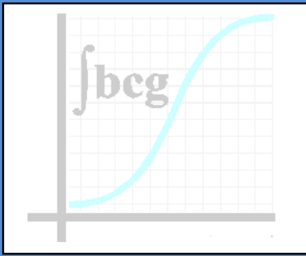

BCG Retirement News Roundup

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Boomershine Consulting Group (BCG) provides this monthly news roundup of highlighted significant articles from the retirement industry – for clients and friends. Retirement plan news has become increasingly pertinent for many audiences these days, including:

- Retirement Plan Sponsors – addressing both private and public sector issues
- Employers – dealing with complicated decision making for their plans
- Employees – educating the Boomer generation that is nearing retirement
- Industry Practitioners - helping to understand and resolve today's significant challenges

We review numerous industry news services daily and will include a collection of timely and significant articles each month concerning compliance, actuarial plan costs (including assumption debates), plan design change issues and benefit trends, as well as other related topics. If you would like to discuss any of these issues, please contact us.

Inside This Issue

Public Sector/Government Plans

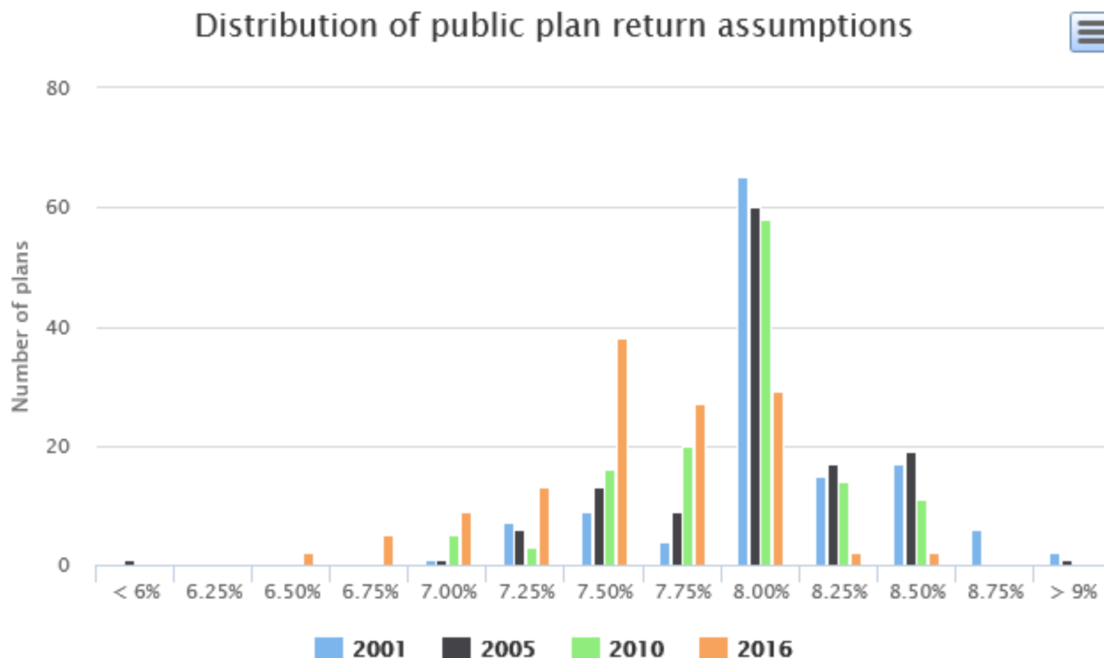
- Public pension plan return assumptions
- Pa. legislative leaders say pension reform will not happen this year
- Counterpoint: In response to "Actuarial overbearing"
- Detroit retirees' effort to restore pension fails
- Wilkes-Barre to receive aid for municipal pension plans

Private Sector

- IRS Announces 2017 Pension Plan Limitations; 401(k) Contribution Limit Remains Unchanged at $18,000 for 2017
- PBGC Posts 2017 Single and Multiemployer Plan Premium Rates
- SSA Announces 0.3 Percent Benefit Increase for 2017
- IRS's Correction Program Retooled and Revamped
- Multiple Challenges: Pension Actuaries Outline Options for Honoring PBGC Multiemployer Program Guarantee

