined benefit preapproved plans.

**10/1/20** (policy years beginning on or before) – Extended deadline for transitional health insurance policies for small group plans that do not comply with ACA standards, provided that the policies expire by 12/31/20.

**12/15/20** (fiscal years ending after) – Application date of FASB amended Subtopic 715-20, disclosure requirements for public companies that sponsor defined benefit or other postemployment benefit plans.

**12/31/20** – Expiration of "MAP-21" pension funding stabilization provisions for single-employer and multiple-employer defined benefit retirement plans.

## Legislative Activity on the Benefits Front

Congress in December pushed through appropriations measures to provide funding for federal agencies in the current fiscal year that began Oct. 1, including the "Further Consolidated Appropriations Act, 2020" covering domestic spending. The bill, which included components from the earlier, House-passed "Setting Every Community Up for Retirement Enhancement (SECURE) Act," was signed by the President into law (P.L. 116-94) on Dec. 20.

The law generally affects defined contribution (DC) retirement plans. It calls for:

- an increase to the beginning date for required mandatory distributions to age 72, for both DC and defined benefit (DB) plans;
- an increase to 15% on the escalation cap for safe harbor plans applying the qualified automatic contribution arrangement (QACA) feature;
- a requirement that plans allow long-term, part-time employees to participate;
- a requirement that plan (and IRA) distributions generally be made to nonspouse beneficiaries within 10 years of the death of the account holder;
- simplification of the 401(k) safe harbor rules;
- permission for plans to adopt "qualified birth or adoption distributions" that would be exempt from the early distribution tax penalties, mandatory tax withholding, notifications, and direct rollover rules; and
- permission for plans to make direct trustee-to-trustee transfers of lifetime income investments to another employer-sponsored retirement plan or IRA.

The new law also includes provisions that apply to specific types of plans, such as "open" multiple employer plans; cooperative and small employer charity pensions; church-controlled organization, community-newspaper, and small-employer plans; and "closed" DB plans. And it relaxes some rules for plan sponsors and participants affected by certain natural disasters.

The law's provisions relating to benefit plan administration include: timing of plan amendments due to the SECURE Act; plan adoption deadlines; consolidated Form 5500 reporting of DC plans; lifetime income disclosures by DC plans; annuity provider selection safe harbor; and increased penalties for failures to file certain forms and notices. The law also extends expired or expiring tax credits for one year, such as those for employers providing paid family leave, for hiring individuals from targeted groups, and for health insurance coverage for certain individuals receiving Trade Adjustment Assistance or pension benefits from the PBGC.

The new law repeals the "Cadillac" tax on "high-cost" employer-sponsored health plans and the annual fee on individual and group health insurance providers. And it extends through Sept. 30, 2029, the Patient-Centered Outcomes Research Institute fee paid by health insurers and self-insured plans.

*Separately*, the House approved H.R.3, which aims to reduce the prices of certain prescription drugs, primarily for Medicare, through negotiations. Group health plan sponsors and insurers could elect not to participate in the program for a drug, but they would have to publicly disclose their election. The bill also would allow individuals enrolled in group health plan or insurance eligible for the negotiated drug prices. H.R.3, which would expand Medicare coverage to include vision, dental, and hearing benefits, is not expected to see any action in the Senate.

## CBO ON SOCIAL SECURITY FINANCES

The Congressional Budget Office issued its annual update of its projections of the Social Security system's finances to incorporate newly available data and methodological improvements, in [CBO's Long-Term Social Security Projections: Changes Since 2018 and Comparisons With the Social Security Trustees' Projections](#). The report shows the CBO's latest long-term budget projections in June 2019 and compares those with the ones CBO prepared in 2018 with the latest projections by the Social Security trustees.

## CENSUS ON PUBLIC PENSIONS

The U.S. Census released [Summary of the Quarterly Survey of Public Pensions for 2019: Q3](#), showing that for the 100 largest public employee pension systems in the country, assets (cash and investments) totaled \$3,974.6 billion in the third quarter of 2019, increasing by 0.9% from the second quarter of 2019 level of \$3,938.7 billion. Compared with the same quarter in 2018, assets for these major public pension systems increased 2.2% from \$3,890.6 billion.

## GAO ON DEPARTMENTAL OVERSIGHT OF MENTAL HEALTH/SUBSTANCE USE PARITY

The Government Accountability Office's [Mental Health and Substance Use: State and Federal Oversight of Compliance with Parity Requirements Varies](#) notes that before 2008, many health insurance plans provided lower benefits for mental health care than other types of medical care. Congress set parity requirements to help address this discrepancy. The Departments of Labor and Health and Human Services commonly find violations of parity requirements in reviews based on unrelated complaints or information, and that the agencies only base a few reviews on potential parity violations. The GAO recommended the agencies evaluate the effectiveness of their oversight approaches.

