



Federal Legislative & Regulatory Report

August 2020

Inside this issue

| | |
|--|--------|
| Congressman proposes tax credit for employers who maintain employer match..... | Below |
| Senate Republicans release new Phase 4 COVID-19 relief package | Page 2 |
| President issues executive actions to extend CARES Act relief | Page 2 |
| DOL announces lifetime income disclosure rule..... | Page 2 |
| Treasury proposes new rule for QPLO | Page 3 |
| DOL proposes open MEP registration rules..... | Page 3 |
| SEC proposes modernizing fund disclosures | Page 3 |
| IRS releases updated Safe Harbor 402(f) Notice | Page 4 |
| References and source material used in this publication | Page 5 |

Congressman proposes tax credit for employers who maintain employer match

On August 21, Reps. Brad Schneider (D-IL) and Mike Kelly (R-PA) introduced H.R. 8083, Preserving Employee Retirement Savings Act of 2020, which provides a tax credit to small and midsize businesses that do not reduce retirement benefits in 2020 or 2021.

The credit would equal 20% of the sum of:

- Employer-provided defined contribution plan allocations on behalf of non-highly compensated employees for an applicable taxable year, and
- The normal cost attributable to defined benefit accruals for non-highly compensated employees for an applicable taxable year

The credit would not apply to contributions for which the employer has been reimbursed under the Paycheck Protection Program or other CARES Act programs. The credit would be subject to an annual per-company cap of \$100,000.

Proponents of the bill may push for inclusion in the next COVID relief package, but it is unlikely to be included, given the already contentious nature of the negotiations.

Senate Republicans release new Phase 4 COVID-19 relief package

On August 18, the Senate released the [Delivering Immediate Relief to America's Families, Schools and Small Businesses Act](#) — a pared-down version of their previously proposed Phase 4 COVID-19 response proposal (the HEALS Act). The Senate is not expected to consider the proposal until September, and bipartisan negotiations have been on hold since early August.

This new proposal is, in part, a response to the House's approval of a \$25 billion USPS aid package — money that was included in the HEROES Act but absent from HEALS. USPS has become an extremely political issue following a recent change in leadership, reports of inconsistent deliveries, disagreements over funding and the implications of a vote-by-mail election. Provisions of the new Senate proposal include:

- **Liability protections** — Gross negligence standard
- **Enhanced unemployment benefits** – An extra \$300 per week through 2020 (down from \$600 in CARES)
- **PPP extension** – Increased flexibility and an additional round of funding, including clarification that employer-provided group insurance benefits are included in payroll costs for purposes of PPP loan forgiveness
- **USPS funding** – \$10 billion (up from \$0 in HEALS)
- **Funding for schools and testing** – \$105 billion for schools

President issues memoranda to extend CARES Act relief

On August 8, the President took executive action, attempting to extend expiring CARES Act relief. The relief focuses on four areas:

1. [Employee payroll tax deferral](#)
2. [Enhanced unemployment insurance benefit using monies from FEMA](#)
3. [Student loan interest and payment deferral](#)
4. [Housing assistance related to evictions and rental assistance](#)

Executive action is a narrow fix, leaving major issues such as additional stimulus checks, state/local funding, school funding, vaccine research, the Paycheck Protection Program and many industry-specific issues unresolved. Additionally, it's unclear when this relief could reach those impacted, as some of the orders are vague; require federal agencies to review, develop and implement policies; and/or need cooperation from the states.

DOL announces lifetime income disclosure rule

On August 18, the Department of Labor [released](#) an [interim final rule](#) to implement the Lifetime Income Disclosure provision of the SECURE Act.

Under the interim final rule, retirement plans would provide lifetime income illustrations using prescribed assumptions designed to give savers a realistic illustration of how much monthly

retirement income they could expect to purchase with their account balance. Retirement plans also will provide explanations about what the lifetime income illustrations mean and will clarify the assumptions used to calculate the illustrations.

To help ease the administrative burdens on plan administrators, the interim final rule includes model language that may be used for these explanations. Plan fiduciaries that use the regulatory assumptions and the model language prescribed by the rule will qualify for liability relief and will not be held liable in the event participants are unable to purchase equivalent monthly payments.

Treasury proposes new rule for QPLO

On August 20, Treasury and the IRS [published a proposed regulation](#) addressing the eligible rollover distribution rules for qualified plan loan offset (QPLO) amounts under section 402(c)(3)(C) and certain related issues.

This section was added by the Tax Cuts and Jobs Act and extends the normal 60-day rollover period in the case of a QPLO amount to the due date (including extensions) for filing the Federal income tax return for the year that the offset occurs.

