President Reagan Unveils New Tax Reform Measure

Tax Reform on the Move
President Reagan and House Ways and Means Committee Chairman Dan Rostenkowski (D-IL) joined forces on the evening of May 28 to call for sweeping reform of the tax system. The president gave the nation an outline of the “Reagan Package” released on the 29th and entitled The President's Tax Proposals to the Congress for Fairness, Growth, and Simplicity. Chairman Rostenkowski, while not endorsing the Reagan Package, asked the American people to support tax reform so that he and the president could make it happen.

The Reagan Package contains four themes in its proposals for employee benefits. First, retirement programs should provide retirement income. Second, nondiscrimination should be required in the provision of all employee benefits. Third, there should generally be limits on the amount of a benefit that can be provided on a tax-exempt basis. Fourth, there should be limits on the amount that can be set aside on a tax-deferred basis, a limit on what can come out of these plans without the payment of extra taxes, and all funds coming out of the plans should be taxed as regular earnings.

The Reagan Package contained a number of changes to the Treasury proposal issued in November 1984 (see supplement). For taxable entities, section 401(k) salary reduction programs would be allowed, not repealed. But the discrimination test would be tightened, an $8,000 employee contribution limit imposed, withdrawal provisions repealed, and that amount decreased by any amount contributed to an IRA. Administrative complexity, therefore, would increase.

In place of a “cap” on tax-exempt health insurance premiums, a “floor” tax would be imposed on $10 for single coverage and $25 for family coverage per month. While employer-provided commutation (van-pooling) would lose its tax-exempt status, no other benefit would—which represents a significant change from the November 1984 Treasury proposal. Section 125 of the Code, which allows cafeteria plans, would not be repealed, but new nondiscrimination tests are specified. The Reagan Package contains distribution rule changes, including those proposed by Treasury in November. (Copies of the proposal can be purchased from the U.S. Government Printing Office, stock number 048-000-00373-7.)

The president and other administration officials have begun a major effort to sell the proposal to the public. The Ways and Means committee began hearings on May 30, and the Senate Finance Committee is moving as well. The combined support for reform by the president and the chairmen of the tax-writing committees is seen as formidable and a sign that the Reagan Package should be taken very seriously.

New Provisions in the President’s Tax Reform Proposal

Establish a Uniform Nondiscrimination Rule for All Benefit Plans
New nondiscrimination rules would apply to group-term life insurance plans, health benefit plans, qualified group legal services plans, educational assistance plans, dependent care assistance plans, cafeteria plans, certain fringe benefit plans, qualified tuition reduction arrangements, and welfare benefit plans. Major points covered by the new rules would include the following.

Prohibited group members. A uniform definition of prohibited group members would apply to the nondiscrimination test for each benefit.

Prohibited group members would include owners, high-paid employees, and family members of other prohibited group members.

Nondiscriminatory coverage. The income exclusion of each employer-provided benefit would be subject to a nondiscriminatory coverage test requiring that the percentage of prohibited group members actually benefiting under a benefit plan not exceed 12.5 percent of the percentage of other employees actually benefiting under the plan. In applying this test to contributory plans, only employees making the required contribution would be treated as actually benefiting under the plan.

Nondiscriminatory availability. All types and levels of benefits available to any prohibited group participant must also be available to all nonprohibited group participants.

Nondiscriminatory benefits. Life insurance benefits available to high-paid participants would have to be no larger a multiple of compensation than benefits available to low-paid participants. Health insurance benefits would have to be available to all participants on the same terms even though elections may be different. However, if there are different types or levels of coverage available, each separate type or level will be tested as a separate plan.
fits would have to provide benefits for prohibited group members no larger than 125 percent of the average amount provided for a nonprohibited group member.

Concentration test. The current law concentration tests for group legal services, cafeteria plans, educational assistance, and dependent care would be retained with certain modifications. Instead of prohibiting concentration in favor of 5 percent of owners or key employees, the rule would apply to the top 20 prohibited group members by compensation.

