



# Health Care Reform



## 2015 Year in Review

### Part III: Retirement and Pension Plans

This article is the last of our three-part series in which we will highlight the significant developments for retirement and pension plans this past year. Some good news - and so that you can focus your energy on March Madness, we are happy to report that on the pension front, the madness has been relatively quiet. Here is a summary of the key guidance that was issued by the courts, Congress, the IRS and the DOL.

#### IRS Prototype Plan Deadlines/Determination Letter Changes

- At the top of the list -- April 30, 2016 is the deadline for employers to adopt an updated version of their 401(k), profit sharing, or other defined contribution retirement plan document. If you do not have your Plan restatement completed, you must act now!!
- IRS Revenue Procedure 2015-36 updates existing guidance on master & prototype and volume submitter plan applications for opinion and advisory letters. Important changes in the new revenue procedure include expanding the pre-approved plan program to employee stock ownership plans (ESOPs) during the defined contribution application period beginning February 1, 2017, and opening the pre-approved plan program to cash balance plans.
- In a major shift of policy, the IRS has announced that its long-standing procedure for issuing periodic determination letters for individually designed retirement plans (generally, once every five years) will, effective January 1, 2017, no longer be required nor will applications be accepted. The three exceptions will be for new and terminated 401(a) qualified retirement plans and for limited circumstances as determined by the IRS.

#### No COLA Increases for 2016

- The IRS announced that no cost-of-living adjustment increases apply in 2016. For example, the maximum dollar limit for elective deferrals to a 401(k), 403(b) or 457(b) plan remains at \$18,000 and the age 50 or older catch-up contribution limit remains at \$6,000.

#### DOL Re-Proposed ERISA Fiduciary Regulations

- The Department of Labor ("DOL") has re-proposed regulations on the definition of "fiduciary" under ERISA and has also proposed related prohibited transaction class exemptions. These new rules broaden the definition of fiduciary investment advice and include a "best interests of participants" standard. The prohibited transaction class exemptions include exceptions, for example, for third party administrators who offer an investment platform. The final regulations are expected to be issued soon and will be effective eight months later.

#### Other IRS regulatory guidance

- The IRS has extended for an additional year the temporary nondiscrimination relief previously provided for certain "closed" defined benefit pension plans.
- The IRS has announced that the IRC 401(a)(9) minimum required distribution regulations will be amended, effective July 9, 2015, to prohibit the use of a lump sum payment to replace an annuity benefit in pay status in defined benefit plans.

#### U.S. Supreme Court

- In a unanimous decision, the U.S. Supreme Court in *Tibble v. Edison International*, held that an ERISA fiduciary has an ongoing duty to monitor plan investments. The Court concluded that ERISA's six-year statute of limitations does not bar an action related to investment fund options selected more than six years before the participants brought the action. The teaching point of *Tibble* is that employer plan sponsors must insure they periodically review the performance of investment selections AND the cost of those investments.

We hope you have enjoyed our three-part series relating to Health and Welfare Plans, Human Resources, and Retirement and Pension Plans. If you would like to revisit any part of the series, you can find them on our website at: <http://www.haynesbenefits.com/alerts>

Dated: March 17, 2016