Public Sector/Government Plans

Public pension plan return assumptions



Public pension plans have abandoned their 8% return assumption en masse since 2010, accepting that the current investing environment cannot keep pace with that level of return. Using best available survey data, The National Association of State Retirement Administrators found that the majority of plans as of FY 2016 have shifted their return assumptions into the 7.25%-to-7.5% range. Half of the number of plans that targeted a return of 8% in 2005 have maintained that into the current period.
Note: 2016 return assumptions are NASRA's best current data and are subject to change as new information becomes available. Survey included 127 U.S. public plans.
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Pa. legislative leaders say pension reform will not happen this year

HARRISBURG - Yes to more six-packs of beer on retail shelves. No to pension reform.
That was the state of play shortly before midnight Wednesday as the Republican-controlled legislature raced to push through key legislation before the end of its two-year session.
Senate GOP leaders, looking tired and exasperated, declared as officially dead a bill that

would have made controversial changes to the state's debt-plagued pension funds.

"We are exposed," said Senate Majority Leader Jake Corman (R., Centre), who has championed the issue.

One proposal that got a final vote: a bill that would allow beer distributors to sell six-packs, growlers, and single cans of beer instead of being limited to cases, 12-packs, and kegs.
The measure also calls for an assortment of other changes, from allowing mead at farmer's markets to allowing hard liquor to be consumed at stadiums that already sell beer.
The Senate, which extended its session beyond 11 p.m., approved it in a 44-4 vote.
If Gov. Wolf signs it, it would mark another historic shift away from Pennsylvania's notoriously stringent liquor laws.

But the mood in the Capitol was grim as it became clear late in the evening that the legislators would be unable to deliver on a pension reform bill.

Any bill not approved and sent to Wolf before the end of the session will die and have to be reintroduced when the legislature reconvenes early next year.

At a news conference, Corman said he was told the House could not cobble together enough votes to approve the pension bill, and criticized Wolf for providing "zero votes" from his party to help get it across the legislative finish line.

"This governor provided zero - to me that's unprecedented, if he truly wanted it," Corman said.

House Majority Leader Dave Reed (R., Indiana) said the chamber was three votes shy of getting the 102 votes needed to approve it, and that all the support came from the GOP.
For his part, Wolf, a Democrat, has said he would support a "reasonable" pension reform plan, but never committed to the specific one the legislature was considering this week.
"Gov. Wolf has worked to try and reach a compromise agreement on comprehensive pension reform and the governor remains committed to achieving this," said Wolf spokesman Jeff Sheridan.

The pension proposal had called for new employees, starting in 2018, to select from three options, all requiring participation in varying levels of 401(k)-style plans. Current employees would have continued to be eligible for the traditional, and more generous, plan that calculates benefits based on years of service and top three years of salary.

State police and other law enforcement officials would have been exempt from the

proposal, as would have been current legislators and judges. The proposed change would have applied only to newly elected legislators and judges.

The pension plan did not have any short-term savings, but was estimated to save the state and school districts $2.6 billion over 32 years.

Democrats had signaled strong opposition to it, saying it would cut retirement benefits, increase costs for school districts, and not cut the debt any faster.

Hanging in the balance Wednesday night was legislation that would impose harsher penalties for animal abuse.

"Libre's law," named for a Boston terrier puppy that made national headlines after being found sick and emaciated at a Lancaster County farm, would make it a third-degree felony to seriously injure a domestic animal or zoo animals.

The measure is before the House, which late Wednesday decided to add a voting day and will reconvene at 9 a.m. Thursday.

The House on Thursday may also consider a controversial bill that would restrict public officials from releasing the name of police officers involved in deadly shootings or shootings resulting in serious injury.

Unlikely to survive the end-of-session cutoff was legislation to temporarily reinstate a mandate that casinos pay millions of dollars to their host communities - a requirement that had been struck down by the state's highest court.

Also unlikely to be brought up for a vote before session's end were several bills, including legislation that would: impose penalties on "sanctuary cities" that refuse to detain people suspected by federal immigration authorities of being in the country illegally; impose more restrictions on abortions; and make it more difficult for cities and municipalities to have stricter gun laws than those on state books.

