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2020 ERISA Plan Compliance Calendar

A schedule to help plan sponsors track important due dates for their plan

Being a retirement plan sponsor involves juggling many tasks, one of the more important being to make sure your plan complies with all pertinent federal and local regulations. A compliance calendar keeps track of your company's required filings, their due dates and related details so you can avoid incurring any fines or other penalties for late filings or missing information.

What follows is intended to alert PLANSPONSOR readers to some of the significant regulatory dates for 2020—it does not identify all compliance obligations or due dates. Additionally, the calendar assumes that a plan is being administered on a calendar year basis by an employer using a calendar fiscal year. For the most part, the information for pension plans applies to single employer plans.

January

15 Deadline for defined benefit (DB) plans that have a funding shortfall for the preceding plan year to make their last required quarterly contribution for 2019 to the plan trust—i.e., due 15 days after the last plan-year quarter-end.

30 Deadline to provide participants and beneficiaries with the DB notice of benefit restrictions if the plan is less than 60% funded. Note: Due January 30 if the valuation date is the last day of the plan year, or 30 days after the valuation date at which the restriction is determined.

31 Many recordkeepers require participant data for average deferral percentage (ADP)/average contribution percentage (ACP), top-heavy and 402(g) compliance testing to be returned by this date.

Deadline for sending Form 1099-R to participants who received distributions during the previous year.

February

14 Deadline for participant-directed defined contribution (DC) plans to provide participants with the quarterly benefit/disclosure statement and statement of plan fees and expenses actually charged to individual plan accounts during last quarter of 2018. Note: Due 45 days after the end of the quarter.

28 Deadline for filing Form 1099-R with the IRS if not filed electronically, to report distributions made in the previous year.

March

2 The Pension Benefit Guaranty Corporation (PBGC) Form 1-ES estimated premium payment—i.e., the flat-rate premium for plans with over 500 participants—is due to the PBGC. Note: Due by the last day of the second month in the premium payment year. Note: 2020 is a leap year so the last day of February is the 29th, which falls on a Saturday. PBGC Form 1-ES Instructions permit the filing on the next business day.

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March

15 Deadline to apply to the IRS for a waiver of the minimum funding standard for DB and money purchase pension plans—i.e., no later than the 15th day of the third month after the close of the plan year for which the waiver is requested. Note: March 15 falls on Sunday in 2020. No guidance clearly allows extending the deadline to the next business day.

Deadline for distributing ADP/ACP refunds without incurring a 10% excise tax on the employer—i.e., due 2 1/2 months following the plan year-end. Note: A special deadline applies to plans satisfying the requirements of an eligible automatic contribution arrangement (EACA). (See June.) Note: March 15 falls on Sunday in 2020. No guidance clearly allows extending the deadline to the next business day.

16 Employer contributions due to the retirement plan's trust for S-corporations and partnerships with December 31 fiscal year-ends, in order to take deductions with no corporate tax extension. Note: Deadline is the due date for filing of the federal tax return, usually March 15, which falls on Sunday in 2020.

Forms 1042 and 1042-S due to the IRS to report, respectively, income tax withheld from distributions made to nonresident aliens and retirement plan distributions made to nonresident aliens. Note: Deadline is usually March 15, which falls on Sunday in 2020.

31 Electronic filings of Form 1099-R for 2019 distributions are due to the IRS.

April

1 Initial required minimum distribution (RMD) is due to participants who reached their required beginning date in 2019.

15 Deadline for DB plans that have a funding shortfall for the preceding plan year to make the first required quarterly contribution for the 2020 plan year to their plan trust.

402(g) distributions of excess deferral amounts is due to participants.

Employer contributions due to the plan's trust for C-corporations with December 31 fiscal year-ends in order to take deductions with no corporate tax extension.

30 Deadline for sponsors of single and multiemployer DB pension plans to send their annual funding notice to participants, beneficiaries and labor organizations representing participants. Small plans—i.e., those covering fewer than 100 participants—must provide the notice by the IRS filing due date of the plan's Form 5500; the notice takes the place of the summary annual report for a DB plan.

Final 2019 comprehensive PBGC premium due to the PBGC for plans that filed an earlier estimated variable rate premium in the October 15, 2019, comprehensive filing.

May

15 Deadline for participant-directed DC plans to supply participants with the quarterly benefit/disclosure statement and statement of plan fees and expenses actually charged to individual plan accounts during first quarter of this year. Note: Due 45 days after the end of the quarter.

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June

28 Deadline for retirement plans with publicly traded employer securities to file their Form 11-K annual report—i.e., by 180 days after the end of the retirement plan year.

30 ADP/ACP refunds for EACA plans are due to highly compensated employees (HCEs), to avoid a 10% excise tax on the employer.

July

15 Deadline for DB plans that have a funding shortfall for the preceding plan year to make the second-quarter contribution for the 2020 plan year to their plan trust.

28 Summary of material modifications is due to participants—i.e., 210 days after the end of the plan year in which the change was adopted—unless it was included in a timely updated summary plan description (SPD).

31 Form 5330, which reports excise taxes related to employee benefit plans, is due to the IRS.

Form 5500 is due to the IRS for plans with a December 31 plan year-end—i.e., due seven months after year-end.

