

The ERISA Industry Committee

Washington Update:

June 4, 2012



Participation Procedure

- Procedure for audience participation
- Audience will be in a “listen-only” mode
- If you wish to ask a question or make a comment, press *6 on your telephone to “un-mute” your telephone
- After speaking, please press *6 again to re-enter “listen-only” mode

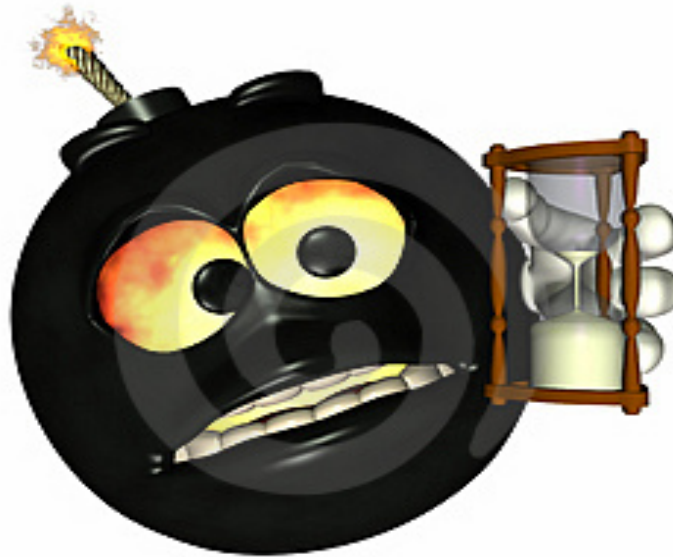
Washington Update Agenda

- Welcoming Remarks
 - Scott Macey, new President and CEO of ERIC
- Health Update
- Retirement Update
- Concluding Remarks/Questions

DOMA DOMA DOMA

- 1st Circuit Court in Boston rules that the federal Defense of Marriage Act (DOMA) is unconstitutional
 - DOMA discriminates against gay couples by denying federal benefits given to heterosexual couples
 - Also found that DOMA interferes with right of states to define marriage
 - Enforcement stayed pending further appeal

SCOTUS and the ACA: the minutes tick by



Health legislation

- House Ways & Means Committee approves 4 bills to ease rules for HSAs, health FSAs, repeal ACA's medical device tax
 - All 4 expected to be approved by full House in June
 - Despite some bipartisan support, not expected to do well in the Senate



Health legislation, cont.

- HR 436: the “Protect Medical Innovation Act of 2012”
 - Would repeal ACA’s 2.3% medical device excise tax, effective DOE



Health legislation, cont.

- HR 5842: “Restoring Access to Medication Act of 2012”
 - Would repeal the ACA rule that Health FSAs and HRAs may reimburse for OTC drugs only if prescribed by doctor
 - Also would repeal rule that HSA distributions to pay for OTC drugs are not qualified medical expense unless prescribed
 - Effective for expenses incurred after 2012



Health legislation, cont.

- HR 1004: “Health Flexible Spending Arrangements Improvements Act of 2012”
 - Would amend FSA “use-it-or-lose-it” rule
 - Would permit return to employee of unused funds for a year, up to lesser of \$500 or contribution for year, minus reimbursements
 - Must be distributed by 7th month after end of plan year
 - Returned amounts includible in gross income in year of distribution
 - Effective for plan years beginning after 2012



Health legislation, cont.

- HR 5858: the “Health Savings Accounts Improvements Act of 2012”
 - HSA contributions would be eligible for Saver’s Credit
 - Employers must separately state on W-2 amount of salary reduction contribution to HSA under cafeteria plan
 - HSA treated as established on coverage date of HDHP if established within 60 days



Health legislation, cont.

- HR 5858: the “Health Savings Accounts Improvements Act of 2012”, cont.
 - Married couples may split catch-up contributions
 - Individuals receiving VA medical benefits for a service-connected disability may contribute to an HSA
 - Retirees between 55 and 65 may use HSA funds to pay premiums for former employer’s group health plan



Health regulatory guidance

- IRS reg on individual premium tax credits in exchanges
 - “Affordability” test based on self-only coverage
 - Reg “reserves” discussion of test (for exchange purposes) for families
 - Employer contributions to HSA do not affect affordability
 - Treatment of wellness incentives not clear



Health regulatory guidance, cont.

- IRS reg on individual premium tax credits in exchanges, cont.
 - Employees may opt out of employer plans at specified points; will be treated as not enrolled in plan
 - Employees treated as not eligible for coverage during waiting period
 - Reg takes position that premium credits are available to individuals enrolling in non-state run exchanges



Health regulatory guidance, cont.

- IRS Notice 2012-40 – application of \$2500 limit to Health FSAs
 - Asks us for comments on modifying “use-it-or-lose-it” rule
 - New \$2500 limit applies on a plan year basis, effective for plan years beginning after 2012
 - Applies on an employee-by-employee basis
 - Leniency for errors
 - Plan amendments may be adopted through end of 2014
 - Plan must comply operationally after 2012



Health regulatory guidance, cont.

- ERRP audits have begun
 - Mammoth data requests
 - Little time to collect and respond
 - Hope to have conference call with regulators soon
 - Send gyoung@eric.org an email if you would like to participate in the ERIC ERRP Club



Retirement – Legislative Update

- “Interest Stabilization” provision update
- Agreement on need for interest stabilization – some discussion over “input” vs “output” methodology
- Lobby visits of members of Pension Coalition
- Letter to Hill in support of interest stabilization provision passed by Senate (S. 1813)
- Over 200 signatories of trade associations, non-profits & individual companies



Retirement – Regulatory Update

- ERIC files comment letter on May 3 on Treasury package of guidance on lifetime income
- ERIC testifies at June 1 hearing
- Hill sends letter to Treasury Department on Final regulations on hybrid plans with focus on transition rules & market rate of return



Retirement – Regulatory Update, cont.

Department of Labor

- Participant Disclosure FAQs issued May 7th
 - Q&A #30 on brokerage windows
 - May 31st meeting with DOL representatives on Q&A 30
- Beneficiary statements & lifetime income
 - rumors on mandate vs safe harbor



Retirement – Regulatory Update, cont.

Department of Labor

- Definition of Fiduciary proposed regulation
- Target Date Fund regulations reopened for 45 days to coordinate with SEC survey
- Electronic Delivery (not officially on guidance plan)



Upcoming ERIC calls

- Upcoming
 - Health care reform task force (6/7, 7/19)
 - Challenges of Complying with the Affordable Care Act (6/13)
 - The SCOTUS decision on the ACA (6/29)
 - Next Washington Update call: July 23

Upcoming ERIC meetings

- Inaugural Washington Representatives Committee meeting: Monday, June 11
 - Next two meetings: July 9, September 10
- ERIC Membership and Committee meetings: October 24-25, 2012



To receive ERIC updates

- If you would like to receive your own copy of our emails and notifications of future updates, please let us know by writing to Adreanne Cooper at ERIC (acooper@eric.org.) In this email, please include your contact information or signature block, and please indicate whether you wish to receive information on retirement issues, health issues, or both.

For further information

- Kathryn Ricard, Senior Vice President,
Retirement Security
 - kricard@eric.org
- Gretchen Young, Senior Vice President,
Health Policy
 - gyoung@eric.org
- ERIC: 202/789-1400