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Counterpoint: In response to “Actuarial overbearing”

The Sept. 5 editorial “Actuarial overbearing” is based on a faulty premise: Those who oppose certain changes to public pension reporting standards are somehow against meaningful disclosure. That is simply not true. This is not the first time there has been pushback on a public pension reporting standard. In 1980, the Financial Accounting

Standards Board issued Statement 35, Accounting and Reporting by Defined Benefit Pension Plans.

The FASB took the position that this standard also applied to governmental plans. (Prior to this FASB pronouncement, generally accepted accounting principles for governmental activity had been considered to be the domain of the National Council on Governmental Accounting with FASB standards being applicable to non-governmental activity.) The FASB maintained that Statement 35 was intended for going concerns, yet disregarded the impact of future salary increases on the accrued liability for active plan participants.

Implementation of the standard would have generally resulted in a significant and misleading increase in the apparent funded status of governmental plans. Members of our organization vigorously opposed this proposal due to the potential harm caused by this misleading “disclosure.”

This event was also a significant contributor to the establishment of the Governmental Accounting Standards Board. One of the first GASB projects resulted in reinforcement of the notion that, for a governmental going concern, future salary increases needed to be included in the determination of the obligation for accrued pension benefits, with the projected liability being higher than would have been the case under the FASB standard.

Now there is a contingent within the actuarial community that suggests additional public-sector resources should be spent to have actuaries calculate the liabilities of the plan if it were immediately terminated and sold at a market price, a scenario that is legally impermissible in nearly all jurisdictions. Although such a disclosure might be relevant for a company that can be merged, acquired, or declared in bankruptcy, our organization is concerned that this calculation is not decision-useful to public-sector stakeholders and policymakers, and, as in 1980, this calculation has the potential for a significantly misleading inference. To suggest that the pushback is solely to make plan funding look rosier belies history and the intent of plan disclosures — to help policymakers make informed decisions with decision-relevant facts.

GASB recently completed a multiyear, transparent process of reviewing and revising its standards on public pension plan reporting. Numerous significant changes are now in effect regarding how pension obligations are calculated and disclosed by state and local governments. The new standards also require modified liability calculations, including alternative discount rates if the funds set aside to pay pensions are projected to be insufficient. GASB determined that a market price of public pension liabilities is not appropriate. Those who disagree with this outcome are now suggesting the actuarial standard-setter — i.e., the Actuarial Standards Board — impose such a disclosure requirement. While a different venue, the same concerns remain.

Actuarial calculations are critical for the systematic funding of pension obligations. The National Association of State Retirement Administrators' Standing Resolution on Funding Discipline in Public Employee Retirement Systems encourages all state and local retirement systems to adopt a clear funding policy and to commit to meeting actuarially determined

contributions. However, given that public plans are going concerns, the resolution also states, that it “is a fundamental objective of public employee retirement systems to establish and receive contributions which will remain approximately level as a percentage of payroll over time, to ensure affordability and sustainability of benefits, intergenerational cost equity and consistent budgetary operations.” Market price calculations, which are based on current interest rates, are volatile and counter to such funding policies. In fact, even corporations have continually asked Congress for, and received, relief from using current interest rates to fund their plans.

Journalistic skepticism is reasonable and expected, but it should not be limited to one side of an issue: Those pushing for this new calculation could just as easily have a financial interest in the outcome, such as the additional actuarial work, or the desire to paint public pensions in a more dismal light, as those who oppose it. Yet, reviewing the history of public pension reporting standards reveals that the public pension community has supported disclosures they believe provide for stable, systematic funding of the plan, whether the disclosures currently make them look better or worse.

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Detroit retirees' effort to restore pension fails

A federal appeals court on Monday rejected a challenge to cuts in Detroit pensions, saying a plan that helped bring the city out of the largest municipal bankruptcy in U.S. history must not be disturbed.

“This is not a close call,” said Judge Alice Batchelder at the 6th U.S. Circuit Court of Appeals. Some retirees sued, saying they deserve the pension that was promised before Detroit filed for bankruptcy in 2013. Thousands saw their pension cut by 4.5%; annual cost-of-living increases were eliminated.

