



Rewards Policy Insider 2024-04



In this Issue:

1. [Treasury and IRS Finalize Regulations on Present Value for Defined Benefit Plans](#)
2. [Agencies Issue Request for Information on Retirement Plan Reporting and Disclosure](#)
3. [Upcoming Health Plan-Related Compliance Deadlines](#)

Treasury and IRS Finalize Regulations on Present Value for Defined Benefit Plans

On January 19, 2024, the Treasury Department and Internal Revenue Service (“IRS”) released final regulations

on the requirements for defined benefit plans to calculate lump-sums and other accelerated forms of distribution. These final regulations are substantially similar to the proposed regulations, which were issued in 2016, with the exception of some technical changes and clarifications.

Background

Internal Revenue Code (“Code”) section 417 and the implementing regulations provide a variety of rules that a defined benefit plan must follow in determining the present value of a participant’s benefit that is not paid in the normal annuity form. For example, plans may provide for an immediate cash-out of a terminating employee’s benefit if the present value is less than \$7,000 (or a lower threshold set by the plan). In addition, if a benefit will be paid in a form that “decreases” (such as a Social Security Level Income Option), the plan must use prescribed interest rates and mortality assumptions under Code section 417(e).

In November 2016, the Treasury Department and IRS released proposed regulations which made a number of technical changes to the Code section 417(e) requirements for defined benefit plans to calculate present value. The proposed regulations also included changes to reflect recent amendments to the Code, including the Pension Protection Act of 2006, and to eliminate outdated language.

Overview of Final Regulations

Significant highlights from the final regulations are as follows:

- **Pre-retirement mortality assumptions:** One issue that had been the subject of litigation was whether a plan that provides a death benefit equal in value to the accrued benefit may apply a pre-retirement mortality “discount” to reflect the probability of death when determining the amount of a single-sum distribution. The final regulations allow a plan to take into the account the probability of death, except for benefits that are derived from employee contributions.
- **Social Security leveling option:** Many plans offer a form of benefit called a “Social Security leveling annuity option” under which the monthly annuity benefit begins at a higher rate, and then decreases when the retiree reaches the expected age for Social Security benefits. The idea is to ensure that the retiree’s income is the same both before and after beginning Social Security benefits. Despite some concern from commenters, the final regulations apply the rules of Code section 417(e)(3) to these optional benefit forms. The final regulations, however, allow a plan to bifurcate this benefit into two benefits—a regular life annuity and a “temporary” annuity, if certain requirements are met.
- **Anti-cutback relief:** The proposed regulations allowed a plan to change its “lookback month” or “stability period” without violating the anti-cutback rules, if certain rules are met. The final regulations expand this relief to amendments changing the time for determining an interest rate or mortality table.

Effective Date

The final regulations are generally effective for annuity starting dates on or after October 1, 2024. Changes to the rules for amendments impacting lookback months or stability periods are effective for amendments adopted on or after January 19, 2024.

The full text of the final regulations is available [here](#).

Agencies Issue Request for Information on Retirement Plan Reporting and Disclosure

As required by the SECURE 2.0 Act of 2022 (“SECURE 2.0”), the Department of Labor’s (“DOL”) Employee Benefits Security Administration, the Treasury Department and Internal Revenue Service, and the Pension Benefit Guaranty Corporation (“PBGC”) published a Request for Information (“RFI”) asking for public comments on the current reporting and disclosure requirements for retirement plans in ERISA and the Internal Revenue Code (“Code”). The RFI is one part of a larger effort by the agencies to review such requirements and develop a report to Congress, with any recommended changes.

Background

Under section 319 of SECURE 2.0, the Treasury Department, DOL, and PBGC are required to review and assess the effectiveness of the existing reporting and disclosure requirements in ERISA and the Code and develop a report to Congress that makes recommendations to consolidate, simplify, standardize, and improve those requirements. Section 319 describes several specific requirements for the report. Among other things, the report must analyze the rate at which participants and beneficiaries are receiving, accessing, understanding, and retaining the disclosures they receive. The report is due by December 29, 2025.

Request for Information

On January 19, 2024, the agencies jointly [issued an RFI](#) on the effectiveness of reporting and disclosure requirements for retirement plans. The RFI notes that the required report to Congress will reflect the agencies’ goals of both reducing compliance burdens and ensuring that plan participants and beneficiaries better understand the information they need to monitor their plans, prepare for retirement, and get the benefits they have earned. The RFI features a vast array of topics - 24 sets of questions in total - that cover reporting and disclosure requirements from the perspective of plan participants and beneficiaries, as well as plans themselves. The scope of the reporting and disclosure requirements that are the subject of the RFI is rather limited, and does not include information collected on the Form 5500 Annual Return/Report or information submitted in connection with a plan audit or examination.