Cafeteria plans. The nondiscrimination tests applicable to particular benefits would continue to apply if the benefit is part of a cafeteria plan. The cafeteria plan itself would also have to be nondiscriminatory. In addition, a special rule would apply to reimbursement accounts. The average reimbursement for medical, legal, or dependent care expenses for a prohibited group participant would not be able to exceed 125 percent of the average reimbursement for nonprohibited group participants. Reimbursements of insurance premiums would not be permitted under reimbursement accounts.

VEBAs. The nondiscrimination rules applicable to voluntary employees' beneficiary associations would be revised to conform to the proposed rules.

New Rules for Unfunded Deferred Compensation Plans of States and Tax-Exempt Employers

The Internal Revenue Code does not specifically authorize section 401(k) plans for nonprofit entities. The president's proposal would extend coverage under section 457 plans to employees of tax-exempt employers. These plans are currently available to employees of state governments and rural electric cooperatives. These plans are unfunded and unqualified; salary deferrals by state employees remain the property of the state until the employee dies, retires, or terminates service, and are subject only to the claims of the state's general creditors.

The maximum annual deferral under such a plan is the lesser of $7,500 or one-third of the employee's compensation. Individual retirement account (IRA) contributions are not offset against such limits, but amounts deferred by employees under tax-sheltered annuities are taken into account in applying these limits.

Modify Nondiscriminatory Coverage Test for Tax-Favored Retirement Plans

A profit sharing, stock-bonus, pension, or annuity plan would be required to satisfy a nondiscriminatory coverage test as a condition of tax qualification. Under this test, the percentage of an employer's prohibited group members benefiting under the plan would not be permitted to exceed 125 percent of the percentage of the employer's other employees benefiting under the plan. Prohibited group members would include owners, high-paid employees, and family members of prohibited group members. Excludable employees would be disregarded in applying this test. These employees would include those not meeting minimum service requirements, those who have not attained age 21, those covered by a collective bargaining agreement, and nonresident aliens with no U.S. earned income. A rule may also be developed that would preclude the exclusion of employees in the absence of a bona fide business purpose.

Revise Cash or Deferred Arrangements (Section 401(k)) and Employer Matching Contributions

The president's tax proposal would modify elective contribution limits, nondiscrimination criteria, distribution rules, and employer matching contribution restrictions pertaining to 401(k) plans.

Section 401(k) plans. The proposal would limit an employee's yearly elective contribution to a 401(k) plan to $8,000 minus the amount of any deductible IRA contribution. For purposes of the ADP test, "prohibited group members' would be strictly defined and their deferral ratio limited. Further, the eligibility rate of prohibited group members might not exceed 125 percent of the eligibility rate for other employees. One year of service would be the maximum tenure allowable as prerequisite to 401(k) eligibility. Distribution restrictions would be modified to prohibit distribution of amounts attributable to employee elections before death, disability, separation from service or plan termination. An employer would be prohibited from conditioning contributions and benefits (other than employer matching contributions) to employees' elective contributions. Lastly, section 401(k) type cash or deferred arrangements would not be available to tax-exempt or public-sector employers.

Employer matching contributions. Employer matching contributions would be required to satisfy the ADP test as if they were elective contributions. If the employer matching contributions were tied to elective contributions, the contributions would be combined for purposes of the test. The deferral ratio for each prohibited group member would be more limited if the employer matching contributions were (1) not wholly nonforfeitable upon contribution, (2) distributable before the employee's death, disability, or separation from service, or plan termination, or (3) in excess of 100 percent of the employee's mandatory contributions. Employer matching contributions in excess of applicable limits would be subject to 10 percent tax. Also, excess matching contributions (and any earnings attributable to them) would have to be distributed by the end of the plan year following the plan year to which the contributions related, or the plan would lose qualified standing. (Such early distributions would have to be made regardless of whether the excess matching contributions were 100 percent vested and would be excepted from distribution restrictions and exempt from any recapture tax.)