The court noted that Detroit’s exit from bankruptcy in 2014 was the result of a series of major deals between the city and creditors, including people who receive a pension or qualify for one.

Altering the pension cuts, the judges said, would be a “drastic action” that “would unavoidably unravel the entire plan, likely force the city back into emergency oversight and require a wholesale recreation of the vast and complex web of negotiated settlements and agreements.”

In dissent, Judge Karen Nelson Moore said retirees at least deserve their day in court. She said Batchelder and Judge David McKeague were citing a “questionable” legal standard to dismiss the case, 2-1.

“It has real-world consequences for the litigants before us — retirees who spent their lives serving the people of Detroit through boom and bust and who feel that the city’s bankruptcy was resolved through a game of musical chairs in which they were left without a seat,” Moore wrote.

Jamie Fields, an attorney for about 160 retirees, said he wanted the court to consider the merits of his argument. He contends that the bankruptcy judge had no authority to override the Michigan Constitution, which protects public pensions.
“A lot of retirees are making choices between groceries and medicine,” he said.
Detroit Mayor Mike Duggan said at a news conference Monday that he had not seen the ruling and declined to comment.
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Wilkes-Barre to receive aid for municipal pension plans

WILKES-BARRE — Wilkes-Barre is one recipient of aid in a new round of state payments to municipal pension plans, but the payment is expected to only cushion the expected shortfall in the 2017 budget.

Pennsylvania Auditor General Eugene DePasquale this week announced the distribution of $271 million in annual payments to nearly 1,500 pension plans for municipal employees, police and firefighters.

When DePasquale initially made the announcement Wednesday, he said Wilkes-Barre would receive $885,000, which was incorrect, according to Brett Kittrick, finance director for the city. Wilkes-Barre is receiving about $1.7 million, according to city officials.

City officials last month announced that the amount Wilkes-Barre must contribute to the pension plan established for its employees went from $4,645,186 this year to $8,121,482 in 2017, a $3,476,296 increase. The new state payment will go toward the city’s minimum payment obligation for this year, according to Kittrick. Even after applying the $1.7 million payment, the city still faces an increase in required pension contributions of $1,776,296.

“It’s certainly helps,” Kittrick said. “It takes some of the burden off of us, but it’s still a significant obligation that we have every year.”

He said the city’s 2017 budget is “a work in progress.” It’s due by the end of next week.

Other local recipients include Scranton, which received a $3.2 million payment; Hazleton, $691,000; Kingston, $520,000; Plains Township, $371,000; Pottsville, $345,000; Nanticoke, $249,000; Pittston, $218,000, and Carbondale, $175,000.

Kittrick said the state aid is calculated based on the number of participants in the city’s

pension plan.

Wilkes-Barre officials submitted what they believe is the correct amount of $1.7 million due to the city, Kittrick said, but the city is waiting to hear back from the auditor general's office.

The auditor general's office took over responsibility for releasing the payments and making the actuarial calculations that determine their amounts under a state pension oversight law enacted last July.

Sen. John Blake, D-Archbald, sponsored the law that gives the auditor general the job of evaluating municipal pension plans for their fiscal soundness and distributing the payments. The job was previously handled by the defunct state Public Employee Retirement Commission.

The commission's future came into question during last year's state budget impasse. Gov. Tom Wolf suggested the commission's duties could be split up among other agencies.

The state municipal pension aid comes from a 2 percent state tax on out-of-state casualty and fire insurance premiums.

"Many communities rely on this pension funding to meet their retirement obligations," DePasquale said.

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Private Sector

IRS Announces 2017 Pension Plan Limitations; 401(k) Contribution Limit Remains Unchanged at $18,000 for 2017

The Internal Revenue Service today announced cost-of-living adjustments affecting dollar limitations for pension plans and other retirement-related items for tax year 2017.
The IRS today issued technical guidance detailing these items in Notice 2016-62.

Highlights of changes for 2017
The income ranges for determining eligibility to make deductible contributions to traditional Individual Retirement Arrangements (IRAs), to contribute to Roth IRAs, and to claim the saver's credit all increased for 2017.