Key topics in the RFI include:

- A set of questions focusing on disclosures to plan participants and beneficiaries – including, for example, benefit statements and other disclosures required by the Code or ERISA – from the perspectives of participants, beneficiaries, plan sponsors, and service providers who receive or furnish required disclosures. The RFI asks whether participants and beneficiaries recognize the significance of the notices and disclosures they receive, and whether any specific documents could be combined or consolidated. The RFI also contains questions relating to whether any information that is required to be disclosed to participants under ERISA and the Code results in duplicative or inconsistent disclosures. In addition, the RFI requests comments on the costs to plans to furnish required disclosures.
- A set of questions relating to the submission of required reports by plans to the agencies – such as the Form 5500 annual report, for example – and the use of publicly available information and data in those reports. For example, the RFI asks the public to weigh in on the number of reports that must be filed with the agencies and how that number affects a plan's ability to implement reporting procedures efficiently.

Comments on the RFI are due by April 22, 2024.

Upcoming Health Plan-Related Compliance Deadlines

The new year has just begun, but several important compliance deadlines for health plans and plan sponsors are fast approaching. The following is not intended to be a complete list of compliance deadlines for group health plans and sponsors, but instead to highlight some key dates that plan sponsors and administrators should have on their calendars.

ACA Reporting

Each year, large employers must tell their full-time employees (and the Internal Revenue Service ("IRS") whether they were offered health insurance coverage during each month of the previous year, plus certain related information. This information is provided to employees on the IRS Form 1095-C, and then filed with the IRS using Form 1094-C. Employers with self-insured plans may use these same forms to meet related requirements for notifying individuals and the IRS that they had minimum essential coverage during the previous year.

The deadline for furnishing the Form 1095-C to full-time employees is **March 1, 2024**. Forms 1094-C and 1095-C must be filed with the IRS no later than **April 1, 2024**.

Creditable Coverage Disclosure to CMS

Group health plans that cover prescription drugs must annually report to the Centers for Medicare and Medicaid Services (“CMS”) on whether the coverage is “creditable” under the Medicare Part D rules, meaning that it is expected to pay on average as much as the standard Medicare prescription drug benefit. If the plan’s prescription drug coverage is “creditable coverage,” then Medicare-eligible participants can delay enrolling in Medicare Part D without being subject to potential late enrollment penalty.

The “creditable coverage” disclosure to CMS is due no more than 60 days after the start of each plan year, which is **February 29, 2024** for calendar year plans. CMS maintains an [internet portal](#) that plans can use to complete this disclosure.

In addition to disclosing “creditable coverage” status to CMS, plans also must provide this information to Medicare-eligible participants each year prior to October 15, and at certain other specified times.

Prescription Drug Reporting

By **June 1, 2024**, group health plans must submit their annual Prescription Drug Data Collection (RxDC) report to CMS for the 2023 calendar year. Pursuant to the Consolidated Appropriations Act, 2021, this report must include information about:

- Spending on prescription drugs and health care services;
- Prescription drugs that account for the most spending;
- Drugs that are prescribed most frequently;
- Prescription drug rebates from drug manufacturers; and
- Premiums and cost-sharing that patients pay.

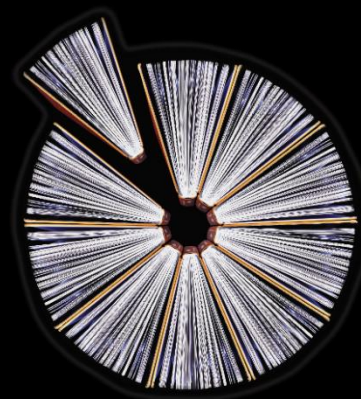
Additional information about the report, including updated filing instructions and a link to the filing portal, is available on [CMS’s website](#).

Visit the Archive

All previous issues of the Rewards Policy Insider are archived on Deloitte.com and can be accessed [here](#).

Don’t forget to bookmark the page for quick and easy reference!

Upcoming editions will continue to be sent via email and will be added to the site on a regular basis.



[Get in touch](#)

[Subscribe/Unsubscribe](#)

This publication contains general information only and Deloitte is not, by means of this publication, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This publication is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional adviser. Deloitte shall not be responsible for any loss sustained by any person who relies on this publication.

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities (collectively, the “Deloitte organization”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

Deloitte is a leading global provider of audit and assurance, consulting, financial advisory, risk advisory, tax and related services. Our global network of member firms and related entities in more than 150 countries and territories (collectively, the “Deloitte organization”) serves four out of five Fortune Global 500® companies. Learn how Deloitte’s approximately 330,000 people make an impact that matters at www.deloitte.com.

None of DTTL, its member firms, related entities, employees or agents shall be responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.

© 2024 Deloitte Consulting LLP

To no longer receive emails about this topic please send a return email to the sender with the word “Unsubscribe” in the subject line.