Modify Rules for Benefit Forfeitures

Qualified money purchase pension plans would be permitted to use benefits forfeited by a separated employee to increase the benefits of other employees.
Modify Loan Rules for Tax-Favored Retirement Plans

Under current law, loans from qualified plans are treated as taxable distributions unless (1) the loan amount does not exceed certain maximum limits, and (2) the loan is required to be repaid within five years or meets the criteria of the special rule for home loans.

The proposal would modify the current criteria so that the current $50,000 maximum limit is reduced by the highest outstanding loan balance owed by the employee to the plan during the prior 12 months. Thus, the exception as modified would provide that a loan would not be treated as a taxable distribution only to the extent that the loan (when added to the outstanding balance of all other loans from the plan) does not exceed the lesser of the following two amounts: (1) $50,000, reduced by the highest outstanding loan balance owed by the employee to the plan during the prior 12 months, or (2) the greater of $10,000 or one-half of the employee's accrued benefit under the plan.

The proposal would also limit special exceptions for home loans to the first-time purchase of a principal residence by and for the employee. Plan loans to improve an existing residence, to purchase a second home, and to finance improvements for other members of the employee's family would be subject to the five-year repayment rule.

Bipartisan Pension Legislation Promised

Rep. William L. Clay (D-MO), chairman of the Labor-Management Relations Subcommittee of the House Education and Labor Committee, told attendees at the Association of Private Pension and Welfare Plans annual meeting that "we will soon be proposing bipartisan legislation" that will "enumerate a series of national policy goals and will contain proposals designed to move us toward those goals." The legislation is planned for introduction "within the next few months," although Clay conceded he does not expect enactment this year.

The bill will have five long-range objectives: (1) increasing pension coverage, (2) insuring that retirement plans are used to pay retirement benefits, (3) improving the adequacy of benefits received, (4) simplifying integration rules and streamlining plan administration, and (5) protecting retirement plans from changes in the tax law motivated solely by the desire to raise revenues.

Clay said the bill would draw clearer distinctions between retirement and nonretirement plans, applying different rules to each and generally not permitting retirement plans to distribute benefits before a worker reaches retirement age. Capital accumulation plans could allow workers to "withdraw their savings at any age for any purpose with no penalty."

An obvious way to improve benefit delivery for workers covered under private pension plans is to shorten the vesting period to five years, he said. "New simplified integration rules" will be proposed to prevent employers from totally eliminating private pension benefits for lower-paid workers by integrating them out of their plans. He said the bill would not, however, require a uniform minimum benefit, as his former colleague Geraldine Ferraro had suggested.

To increase pension coverage, Clay said Congress should first explore other voluntary incentives before seriously considering mandating private pensions. He said Congress is looking at several options, including a special type of plan which resembles the simplified employee pension plan (SEP), except that benefits would be paid in the form of an annuity. Employees could contribute up to $2,000 to the plan on a salary reduction basis. Nondiscriminatory employer contributions to the plan need not be regular and could occur only in years in which the employer chose to contribute.

The dual purpose of this plan is to enhance coverage and portability, since employees could roll a distribution from another plan into this new type of plan. To avoid changing pension rules each year, Clay suggested a delayed prospective, effective date probably three years after enactment. "Our goal is to provide a focal point for a serious discussion of national policy goals and the best way to achieve them. This is a long-term process.... Some of you will have different, possibly better, ways to achieve some of the policy goals we set. Work with us, we want your input."

Pension Coverage Broad but Not Among Small Firms

Workers employed by large companies are more likely to have retirement plans than are those who work for firms with fewer than 100 employees. Unionized firms offer retirement plans more than those that are nonunion. And government employees are more likely to be covered under a pension plan than are their counterparts in the private sector.

These were some of the results of a nationwide survey in May 1983 sponsored by EBRI and the U.S. Department of Health and Human Services (HHS) and the subject of recent testimony by EBRI's research director, Emily Andrews, before the House Labor-Management Relations Subcommittee.

One of the issues addressed by the Subcommittee was the extent to which a national retirement income policy should address pension coverage. EBRI and HHS sponsored the survey in an effort to determine who is covered by employer-sponsored retirement plans; who is not covered by employer-sponsored plans; recent trends in employer-sponsored coverage; and what influences pension coverage.