Taxpayers can deduct contributions to a traditional IRA if they meet certain conditions. If during the year either the taxpayer or their spouse was covered by a retirement plan at work, the deduction may be reduced, or phased out, until it is eliminated, depending on filing status and income. (If neither the taxpayer nor their spouse is covered by a retirement plan at work, the phase-outs of the deduction do not apply.) Here are the phase-out ranges for 2017:
For single taxpayers covered by a workplace retirement plan, the phase-out range is $62,000 to $72,000, up from $61,000 to $71,000.
For married couples filing jointly, where the spouse making the IRA contribution is covered by a workplace retirement plan, the phase-out range is $99,000 to $119,000, up from $98,000 to $118,000.
For an IRA contributor who is not covered by a workplace retirement plan and is married to someone who is covered, the deduction is phased out if the couple's income is between $186,000 and $196,000, up from $184,000 and $194,000.
For a married individual filing a separate return who is covered by a workplace retirement plan, the phase-out range is not subject to an annual cost-of-living adjustment and remains $0 to $10,000.

The income phase-out range for taxpayers making contributions to a Roth IRA is $118,000 to $133,000 for singles and heads of household, up from $117,000 to $132,000. For married couples filing jointly, the income phase-out range is $186,000 to $196,000, up from $184,000 to $194,000. The phase-out range for a married individual filing a separate return who makes contributions to a Roth IRA is not subject to an annual cost-of-living adjustment and remains $0 to $10,000.

The income limit for the saver’s credit (also known as the retirement savings contributions credit) for low- and moderate-income workers is $62,000 for married couples filing jointly, up from $61,500; $46,500 for heads of household, up from $46,125; and $31,000 for singles and married individuals filing separately, up from $30,750.

Highlights of limitations that remain unchanged from 2016

The contribution limit for employees who participate in 401(k), 403(b), most 457 plans, and the federal government’s Thrift Savings Plan remains unchanged at $18,000.

The catch-up contribution limit for employees aged 50 and over who participate in 401(k), 403(b), most 457 plans, and the federal government’s Thrift Savings Plan remains unchanged at $6,000.

The limit on annual contributions to an IRA remains unchanged at $5,500. The additional catch-up contribution limit for individuals aged 50 and over is not subject to an annual cost-of-living adjustment and remains $1,000.

Detailed description of adjusted and unchanged limitations

Section 415 of the Internal Revenue Code (Code) provides for dollar limitations on benefits and contributions under qualified retirement plans. Section 415(d) requires that the Secretary of the Treasury annually adjust these limits for cost-of-living increases. Other limitations applicable to deferred compensation plans are also affected by these adjustments under Section 415. Under Section 415(d), the adjustments are to be made following adjustment procedures similar to those used to adjust benefit amounts under Section 215(i)(2)(A) of the Social Security Act.

Effective January 1, 2017, the limitation on the annual benefit under a defined benefit plan under Section 415(b)(1)(A) is increased from $210,000 to $215,000. For a participant who separated from service before January 1, 2017, the limitation for defined benefit plans under Section 415(b)(1)(B) is computed by multiplying the participant's compensation limitation, as adjusted through 2016, by 1.0112.

The limitation for defined contribution plans under Section 415(c)(1)(A) is increased in 2017 from $53,000 to $54,000.

The Code provides that various other dollar amounts are to be adjusted at the same time and in the same manner as the dollar limitation of Section 415(b)(1)(A). After taking into account the applicable rounding rules, the amounts for 2017 are as follows:

The limitation under Section 402(g)(1) on the exclusion for elective deferrals described in Section 402(g)(3) remains unchanged at $18,000.

The annual compensation limit under Sections 401(a)(17), 404(l), 408(k)(3)(C), and 408(k)(6)(D)(ii) is increased from $265,000 to $270,000.

The dollar limitation under Section 416(i)(1)(A)(i) concerning the definition of key employee in a top-heavy plan is increased from $170,000 to $175,000.

