ERIC

THE ERISA INDUSTRY COMMITTEE

Advocating the Employee Benefit and Compensation Interests of America's Major Employers

ERIC Health and Retirement Committees

Wednesday, April 17, 2013

Noon - 4:30 p.m.

Covington & Burling, LLP

1201 Pennsylvania Avenue, 12th Floor, Washington, DC

Agenda

As of 4/9/13

11:30 a.m.-1:00 p.m. — Registration

Noon-1:00 p.m. — **Networking Lunch**

(Combined Health & Retirement Committees)

1:00-2:15 p.m. — **Session I. "Ask the Regulators"– Departments of Labor, Health & Human Services, & Treasury** *(Concurrent health and retirement session)*

- **George Bostick**, Benefits Tax Counsel, U.S. Department of the Treasury
- **Joe Canary**, Director, Office of Regulations and Interpretations
  Employee Benefits Security Administration, U.S. Department of Labor*
- **Yvette Fontenot,** Deputy Director, Office of Health Reform
  U.S. Department of Health & Human Services
- **Alan Tawshunsky**, Deputy Associate Chief Counsel (Employee Benefits)
  Internal Revenue Service

**Invited*

Come and listen firsthand as key representatives of the agencies responsible for regulating retirement and health plans discuss current and future regulatory priorities. Take the opportunity to communicate your company's thoughts directly to government representatives responsible for executing retirement and health policy objectives of the Obama Administration.

2:15-2:30 p.m. — *Committees divide into separate rooms.*

2:30-4:30 p.m. — **Session II. Health & Retirement Committee Meetings**

See committee meeting agendas on next page for details.

6:00-8:00 p.m. — **ERIC Networking Reception**

Tuscana West

1350 I Street, N.W., Washington, DC 20005

(Between 13th & 14th Streets, on the south side of Franklin Square)

All attendees and their guests are invited.

ERIC Health & Retirement Committees
Concurrent Meetings

Wednesday, April 17, 2013
2:30 p.m.-4:30 p.m.

Agendas
(*As of 4/9/13)*

Health Policy Committee

2:30-3:30 p.m.
Session II.

A. Welcome, Overview of the Meeting & Introductions

- **Maria Krogue Christensen**, Chair
  ERIC Health Policy Committee
- **Gretchen Young**, Senior Vice President, Health Policy
  ERIC

B. Death by a Thousand Paper Cuts: Prickly Issues in the Implementation of the Affordable Care Act

- **Andy R. Anderson**, Partner,
  Morgan, Lewis & Bockius LLP

This session will include a discussion of some specific topics that have been uniquely problematic in implementing the ACA. These include issues surrounding an employer's collectively bargained employees, Standalone Health Retirement Accounts, "out-of-pocket" limits, government audits of health plans, and what "preventive services" a group health plan must provide with zero cost-sharing. If time permits, Andy may also briefly review the interesting, intriguing, and/or important comments (in the health arena) made by speakers on the previous panel.

3:30-4:30 p.m.

Session III. Sharing Responsibility Under the ACA:
A Roundtable of Views from ERIC Members

- **Moderator: Maria Krogue Christensen,** Vice President, Client Services and Product Development, Deseret Mutual
- **Respondent: Alden Bianchi**, Member, Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
- Panelists to be announced.

How do we put this nicely? The topic of the employer penalty under the ACA has been, shall we say, a wee bit complicated and has engendered a mind-numbingly complex set of proposed regulations. Come experience first-hand the Shock and Awe as you hear ERIC member companies describe the mechanisms they have used to cope with the regulation's approach to understanding the impact of controlled groups, counting hours of service, establishing look-back periods, distinguishing among types of employees, and harnessing the power of Positive Thinking.

Retirement Security Committee

2:30-3:30 p.m.
Session II.

A. Welcome, Overview of the Meeting & Introductions

- **Steve Kronheim**, TIAA-CREF
  Chair, Retirement Security Committee
- **Kathryn Ricard**, Senior Vice President, Retirement Policy
  ERIC

B. A Conversation with PBGC

- **Leslie Kramerich**, Acting Chief Policy Officer, PBGC

In this session, we will hear from the newly minted Acting Chief Policy Officer at the PBGC regarding the Agency's policy priorities. Ms. Kramerich has many years of experience working on ERISA issues most notably as Assistant Secretary for EBSA at the Department of Labor. We look forward to an open dialogue on PBGC priorities and pension policy issues.

3:30 p.m.-4:30 p.m.

Session III. Retirement Issues in the Mix

- **Seth J. Safra**, Partner, Covington & Burling LLP
- **Michael J. Francese**, Partner, Covington & Burling LLP

Covington & Burling lawyers will join Kathryn Ricard in discussing current topics of concern in the retirement policy area. Topics include: large scale IRS audits (IRS published list of guidelines and ways to fare better under the process); frozen defined benefit plans and nondiscrimination testing (ERIC efforts and updated information from Treasury and Hill staff); DOL pre-rule on lifetime income illustrations; Dodd-Frank implementation (highlights for large employers).