Those Covered by Employer-Sponsored Retirement Plans

How prevalent are employer-sponsored plans? The majority of nonfarm employees indicate that that they work for an employer who sponsors some type of pension or retirement plan. Specifically,
Chart 1
Percent of Non—Farm Private Employees with Pension Coverage, by Firm Size and Unionization, May 1983

LEGEND
- Fewer than 100
- 100 to 499
- 500 or more
- Non—union
- Union

56 percent of 88 million nonfarm workers said they were covered under a plan in 1983. Among nonagricultural employees age 25 to 64 working 1,000 hours or more who have worked on their jobs at least one year, 70 percent were covered in 1983. Private firms employing 500 or more employees provided coverage to 82 percent of their employees (chart 1).

Most covered workers earn relatively modest salaries. More than 76 percent of all covered employees earned less than $25,000 in 1983.

Those Not Covered by Employer-Sponsored Plans

Not everyone is covered by a retirement plan. Noncovered workers can be sorted into five categories (chart 2). Fifteen percent of uncovered workers are self-employed, and appear to reinvest their savings in their own businesses instead of in traditional retirement plans. Three percent of uncovered workers are in agriculture. These workers are seasonal and have numerous other employment problems. Twenty-seven percent of uncovered workers are under age 25 or age 65 and over and thus do not meet participation requirements of the Employee Retirement Income Security Act (ERISA). Through the 1984 Retirement Equity Act (REA), which lowered the minimum participation age from 25 to 21, employers will now include 583,000 additional younger employees in their pension plans.

Workers without coverage who did not meet ERISA’s minimum service requirements, i.e., those who were on the job less than one year or who usually worked fewer than 1,000 hours, accounted for another 20 percent of all noncovered workers. Those who met 1983 ERISA participation and service standards (the “ERISA workforce”) made up the remaining 34 percent of all noncovered workers. But they only represent 16 percent of total employment.

Four characteristics distinguish noncovered workers meeting ERISA minimum standards (or who could expect to meet those standards) from covered workers. Noncovered workers are much more likely than covered workers to work in small firms with fewer than 100 employees (68 percent compared to 17 percent, respectively). They are less likely to work under a union contract (10 percent compared to 38 percent, respectively). Noncovered workers also tend
to have lower earnings and shorter job tenure.

Recent Trends in Employer-Sponsored Coverage

To evaluate the coverage issue, it is important to determine how coverage has changed over the past few years and, ideally, why it has changed. Between 1979 and 1983, the coverage rate fell from 61 to 56 percent among nonfarm workers. Declines also occurred among public- and private-sector employees (chart 3).

Declining coverage rates may have been caused by the 1982 recession and generally poor economic conditions. Economic expansion since the May 1983 survey may have produced renewed growth in coverage. Other evidence suggests that coverage may have been affected by post-ERISA legislation, such as the 1981 Economic Recovery Tax Act (ERTA) and the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). Statistics for 1984 and 1985 are needed to determine whether legislative change has reduced coverage growth. Few analysts are forecasting the type of robust growth in pension coverage experienced before 1979.

What Influences Pension Coverage?

Whether an employee has employer-sponsored coverage depends on the characteristics of both the work place and the employee. A statistical analysis undertaken by EBRI shows that the major difference in coverage rates stems from only two sources—firm size and unionization. Small firms that are unionized are more likely to provide coverage than are small nonunionized firms.

These figures suggest that if policies could be devised that would increase the extent of coverage among small firms, many more workers would qualify for pension benefits at retirement. If firms with fewer than 100 workers were as likely to have a pension plan as firms with 100 to 500 workers, 7.6 million more employees would be covered; of these, 3.6 million would be vested.

Changes in coverage have much larger effects on pension receipt than do changes in vesting and participation.