The dollar amount under Section 409(o)(1)(C)(ii) for determining the maximum account balance in an employee stock ownership plan subject to a 5-year distribution period is increased from $1,070,000 to $1,080,000, while the dollar amount used to determine the lengthening of the 5-year distribution period is increased from $210,000 to $215,000.
The limitation used in the definition of highly compensated employee under Section 414(q)(1)(B) remains unchanged at $120,000.

The dollar limitation under Section 414(v)(2)(B)(i) for catch-up contributions to an applicable employer plan other than a plan described in Section 401(k)(11) or Section 408(p) for individuals aged 50 or over remains unchanged at $6,000. The dollar limitation under Section 414(v)(2)(B)(ii) for catch-up contributions to an applicable employer plan described in Section 401(k)(11) or Section 408(p) for individuals aged 50 or over remains unchanged at $3,000.

The annual compensation limitation under Section 401(a)(17) for eligible participants in certain governmental plans that, under the plan as in effect on July 1, 1993, allowed cost-of-living adjustments to the compensation limitation under the plan under Section 401(a)(17) to be taken into account, is increased from $395,000 to $400,000.

The compensation amount under Section 408(k)(2)(C) regarding simplified employee pensions (SEPs) remains unchanged at $600.

The limitation under Section 408(p)(2)(E) regarding SIMPLE retirement accounts remains unchanged at $12,500.

The limitation on deferrals under Section 457(e)(15) concerning deferred compensation plans of state and local governments and tax-exempt organizations remains unchanged at $18,000.

The limitation under Section 664(g)(7) concerning the qualified gratuitous transfer of qualified employer securities to an employee stock ownership plan remains unchanged at $45,000.

The compensation amount under Section 1.61-21(f)(5)(i) of the Income Tax Regulations concerning the definition of "control employee" for fringe benefit valuation remains unchanged at $105,000. The compensation amount under Section 1.61-21(f)(5)(iii) remains unchanged at $215,000.

The dollar limitation on premiums paid with respect to a qualifying longevity annuity contract under Section 1.401(a)(9)-6, A-17(b)(2)(i) of the Income Tax Regulations remains unchanged at $125,000.

The Code provides that the $1,000,000,000 threshold used to determine whether a multiemployer plan is a systemically important plan under Section 432(e)(9)(H)(v)(III)(aa) is adjusted using the cost-of-living adjustment provided under Section 432(e)(9)(H)(v)(III)(bb). After taking the applicable rounding rule into account, the threshold used to determine whether a multiemployer plan is a systemically important plan under Section 432(e)(9)(H)(v)(III)(aa) remains unchanged for 2017 at $1,012,000,000.
The Code also provides that several retirement-related amounts are to be adjusted using the cost-of-living adjustment under Section 1(f)(3). After taking the applicable rounding rules into account, the amounts for 2017 are as follows:

The adjusted gross income limitation under Section 25B(b)(1)(A) for determining the retirement savings contribution credit for married taxpayers filing a joint return remains unchanged at $37,000; the limitation under Section 25B(b)(1)(B) remains unchanged at $40,000; and the limitation under Sections 25B(b)(1)(C) and 25B(b)(1)(D) is increased from $61,500 to $62,000.

The adjusted gross income limitation under Section 25B(b)(1)(A) for determining the retirement savings contribution credit for taxpayers filing as head of household remains unchanged at $27,750; the limitation under Section 25B(b)(1)(B) remains unchanged at $30,000; and the limitation under Sections 25B(b)(1)(C) and 25B(b)(1)(D) is increased from $46,125 to $46,500.

The adjusted gross income limitation under Section 25B(b)(1)(A) for determining the retirement savings contribution credit for all other taxpayers remains unchanged at $18,500; the limitation under Section 25B(b)(1)(B) remains unchanged at $20,000; and the limitation under Sections 25B(b)(1)(C) and 25B(b)(1)(D) is increased from $30,750 to $31,000.

The deductible amount under Section 219(b)(5)(A) for an individual making qualified retirement contributions remains unchanged at $5,500.