The proposed regulations would provide guidance issues relating to the application of the eligible rollover distribution rules to plan loan offset amounts

DOL proposes open MEP registration rules

On August 20, the Department of Labor [released a proposal](#) regarding the registration and reporting obligations applicable to “pooled plan providers.” Under the SECURE Act, open MEPs, referred to as “pooled employer plans” (PEPs), must be administered by a pooled plan provider (PPP). PPPs must register with the DOL and IRS.

This proposal provides the rules for registering with the DOL. Please note that registering with DOL will be deemed to satisfy the requirement to register with the IRS under the proposal. The comment period is 30 days, starting with the date of publication in the Federal Register.

SEC proposes modernizing fund disclosures

On August 5, the SEC [unanimously voted to propose](#) comprehensive modifications to the mutual fund and exchange-traded fund disclosure framework to better serve the needs of retail investors.

The proposed disclosure framework would feature concise and visually engaging shareholder reports that would highlight information that is particularly important for retail investors to assess and monitor their fund investments.

The proposal is a central component of the Commission's investor experience initiative, and responds to comments the Commission received in response to a 2018 request for comment on retail investors' experience with fund disclosures.

The public comment period will begin following publication on SEC.gov and remain open for 60 days after publication in the Federal Register.

IRS releases updated Safe Harbor 402(f) Notice

On August 6, the IRS released Notice [2020-62](#), which provides for updated safe harbor explanations intended to satisfy the requirements of Code section 402(f), regarding eligible rollover distributions from qualified plans.

The changes reflect the SECURE Act, including the increased RMD age to age 72 and qualified birth and adoption distributions. The updated safe harbor notice also reflects the CARES Act provisions regarding coronavirus-related distributions by broadening an existing reference to disaster distributions.

[\(Back to the Table of Contents\)](#)

References and source material used in this publication

Page 1

Text of Delivering Immediate Relief to America's Families, Schools and Small Businesses Act
naco.sharefile.com/share/view/sfdcbaf7a2ca472a8

Page 2

Memorandum on Deferring Payroll Tax Obligations in Light of the Ongoing COVID-19 Disaster
whitehouse.gov/presidential-actions/memorandum-deferring-payroll-tax-obligations-light-ongoing-covid-19-disaster/

Memorandum on Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019
whitehouse.gov/presidential-actions/memorandum-authorizing-needs-assistance-program-major-disaster-declarations-related-coronavirus-disease-2019/

Memorandum on Continued Student Loan Payment Relief During the COVID-19 Pandemic
whitehouse.gov/presidential-actions/memorandum-continued-student-loan-payment-relief-covid-19-pandemic/

Executive Order on Fighting the Spread of COVID-19 by Providing Assistance to Renters and Homeowners
whitehouse.gov/presidential-actions/executive-order-fighting-spread-covid-19-providing-assistance-renters-homeowners/

U.S. Department of Labor Rule Will Improve Workers' Ability to Measure Lifetime Benefits Payments to Determine Readiness to Retire
<https://www.dol.gov/newsroom/releases/ebsa/ebsa20200818>

Text of Interim Final Rule Covering Lifetime Income Illustrations in Pension Benefit Statements
<https://www.dol.gov/sites/dolgov/files/ebsa/temporary-postings/pension-benefit-statements-lifetime-income-illustrations.pdf>

Page 3

Proposed regulation addressing eligible rollover distribution rules for qualified plan loan offset (QPLO) amounts
<https://s3.amazonaws.com/public-inspection.federalregister.gov/2020-16564.pdf>

U.S. Department of Labor Proposes Registration Requirements for Pooled Plan Providers
<https://www.dol.gov/newsroom/releases/ebsa/ebsa20200820>

SEC Proposes to Improve the Retail Investor Experience through Modernized Fund Shareholder Reports and Disclosures
<https://www.sec.gov/news/press-release/2020-172>

Page 4

IRS Notice 2020-62
congress.gov/116/bills/s4159/BILLS-116s4159is.pdf

[\(Back to the Table of Contents\)](#)

Keeping watch

You can find the most recent information on issues affecting governmental defined contribution plans, plan sponsors and plan participants on the Employer page of our plan website, NRSforu.com/plansponsor.

About this report

BOB BEASLEY, CRC, Communications Consultant, edits this report. Beasley brings more than 30 years of financial services communications experience to your plan. He has contributed to past editions of the *Governmental 457(b) Guidebook*, edits countless newsletters and plan sponsor communications, and in 2001 authored “What you should know about the Economic Growth and Tax Relief Reconciliation Act of 2001.” He often voices Nationwide’s online presentations.

Beasley has served on the Education and Communication Committee for the Plan Sponsor Council of America and as a member of the National Association of Government Defined Contribution Administrators.

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