Pension-Related Tax Expenditures in the 1981-1986 Federal Budgets

Both policymakers and the public should be aware that tax expenditures may be an unreliable basis for making retirement policy decisions since they rely on difficult and imprecise concepts. At the same time, however, the statutory requirement that such estimates be published guarantees that they will play an important role in tax and budget policy debates.

The Congressional Budget Act of 1974 requires that the administration’s annual budget submission to Congress include estimates of tax expenditures—or personal and corporate income tax revenues perceived to be lost to the federal government due to tax code provisions that allow special treatment of certain sources or uses of income. Published in an attempt to achieve a symmetry of treatment in the budget process between actual spending and tax expenditures, the balance is far from perfect.

Pension-related tax expenditures in the last six federal budgets are a case in point. Direct expenditures can be added to arrive at a grand total, tracked to determine trends, and defined fairly clearly. Tax expenditures, however, are not additive, cannot be consistently tracked, and are difficult to identify. For example, removing a provision costing $5 billion might not add $5 billion to federal revenues, since it could encourage taxpayers to turn to a similar provision in the tax code. And unlike direct expenditures, tax expenditures cannot be tracked over a period of time, because there is no process for determining actual totals for a given year.

The measurement of tax expenditures also changes over time. Even estimating
which tax code provisions lead to certain tax expenditures is controversial since it requires a judgment about which provisions compose the basic system and which constitute departures from that system and can result in subsidies. Another complication is that tax expenditures are sensitive to the actual and projected performance of the economy, just as are direct expenditures.

In the 1981 budget, for example, pension-related tax expenditures for fiscal year 1981 were projected at $14.7 billion (table 1). During that year, several personal income tax provisions resulted in large revenue losses. By the 1982 budget, pensions accounted for the single largest tax expenditure for individuals. Pension-related tax expenditures grew in the 1982 budget and stayed level in the 1983 budget, but jumped sharply in 1984 when contributions and investment earnings for public-sector plans were included in tax expenditure calculations. Public-sector plans are included in the calculation since pension participants pay taxes even though their employers may not.

The 1985 budget saw some drop in tax expenditures due in part to the performance of the economy that year. In the 1986 budget, pension-related tax expenditures dropped below the 1984 budget level for two reasons. First, the performance of financial markets in 1984, along with uncertainty over the regulatory future of pension plans, led to a decline in employer contributions. Second, Treasury staff changed the tax expenditure calculation to attribute a share of fund investment earnings to retirees. That share receives tax benefits that are valued at the retirees' tax rate, which is lower than the tax rate used for active workers.

Still, these calculations do not reflect the fact that pensions result in a deferral, not a permanent loss, of tax revenues. Because the budget process offsets current tax deferrals against taxes paid by current retirees, it ignores the taxes current workers will pay when they retire. EBRI estimates, published in Retirement Security and Tax Policy, suggest that workers now beginning their pension careers will repay from $0.60 to $0.82 for every $1.00 of currently deferred taxes.

Table 1
Federal Revenue Loss Estimates Due to Net Exclusion of Pension Contributions and Earnings in Selected Federal Budgets

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New Projections Declare Medicare’s Solvency Through 1998

New estimates of Medicare’s financial status indicate that the Hospital Insurance (HI) trust fund may remain solvent until 1998. These estimates, reported in the 1985 Annual Report of the Board of Trustees of the Federal Hospital Insurance Fund, assume continued cost-saving from a fully implemented prospective payment system, as well as scheduled increases in both the maximum earnings taxable by Social Security and the HI payroll tax rate. The Trustees’ 1984 report had projected Medicare insolvency in 1991, using similar intermediate II-B demographic and economic assumptions.

Social Security’s new projections rely heavily on continued cost saving from Medicare’s new prospective payment system based on diagnosis-related groups (DRGs). Medicare began phasing in DRG-based prospective payment in October 1983, replacing its old cost-based method of reimbursing hospitals. In October 1986, prospective payment will be fully implemented, so that all Medicare payments for hospital care will be based on DRGs rather than incurred hospital costs. In 1983, more than 95 percent of all HI spending was for inpatient hospital care.