The applicable dollar amount under Section 219(g)(3)(B)(i) for determining the deductible amount of an IRA contribution for taxpayers who are active participants filing a joint return or as a qualifying widow(er) increased from $98,000 to $99,000. The applicable dollar amount under Section 219(g)(3)(B)(ii) for all other taxpayers who are active participants (other than married taxpayers filing separate returns) increased from $61,000 to $62,000. If an individual or the individual's spouse is an active participant, the applicable dollar amount under Section 219(g)(3)(B)(iii) for a married individual filing a separate return is not subject to an annual cost-of-living adjustment and remains $0. The applicable dollar amount under Section 219(g)(7)(A) for a taxpayer who is not an active participant but whose spouse is an active participant is increased from $184,000 to $186,000.

The adjusted gross income limitation under Section 408A(c)(3)(B)(ii)(I) for determining the maximum Roth IRA contribution for married taxpayers filing a joint return or for taxpayers filing as a qualifying widow(er) is increased from $184,000 to $186,000. The adjusted gross income limitation under Section 408A(c)(3)(B)(ii)(II) for all other taxpayers (other than married taxpayers filing separate returns) is increased from $117,000 to $118,000. The applicable dollar amount under Section 408A(c)(3)(B)(ii)(III) for a married individual filing a separate return is not subject to an annual cost-of-living adjustment and remains $0.

The dollar amount under Section 430(c)(7)(D)(i)(II) used to determine excess employee compensation with respect to a single-employer defined benefit pension plan for which the special election under Section 430(c)(2)(D) has been made is increased from $1,106,000 to $1,115,000.

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PBGC Posts 2017 Single and Multiemployer Plan Premium Rates

The Pension Benefit Guaranty Corporation (PBGC) announced that their webpage has been updated to provide the 2017 premium rates for single and multiemployer pension plans. The per-participant flat premium rate for plan years beginning in 2017 is $69 for single-employer plans (up from a 2016 rate of $64) and $28 for multiemployer plans (up from a 2016 rate of $27).

The increase in the single-employer rate was provided in The Bipartisan Budget Act of 2015. The increase in the multiemployer rate is the result of indexing.

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SSA Announces 0.3 Percent Benefit Increase for 2017

The U.S. Social Security Administration announced that monthly Social Security and Supplemental Security Income (SSI) benefits for more than 65 million Americans will increase 0.3 percent in 2017. The 0.3 percent cost-of-living adjustment (COLA) will begin with benefits that more than 60 million Social Security beneficiaries receive in January 2017. Increased payments to more than 8 million SSI beneficiaries will begin on December 30, 2016.

Other changes that take effect in January of each year are based on the increase in average wages. Based on that increase, the maximum amount of earnings subject to the Social Security tax (taxable maximum) will increase to $127,200 from $118,500. Of the estimated 173 million workers who will pay Social Security taxes in 2017, about 12 million will pay higher taxes as a result of the increase in the taxable maximum.

A fact sheet showing the effect of the various automatic adjustments is provided.
The Social Security Administration issued a notice Cost-of-Living Increase and Other Determinations for 2017 that appeared in the Federal Register.
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IRS's Correction Program Retooled and Revamped

Last week, the Internal Revenue Service (IRS) issued a new Revenue Procedure (2016-51), which is intended to be a comprehensive overhaul of its Employee Plans Compliance Resolution System (EPCRS). Sponsors of tax-qualified retirement plans (including 401(k), 403(b), pension, cash balance, SEP, and simple plans) have historically relied on EPCRS to correct failures to comply with one or more applicable Internal Revenue Code requirements, either by virtue of faulty plan documentation, errors in operation, and/or failure to meet certain discrimination testing requirements. These failures are referred to respectively as documentary, operational, and demographic failures in EPCRS. At the most basic level, EPCRS encourages those maintaining retirement plans to voluntarily and timely identify and correct documentary, operational, and demographic failures. Making a correction under EPCRS allows employers to correct errors for a reduced fee or, in some circumstances, for no fee at all.
The basic three-component structure of EPCRS is retained: (1) Self-correction program with no filing fee or sanction (SCP); (2) Voluntary correction program with a filing fee and a pre-established sanction (VCP); and (3) Audit closing agreement program for correction of failures identified by the IRS on audit with payment of a negotiated sanction (Audit CAP).
However, there are some significant changes, including:
Adapting the program to clarify how and when determination letters need to be filed with

