

Executive Report

Plan Sponsor Council of America • Advocacy, Education, and Insight for America's Retirement

February 2020

Regulations

IRS Whistleblower Informs ARA of Change that Could Doom Voluntary Corrections

Driven by an apparent desire to clean up its case backlog, the IRS is planning a shift in procedure that might mean the end of the VCP program and subject a massive number of plans to audit. Word of the dramatic shift in focus was brought to the attention of the American Retirement Association by an anonymous IRS whistleblower. The existence of the forthcoming shift in procedure was confirmed independently.

[Read more>](#)

PBGC Corrects, Clarifies and Improves Various Regulations

The Pension Benefit Guaranty Corporation (PBGC) has issued a final rule that makes technical corrections, clarifications and improvements to a variety of its regulations. The changes are part of the agency's ongoing retrospective review of the effectiveness and clarity of its rules; they also result in part from input the PBGC has received. [Read more>](#)

IRS Issues 2020 Draft Instructions for Forms 1099-R and 5498

The IRS has issued the [draft instructions](#) for the 2020 IRS Forms 1099-R and 5498: Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc. But these instructions are only drafts and are not to be used for actual filing.

Bay State Acknowledges ERISA in Finalized Fiduciary Standard

The Massachusetts Secretary of the Commonwealth has finalized a new fiduciary conduct standard, one that acknowledges ERISA's preemption. [Read more>](#)

Legislation

The SECURE Act and 403(b)s

The impact of the SECURE Act—the most significant retirement-related legislation in more than a decade—is well-known in many respects. Among the lesser-known impacts of the new law are those on 403(b) plans.

[Read more>](#)

Bill Would Treat Child Care Expenses as Elective Deferrals

Add child care payments to the mix of items that policymakers are considering as a way to help individuals save for retirement in their DC plans. Introduced Feb. 10 by Reps. Ann Wagner (R-MO) and Hakeem Jeffries (D-NY), the "Investing in Your Family's Future Act" (H.R. 5837) would amend the Internal Revenue Code to



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permit the treatment of child care payments as elective deferrals for purposes of employer matching contributions for DC plans. [Read more>](#)

Virginia Sets Sights on State-run MEP for Private Sector

Another state legislature is moving forward with a state-run retirement savings program for private sector employees—this time in the form of an open MEP. The legislation establishes the Multiple Employer Retirement Plan and directs the governing board of the Virginia College Savings Plan (Virginia529) to create the plan to allow employees of private employers in Virginia to contribute to a defined contribution retirement plan overseen by the board. [Read more>](#)

House Bill: Principal Residence Sales Not Taxed if Rolled into a Roth

Rep. Josh Gottheimer (D-NJ) announced Jan. 27 that he is introducing legislation intended to increase retirement savings by changing the tax treatment of capital gains from the sale of a principal residence. Under Gottheimer’s Senior Housing Improvement and Retirement Accounts (IRA) Act, homeowners who are age 55 or older and have owned their homes for 20 or more years could, on a one-time basis, roll the proceeds from selling that home into a Roth IRA on a tax-free basis. [Read more>](#)

Litigation

Supremes Rein in Actual Knowledge Standard

In a unanimous ruling, the nation’s highest court said that plan participants don’t necessarily have “actual knowledge” if they received information about the alleged violation in disclosures but did not read or can’t recall reading them. [Read more>](#)

Excessive Fee Suit Treads New Ground(s)

A new excessive fee suit makes some of the same claims, but relies on different arguments, turning not only to government filings, but also making very precise arguments about plan expenses and portfolio diversification. [Read more>](#)

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