Medicare’s cost experience with prospective payments has been good. Since 1980, annual increases in Medicare spending for inpatient hospital care have dropped from 20.1 percent (in 1980) to 9.8 percent (in 1983). Medicare projects that total hospital payments for 1984 will be only 7 percent above 1983 spending, reflecting reduced hospital admissions among Medicare enrollees and lower inflation in hospital costs. Medicare’s projected solvency through 1998 assumes generally higher annual growth in hospital utilization and cost than in 1983, but much lower growth than was the trend before prospective payment was implemented (table 2).

The improvement in Medicare’s projected solvency relative to last year’s estimates is based on (1) the lower rate of increase in prospective payment rates (hospital market basket plus 1/4 percent) that Congress legislated last year; (2) the lower forecast base associated with unexpectedly low 1984 expenditures; and (3) changes in Social Security’s economic and demographic assumptions.

Despite Medicare’s good cost experience with DRGs, there is evidence that Medicare patients may be jeopardized by prospective payment. At a hearing of the House Select Committee on Aging...
Table 2

Selected Components of Historical and Projected Increases in HI Inpatient Hospital Payments, 1972–2005*

<table>
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<tr>
<th>Calendar Year</th>
<th>Hospital Input Price Index</th>
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Source: 1985 Annual Report of the Board of Trustees of the Federal Hospital Insurance Trust Fund, Table a1, p. 62.

*Percent increase in year indicated over previous year.
*Projections from 1984 through 2005 are based on Alternative II-B assumptions.

earlier this year, testimony from pa-
tients and health service professionals suggested that hospitals may be responding to prospective payment by releasing Medicare patients earlier and in more fragile health than under cost-based reimbursement. Scattered reports from skilled nursing home operators suggest that hospitals may be releasing Med-
icare patients to skilled nursing care earlier, raising skilled nursing costs for Medicare, Medicaid, and benefici-
aries—and possibly increasing hospital readmission rates. No national data yet exist to support or refute these reports.

Maximum earnings taxable by Social Security increase automatically each year by the rate of growth in average wages nationwide. The HI payroll tax rate (for employers and employees) is scheduled to increase by 0.10 percentage point next year, to 1.45 percent of taxable earnings.

Major California Firms Sponsor Child Care Initiative

The California Child Care Initiative—the largest commitment ever undertaken by the private sector to address child care needs statewide—was recently introduced by BankAmerica Foundation, Chevron USA Inc., The Clorox Company Foundation, Mer-
vyns, McKesson, and the Pacific Gas and Electric Company. The Initiative is designed to bring the supply of quality child care in California into better balance with demand. It will provide corpo-
rate funding for child care resource and referral (R&R) agencies throughout California to recruit and train new child care providers, and is currently capitalized at $375,000.

According to BankAmerica, the need for high-quality, trained, and licensed child care providers is growing in Cali-
forina. In the San Francisco Bay area, for example, licensed child care centers and family day care homes sufficiently reach only 60 percent of the children up to age nine who need care while their parents work. This fall, pilot pro-
grams will begin operating in six Cali-
forina regions where R&R agencies operate.

"The Initiative sets a very important precedent in private-sector involvement with child care," said Patricia Siegel, executive director of the California Child Care Resource and Referral Net-
work, an umbrella organization that is serving as the intermediary between the funders of the Initiative and the local agencies. "I'm particularly pleased to see these major California corporations working with local R&R agencies to build programs that will benefit not just
their employees, but the whole community,” said Siegel.

The funders of the Initiative are looking for other collaborators to reach their goal of $700,000, which will provide sufficient funds for the six pilot programs for one year, plus program development and pilot implementation by the Network. For more information, contact Peter Magnani (415) 953-2418, or Ron Owens (213) 228-3258.

Only an estimated 1,800 out of six million U.S. employers offer some type of child care service. EBRI’s May Issue Brief, “Child Care Programs and Developments,” examines trends in the composition of the family and the work force, which may lead to an increased need for child care; the range of employer-provided child care benefits; and the legislative and public policy developments that could affect child care and related benefits.