## NLRB REVERSES PAST PRECEDENTS

The National Labor Relations Board overturned significant Obama-era precedents related to: [confidentiality rules for workplace investigations](#); [employees' use of company email accounts for Section 7 activities](#); and [the cessation of dues checkoff arrangements after the expiration of collective bargaining agreements](#). The NLRB also restored [longstanding arbitral deferral standards](#) and issued a [final rule](#) making a series of modifications to the Board's representation case procedures.

## Regulatory Roundup

### JOINTLY FROM TREASURY/LABOR/HEALTH AND HUMAN SERVICES:

- [Draft Model Disclosure – Internet-Based Self-Service Tool](#); [Negotiated Rate File – Data Elements](#); and [Allowed Amounts File – Data Elements](#), supporting the proposed rule, published in November 2019, on price and quality transparency by group health plans and insurers.

### FROM THE DEPARTMENT OF TREASURY/IRS:

- [Proposed rule](#) on limiting the tax deduction for certain employee remuneration in excess of \$1 million.
- [Revenue Procedure 2020-10](#), providing the dates for the third six-year remedial amendment cycle for preapproved defined benefit plans and the on-cycle submission period for application submissions for opinion letters for preapproved defined benefit plans.
- [Revenue Procedure 2020-9](#), extending the deadline for preapproved plans to adopt an interim amendment for the recent hardship distribution regulations.
- [Revenue Procedures 2020-1 through 2020-4](#), providing guidance on the IRS issuance of rulings, determination letters, and technical advice – including on employee benefits – for 2020.
- [Notice 2020-5](#), providing the 2020 standard mileage rates.
- [Notice 2020-3](#), guidance on 2020 withholding from periodic payments for pensions, annuities, and certain other deferred income, including the default rate of withholding.
- [Notice 2019-67](#), updating mortality improvement rates and static mortality tables for defined benefit pension plans for 2021.
- [Notice 2019-64](#), specifying the 2019 Required Amendments List, applicable to both qualified individually designed plans and 403(b) individually designed plans.
- [Notice 2019-63](#), extending the due date for furnishing Forms 1095-C and 1095-B to individuals regarding healthcare coverage; [Publication 5223, General Rules and Specifications for Affordable Care Act Substitute Forms 1095-A, 1094-B, 1095-B, 1094-C, and 1095-C](#); and final 2019 forms and instructions: [Form 1095-C](#); [Form 1094-C](#); [1094-C and 1095-C instructions](#); [Form 1095-B](#); [Form 1094-B](#) and [1094-B and 1095-B instructions](#).
- [Publication 5213](#), on the health insurance provider fee for the 2020 fee year.
- Final [Form W-4 \(2020\)](#), [Employee's Withholding Certificate](#).

### FROM THE DEPARTMENT OF LABOR:

- [Final rule](#) and [fact sheet](#) on the Fair Labor Standards Act's "regular rate of pay."
- [Private Pension Plan Bulletin](#) Abstract of 2017 Form 5500 Annual Reports Data Extracted on July 19, 2019.
- Office of Inspector General [Semiannual Report to Congress](#).

### FROM THE PENSION BENEFIT GUARANTY CORPORATION:

- [Final rule](#) with a table used for determining expected retirement ages for participants in pension plans undergoing distress or involuntary termination with valuation dates falling in 2020.
- A [notice](#) approving, effective Jan. 1, 2020, the American Arbitration Association's (AAA) alternative arbitration procedure.
- [2019 Annual Report of the PBGC Participant and Plan Sponsor Advocate](#).

### FROM THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION:

- An [announcement](#) rescinding mandatory binding arbitration of employment discrimination disputes as a condition of employment.

## Other Recent Milliman Publications You May Be Interested in:

- **[Pension Funding Index, December 2019](#)**
- **[2019 Public Pension Funding Study](#)**
- **[PERiScope, December 2019](#)** This article, "[Mortality projection: Making reasonable assumptions about future lifetimes](#)," presents two alternative options for public plan mortality projection based on historical mortality improvement data. These alternatives are intended to reduce volatility from changes in the mortality improvement assumption, and therefore lead to more stable long-term pension cost and liability calculations, while providing a reasonable estimate of the long-term pension liability in accordance with the Actuarial Standards of Practice.
- **[Top 10 articles and reports Milliman published in 2019](#)**
- **[Multiemployer health and welfare fund statistics: Fall 2019](#)** The Milliman Multiemployer Health and Welfare Study analyzes various financial disclosures for multiemployer health and welfare plans, also known as Taft-Hartley plans, nationwide.
- **[Five benefit trends from 2019 that we'll continue to see in 2020](#)** Offering the right benefits has become even more important for employers trying to attract and retain top talent.



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