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Key Legislative Developments Affecting Your Human Resources

Volume 5 | Issue 32 | August 8, 2014

Medley of Bills Introduced as Congress Departs for August Recess

As Congress prepared to depart for its August recess last week — due to return September 8 — a number of bills were introduced, including nondiscrimination relief for frozen pension plans, proposed technical modifications to the Affordable Care Act, and legislation addressing compensation transparency and taxation.

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Retirement

Rep. Pat Tiberi (R-OH) introduced legislation ([HR 5381](#)) last week that would provide nondiscrimination relief to frozen pension plans. The legislation is [cosponsored](#) by Richard Neal (D-MA). Both are members of Ways and Means — the committee with jurisdiction over the nondiscrimination testing rules. It remains to be seen whether a hearing or markup of the legislation might be possible in the Ways and Means Committee later this year. The bill would provide that a pension plan does not fail the section 401(a)(4) nondiscrimination rules, or the minimum participation requirement in IRC 401(a)(26), provided the composition of the closed class of participants in the plan meets certain requirements. Those requirements include:

- The closed class satisfied the rules as of the date the class was closed (including the nondiscrimination rules for benefits, rights, and features offered to the closed class).
- After the closing date, any plan amendments that modify the closed class (or benefits, rights and features provided to the class) satisfy the nondiscrimination rules.

The bill would provide special rules in the case of an amendment that does not satisfy the second requirement and for defined contribution plans that are tested with the closed plan. (The text of the bill is not publically available, but will be soon.)

Health Care

Before Congress left for its August recess, several bills were introduced in the House of Representatives (House) last week that would exempt certain categories of employees from the employer shared responsibility requirements in the Affordable Care Act. These bills, which might be considered in the House when Congress returns September 8, are:

- [HR 5213](#). Introduced by Rep. Jim Renacci (R-OH), the bill would exempt seasonal employees. For this purpose a seasonal employee is defined as an employee in a position for which the customary annual employment is no more than six months, and which is ordinarily performed at certain periods or seasons of a year. The bill has seven cosponsors.
- [HR 5262](#). The legislation introduced by Rep. Mark Meadows (R-NC) would [exempt](#) students who are employed by their college or university and are enrolled at least half-time. The bill has nine cosponsors.
- [HR 5298](#). This bill also addresses student employees of colleges and universities. Introduced by Rep. Michael Turner last Thursday (R-OH), the legislation would [exempt](#) full-time students employed by their school. This legislation does not yet have any cosponsors.
- [H.R. 5392](#). The legislation introduced by Rep. Renee Ellmers (R-NC) would [exempt](#) H-2A VISA holders, generally non-US resident temporary agricultural workers, from the requirements. The bill has two cosponsors.

Labor and Employment

Rep. Cathy McMorris Rodgers, the fourth-ranking Republican in the House's leadership, introduced legislation last week ([HR 5256](#)) that would encourage compensation transparency by prohibiting retaliation against employees who ask about, discuss, or disclose comparative compensation information unless the employee impermissibly discloses wage information accessed as part of his or her job duties. The legislation, which currently has [ten cosponsors](#), is part of a [broader effort](#) by House leadership to empower working families. Rep. Rodgers also introduced legislation that would provide a tax deduction for 20% of the total compensation of a lesser earning spouse when both spouses work and file jointly ([HR 5257](#)). The prospects for HR 5256 and HR 5257 are uncertain at this time.

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