New Survey: Don’t Tax Employee Benefits

A recent survey indicates that a majority of working Americans oppose taxing employee benefits, whether in exchange for a simpler tax code or for a reduction in the federal budget deficit.

Those are the findings of a poll commissioned by the ERISA Industry Committee (ERIC) and the Association of Private Pension and Welfare Plans (APPWP), two Washington-based national organizations that represent their members on pension and employee benefit issues. The survey, designed to test the awareness and attitudes of full-time employees and members of the press, was conducted by the Washington public opinion research firm of William R. Hamilton and Staff.

The study found that although 71 percent of those surveyed believe that the current tax system should be less complicated, 61 percent oppose taxing employer benefits to simplify the tax code. The current tax system is unfair, 56 percent of those polled agreed, but 56 percent also disliked the idea of taxing employee benefits to reduce overall income tax rates. Ironically, 56 percent of those questioned were unaware that employee benefits are currently tax-favored.

While 48 percent of those asked thought that cutting defense spending was the best way to reduce the deficit, 19 percent thought cutting social programs was a better idea. But when asked about paying taxes on employee benefits to reduce the deficit, 60 percent disapproved. Eighty-two percent expect that the federal government would be forced to pay for workers’ benefits if employers didn’t.

Another interesting aspect of the survey was that members of the media appeared to be more inclined toward paying taxes on employee benefits to reduce the deficit than are most workers. One-half of those questioned said that they would pay taxes on employee benefits to reduce the deficit, whereas 46 percent of the media members interviewed were opposed to such a tax. Another area in which members of the press disagreed with the general public was whether the highest paid employees receive the most benefits.

Nationwide, 57 percent agreed that the benefit system is unfair, whereas 39 percent believe that the highest paid get the most benefits. Members of the media, however, for the most part agreed that the system is fair. Only 32 percent believe that most benefits go to highly paid employees, whereas 62 percent disagreed with that premise.

The survey also found that 82 percent of the nation’s workers are covered by a health plan, 69 percent have life insurance policies, and 50 percent are enrolled in pension programs. Of the 39 percent who have an individual retirement account (IRA), 61 percent believe that those who make more than $42,000 annually, “Very important” is the rank 58 percent of those polled assign to their pension plan, and 83 percent of those asked do not expect their Social Security checks to be a major source of retirement income.

In response to “Will you have enough money in retirement?” 64 percent of full-time workers answered “yes.” Thirty percent of those surveyed do not expect to have enough retirement income. With a reduced pension, 24 percent believe that they will have enough retirement dollars, but 38 percent answered that they will not have enough income to consider themselves financially secure.

The report was based on interviews with 600 full-time employees and 104 members of the media nationwide and conducted by telephone in April 1985. Findings, the report concludes, indicate that “there is every reason to believe that a well-conceived and well-executed program to develop opposition to measures to tax employee benefits would be successful.”

Legislation and Litigation

House, Senate Negotiate New Federal Budget

Now that both the House and the Senate have produced their own blueprints for spending over the next federal fiscal year, they must agree on a single plan. Although the final dollar figures are not too far apart, how the budgetary pie will be sliced is still very much an issue. The House and Senate Conferences have been meeting since the beginning of June in an attempt to work out their differences. If all goes according to schedule, Congress should begin voting on a final budget package by August.

The Senate approved, on May 10, a nonbinding spending plan totaling $965 billion for fiscal year 1986. In addition to cutting $56 billion from next year’s budget, the plan would save close to $300 billion in proposed government spending over the next three fiscal years.

