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PENSION ANALYST
COMPLIANCE BULLETIN
Prudential
Bring Your Challenges

New highway funding bill includes pension provisions

On July 31, 2015, President Obama signed into law H.R. 3236, the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 (the "Act"). The Act provides a three-month funding extension of the Highway Trust Fund through October 29, 2015. In addition to funding an extension of the Highway Trust Fund, the new law also includes several provisions pertaining to pension plans.

Automatic extension of Form 5500 filing deadline

Form 5500, the Annual Return/Report of Employee Benefit Plan and Form 5500-SF, Short Form Annual Return/Report of Small Employee Benefit Plan, filings are due the last day of the seventh month after the end of the plan year. For calendar year plans, this is July 31. Plan sponsors may also take advantage of an extension of the filing date, which is currently limited to 2½ months (October 15 for a calendar year plan) by filing Form 5558, Application for Extension of Time to File Certain Employee Plan Returns.

The Act provides that for plan years beginning after December 31, 2015, the IRS will issue regulations to provide a maximum automatic extension of the Form 5500 and Form 5500-SF filing dates to 3½ months or until November 15 for calendar year plans. As a result, plan sponsors will no longer need to file the Form 5558.

However, the Act is not clear regarding the impact of the revised automatic extension on the deadlines for:

- Form 8955-SSA (Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits). Since the due date of the Form 8955-SSA is related to the filing deadline for the annual return, it is expected that the extension will apply. However, future guidance will be needed to clarify this deadline.
- Summary Annual Reports (SARs). SARs must be furnished to participants and beneficiaries no later than 9 months after the close of the plan year. If the deadline for Form 5500 or Form 5500-SF is extended, the SAR is due 2 months after the extended due date. The SAR requirement generally only applies to defined contribution plans. However, sponsors of defined benefit plans that are not subject to the annual funding notice requirement must still distribute SARs if they are subject to the Form 5500 filing requirement.

Extension for transfer of excess assets in defined benefit plans

ERISA permits an employer sponsoring a defined benefit plan with assets exceeding 125% of the plan's current liability or funding target to transfer excess pension assets to fund retiree health benefits or retiree group term life insurance to an account under the plan. This provision was scheduled to expire after December 31, 2013. However, the Moving Ahead for Progress in the 21st Century Act (MAP-21) extended through December 31, 2021, the ability of plan sponsors to transfer excess assets to a retiree health or group term life insurance account.

The Act extends this provision for an additional four years through December 31, 2025.

Next steps

Plan sponsors should carefully read the guidance discussed in this newsletter. Due to the automatic extended deadline, plan sponsors will have more time to file their annual returns. Prudential Retirement will continue to monitor and keep you informed as the IRS and DOL issue guidance that clarifies the provisions of this new law.