VCP applications: This is particularly important given the “demise” of the ongoing determination letter program. In most cases, the IRS no longer requires a determination letter application to be filed with a VCP application.
Adopting a revised approach for determining Audit CAP sanctions: The “worst case scenario” (or Maximum Payment Amount) will no longer be the starting place of negotiations. Rather, it will be one factor, considered with all other relevant factors in determining the assessed sanction. Not surprisingly, the IRS stated that, in general, the sanction will not be less than the VCP user fee applicable to the plan. This is obviously designed to encourage use of SCP and VCP rather than waiting for the IRS to discover an error on audit.
Relaxing the sanction for failing to timely adopt an amendment that is quickly corrected: Generally, such a failure that is corrected within three months after the expiration of the remedial amendment period will only be $750, regardless of number of plan participants.
Incorporating changes made by recent EPRCS guidance to relax the rules on the collection of overpayments and correction of a failure to timely implement elective deferral elections, in automatic contribution plans and otherwise.
Adding a new rule designed to handle “egregious failures”: Notably, the IRS has now reserved the right to impose a sanction higher than the pre-established VCP user fee for egregious failures that are submitted for correction under the VCP.
Overall, the changes in the revised EPCRS program are welcome, particularly in light of the sunset of the ongoing individually-designed determination letter program at the end of the current cycle. That said, the basic EPCRS rule remains the same—timely and efficient identification and correction of failures will yield the best result for the plan sponsor and potentially provide the best protection to participating employees.

While public comments are being accepted, the new EPCRS revenue procedure will become effective January 1, 2017. Any failures currently undergoing correction that will not be completed by year end should be reviewed under the new guidance for possible refinements to approach, filing fee, etc. Similarly, future failures identified and/or corrected will need to be corrected under the revised program.

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Multiple Challenges: Pension Actuaries Outline Options for Honoring PBGC Multiemployer Program Guarantee

A new issue brief from the Pension Practice Council of the American Academy of Actuaries, Honoring the PBGC Guarantee for Multiemployer Plans Requires Difficult Choices, lays out the hard choices multiemployer plans, regulators, and policymakers will face to honor the Pension Benefit Guaranty Corporation's guaranteed minimum payments to participants

under its multiemployer program.

Unless significant changes are made, the program is projected to become insolvent in approximately eight years, after which it would be unable to make the promised payments. "Recent changes aimed at bolstering the multiemployer program's financial condition may have improved its position going forward, but not nearly enough to support existing guarantees," said Academy Senior Pension Fellow Ted Goldman. "None of the remaining choices available to ensure the guarantees is without disadvantages, and all of them require sacrifices."

To address the program's financial condition, in 2014 Congress passed and President Obama signed into law the Multiemployer Pension Reform Act (MPRA), which increased per-participant program premiums, established a process for plans to apply for benefit suspensions, and made other program changes. The program continues to be challenged, however, by inadequate plan premium levels and employer withdrawal liability payments, plan contribution and investment strategies that have been a factor in lower-than-needed revenues, declining plan contribution bases, changes within multiemployer plan industries, and the effects of the Great Recession.

The Pension Practice Council's issue brief outlines options for addressing the program's financial condition, noting that all have upsides and downsides:

Changes in premiums. To avoid insolvency over the 20-year projection period through further premium changes alone would necessitate, at a minimum, a six-fold increase in premiums, but increases could cause additional stress to distressed plans and motivate a shift toward defined contribution plans that weakens the program.

Changes in premium structures. If flexibility were enabled, premiums could change from a flat per-participant rate to another structure such as a variable rate or a withholding of premium from withdrawing employers or from payments made to participants. Each alternative structure has advantages and drawbacks.

Other legislative approaches. Lawmakers could authorize general revenue, new targeted taxes on transactions, asset transfers from the single-employer PBGC program, or combination of the PBGC single employer and multiemployer programs, to address the multiemployer program's financial condition. Each of these options introduces controversial issues that would impact various stakeholders in different ways.

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