Form 5558 is due to the IRS; also called the Application for Extension of Time to File Certain Employee Plan Returns, it is used to apply for an extension to file forms 5500 and/or 5330.

Deadline for nonparticipant-directed DC plans and Employee Retirement Income Security Act (ERISA) 403(b) plans to disseminate their annual benefit statement to participants. Note: This deadline corresponds to the deadline for filing the Form 5500, including extensions.

August

14 Deadline for participant-directed DC plans to provide participants with the quarterly benefit/disclosure statement and statement of plan fees and expenses that were charged to individual plan accounts during second quarter of 2020. Note: Due 45 days after the end of the quarter.

September

15 Deadline for money purchase pension, target benefit and DB plans to make required contributions to their plan trust—i.e., by 8 1/2 months after the plan year-end—and for sponsors that filed a corporate tax extension to make 2019 employer profit-sharing and matching contributions.

Minimum funding deadline for pension plans.

Form 5500 due to the Employee Benefits Security Administration (EBSA) from plans eligible for an automatic extension linked to a corporate tax extension.

30 Summary annual reports are due to participants from plans with a December 31 year-end—i.e., due nine months after the plan year-end or two months after filing Form 5500.

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October

1 Start of the period to disseminate annual notices to participants, including the 401(k) safe harbor, automatic contribution arrangement (ACA), qualified automatic contribution arrangement (QACA) safe harbor, and qualified default investment alternative (QDIA)—i.e., from 90 to 30 days prior to the end of the current plan year.

15 PBGC flat rate and variable rate annual premium filing and payment is due to the PBGC—i.e., by the 15th day of the 10th full month that begins on or after the first day of the premium payment year.

IRS deadline for filing Form 5500 after a plan files Form 5558 to request an extension.

Deadline for DB plans that have a funding shortfall for the preceding plan year to make the third-quarter contribution for the 2020 plan year to their plan trust.

IRS deadline for filing the retroactive amendment to correct an Internal Revenue Code (IRC) Section 410(b) coverage or Section 401(a)(4) nondiscrimination failure.

Form 5310-A due to the IRS to give notice of the establishment of qualified separate lines of business.

November

14 Deadline for participant-directed DC plans to provide participants with quarterly benefit/disclosure statement and statement of plan fees and expenses actually charged to individual plan accounts during third quarter of 2019. Note: Due 45 days after the end of the quarter.

15 Summary annual reports due to participants if the Form 5500 deadline was extended because of a corporate tax filing extension.

December

1 Final deadline to disseminate the following annual plan notices: 401(k) safe harbor annual notice for safe harbor plans providing a matching contribution, QDIA annual required notice, annual automatic enrollment and default investment notices (which may be combined with the QDIA notice to plan participants. Note: must be disseminated at least 30 days before the end of the plan year.

Deadline for a plan to amend to elect safe harbor status based on non-elective contributions for the current plan year.

15 Extended deadline for providing summary annual reports to participants if the Form 5500 deadline was extended because of filing Form 5558.

31 RMD is due to participants who reached their required beginning date prior to 2019.

Deadline for a plan to make ADP/ACP corrective distributions for the previous plan year to affected participants in order to maintain qualified status.

Deadline for correcting a failed ADP/ACP test by making a qualified nonelective contribution (QNEC) to all non-highly compensated employees.

Deadline to adopt discretionary amendments to the plan, subject to certain exceptions—e.g., anti-cutbacks.

Deadline for a plan to amend to elect or remove safe harbor status based on matching contributions for the following plan year.

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Participant Fee Disclosure Requirements

- Plan sponsors must furnish fee disclosures to participants on or before the date on which they or their beneficiary can first direct their investments in the plan and at least annually thereafter.
- Plan sponsors must, at least quarterly, furnish participants with a statement of account expenses and the services for which they apply.
- If any changes are made to fee information, plan sponsors must communicate the change to participants at least 30 days, but not more than 90 days, in advance of it.

Miscellaneous Requirements

- Defined contribution (DC) plan statements must be provided at least annually for participants who do not have the right to direct their investments, and at least quarterly for those who do have the right.
- A QDIA [qualified default investment alternative] notice for plans that choose to use a QDIA must be provided to participants 30 days prior to their first investment. Note: If the plan has immediate eligibility, participants must be given the notice as soon as administratively feasible.
- Notice to participants of a qualified automatic contribution arrangement (QACA) or an eligible automatic contribution arrangement (EACA), and of a participant's ability to opt out, must be provided 30 days prior to eligibility and then annually. For plans with immediate eligibility, notice may be given on or as soon as feasible after eligibility.
- Defined benefit (DB) or money purchase pension (MPP) plans must provide the Pension Benefit Guaranty Corporation (PBGC) with a notice of failure to meet minimum funding standards within 60 days of a missed payment or denial of payment waiver.
- An explanation of a plan's pre-retirement survivor annuity must be provided to a participant between the first day of the plan year in which he reaches age 32 and the last day of plan year in which he reaches 35. If a participant is over 35 when hired, he should be given the explanation within one year of hire.
- An explanation of a joint and survivor annuity must be made to affected plan participants between 90 and 30 days before the annuity's starting date.

—Rebecca Moore, with reviewing and editing by Summer Conley and Elise Norcini at Drinker Biddle & Reath LLP in Chicago.

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