ERIC Membership Meeting

Thursday, April 18, 2013
8:00 a.m. – 3:00 p.m.

Covington & Burling LLP
1201 Pennsylvania Avenue, Washington, DC

Agenda

as of 4/9/13

8:00-9:00 a.m. **ERIC Roundtable Breakfast**

Have breakfast and dialogue with lawyers from some of the nation's most prominent law firms. Participants will choose among one or more of the separate roundtable discussions—shared responsibility, ERISA preemption, pension de-risking and other hot benefits topics.

- ***Shared Responsibility and Related ACA Topics***
  Alden Bianchi, Mintz Levin Cohn Ferris Glovsky and Popeo PC
- ***Managing Your Plan Committees***
  Joan Disler, Epstein Becker Green
- ***Pension De-Risking***
  Amy Moore and Richard Shea, Covington & Burling LLP
- ***ERISA preemption***
  Anthony Shelley, Miller & Chevalier

9:00-9:15 a.m. **Welcome & Introduction**

- **Jeanne Denz,** Director, Global Employee Benefits, General Mills, Inc. & ERIC Chair
- **Scott Macey**, President & CEO, ERIC

9:15-10:15 a.m. **Session I. Congressional Panel of Hill Staffers**

Democrats and Republicans from both the House and the Senate will address ERIC members and field our pressing questions. This will be a great chance to ask those intricately involved in the process to comment on the impact of current legislative discussions on the future of employee benefits.

- **Kara Getz**, Legislative Director and Tax Counsel, Office of Congressman Richard E. Neal
- **Marty Reiser**, Professional Staff, House Ways and Means Subcommittee on Health

**Invited*

10:15-10:30 a.m. Break

10:30 a.m.-Noon **Session II.**

A. The New Wellness Regime under the Affordable Care Act and Beyond: If It Doesn't Kill Us, Will It Make Us Stronger?

Christy Richardson and Tom Makris will discuss the proposed regulation on wellness issued late last fall that implemented the statutory changes made by the ACA to increase permissible results-based rewards in wellness programs from 20% to 30% and, for tobacco cessation programs, to 50%. Our speakers will explore the impact of the changes in the new regulation for employer-based wellness programs, focusing especially on the new "reasonable design" standard and on the ability of employers to limit program eligibility and rewards to targeted groups of individuals with adverse health factors. Other thorny wellness-related issues will be addressed, including guidance from the EEOC (or lack thereof) and an update on relevant litigation.

- **Christine L. Richardson**, Partner, Pillsbury Winthrop Shaw Pittman LLP
- **Thomas N. Makris**, Senior Counsel, Pillsbury Winthrop Shaw Pittman LLP

B. ERIC Member Roundtable Discussion

ERIC members will discuss their pressing concerns with respect to wellness programs, including regulatory compliance issues, communication strategies, and initiatives to capture wellness-program ROI.

Panelists:

- **Douglas Grossman-McKee, PhD, MBA**, Director, Health and Welfare, Eaton Corporation
- **Fikry W. Isaac, MD, MPH, FACOEM**, Chief Medical Officer, Wellness & Prevention & Executive Director, Global Health Services, Johnson & Johnson Inc.
- **Christopher G. Juarez**, Healthcare Benefits Supervisor ,North America Human Services Caterpillar Human Services

Noon-1:30 p.m. **Lunch and Keynote Speaker**

The Honorable Allyson Schwartz (D-PA)
U.S. House of Representatives

Prospects for Health Cost Containment and Tax Reform in the Current Congress

Rep. Schwartz, a key member of the House Ways & Means Committee, will share with us her thoughts on the prospects for legislative compromise that could result in health cost control legislation and/or tax reform. Rep. Schwartz will discuss her legislative efforts to achieve cost reduction through replacement of Medicare's fee-for-service compensation formula for doctors as well as her interest in developing sound tax rules for businesses.

1:30-1:45 p.m. Break

1:45-3:00 p.m. **Session III. Retirement Plan Leakage & Withdrawals**

- **Rick Jones,** Senior Partner and Leader, National Practices Group**,** Aon Hewitt
- **Rob Austin**, Retirement Consultant, Aon Hewitt

Hardship withdrawals, loans, and cashouts are factors working against the private sector retirement savings system. Recent activity in Washington D.C., including Senate hearings and a GAO report on rollover obstacles, demonstrate that policymakers are focusing on this issue. Join our experts as we review current events and policy implications associated with retirement plan leakage and withdrawals. There will be a special focus on specific subsets of workers such as minorities and lower-income workers, who often change jobs frequently.

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