On May 23, the House also voted to cut next year’s anticipated budget deficit by $56 billion, but its anticipated $256 billion deficit reduction over the next three years falls short of the Senate’s plan. According to Senate calcula-
EMPLOYEE BENEFIT NOTES
SPECIAL SUPPLEMENT

A Comparison of the President's May 1985 Proposal With the Treasury's November 1984 Proposal

November 1984 Treasury Department          May 1985 Reagan

<table>
<thead>
<tr>
<th>A. Rate Reduction</th>
<th>3 rates; 15%, 25%, 35%</th>
<th>3 rates; 15%, 25%, 35%</th>
</tr>
</thead>
<tbody>
<tr>
<td>B. Fairness for Families</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Zero bracket amount</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Single returns</td>
<td>$2,800</td>
<td>$2,900</td>
</tr>
<tr>
<td>b. Married (joint return)</td>
<td>3,800</td>
<td>4,000</td>
</tr>
<tr>
<td>c. Married (separate return)</td>
<td>1,900</td>
<td>2,000</td>
</tr>
<tr>
<td>d. Head of household return</td>
<td>3,500</td>
<td>3,600</td>
</tr>
<tr>
<td>2. Personal exemptions</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Taxpayer</td>
<td>$2,000</td>
<td>$2,000</td>
</tr>
<tr>
<td>b. Dependent (each)</td>
<td>2,000</td>
<td>2,000</td>
</tr>
<tr>
<td>c. Blind and elderly (each)</td>
<td>See below</td>
<td>See below</td>
</tr>
<tr>
<td>3. Tax-free amount excluding</td>
<td></td>
<td></td>
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<tr>
<td>the earned income credit</td>
<td></td>
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<tr>
<td>(1986 levels)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Single returns</td>
<td>$4,800</td>
<td>$4,900</td>
</tr>
<tr>
<td>b. Joint returns</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Family of 2</td>
<td>7,800</td>
<td>8,000</td>
</tr>
<tr>
<td>Family of 4</td>
<td>11,800</td>
<td>12,798</td>
</tr>
<tr>
<td>Family of 6</td>
<td>15,800</td>
<td>16,000</td>
</tr>
<tr>
<td>c. Head of household returns</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Family of 2</td>
<td>7,500</td>
<td>10,158</td>
</tr>
<tr>
<td>Family of 4</td>
<td>11,500</td>
<td>12,558</td>
</tr>
<tr>
<td>4. Provide a single credit</td>
<td>Same</td>
<td></td>
</tr>
<tr>
<td>for elderly, blind, and disabled to replace the exemptions for the elderly and the blind</td>
<td></td>
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<tr>
<td>November 1984 Treasury Department</td>
<td>May 1985 Reagan</td>
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<tr>
<td>----------------------------------</td>
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<td></td>
</tr>
<tr>
<td>5. Repeal deduction for two-earner married couples</td>
<td>Same</td>
<td></td>
</tr>
<tr>
<td>6. Indexation of zero bracket amount, personal and dependents' exemptions and dollar amounts of earned income tax credit (EITC)</td>
<td>Same</td>
<td></td>
</tr>
<tr>
<td>7. Replace child dependent care credit with a deduction from gross income with cap on allowable expenses</td>
<td>Same</td>
<td></td>
</tr>
</tbody>
</table>

**C. Excluded Sources of Income**

<table>
<thead>
<tr>
<th>1. Repeal exclusion of health insurance above a cap</th>
<th>Include as taxable income employer contributions to an employee's health plan up to $10 per month for individual coverage and $25 per month for family coverage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Repeal exclusion of group-term life insurance</td>
<td>Continue exclusion of group-term life insurance. Impose current taxation on life insurance inside build-up. Impose current taxation on deferred annuity investment income</td>
</tr>
<tr>
<td>3. Repeal exclusion of employer-provided death benefits</td>
<td>Same</td>
</tr>
<tr>
<td>4. Repeal exclusion of dependent care services or reimbursement</td>
<td>Continue current law</td>
</tr>
<tr>
<td>November 1984 Treasury Department</td>
<td>May 1985 Reagan</td>
</tr>
<tr>
<td>----------------------------------</td>
<td>-----------------</td>
</tr>
<tr>
<td><strong>5. Repeal special treatment</strong></td>
<td>Continue this treatment</td>
</tr>
<tr>
<td>of cafeteria plans</td>
<td></td>
</tr>
<tr>
<td><strong>6. Repeal exemption of voluntary employee's beneficiary</strong></td>
<td>Continue this exemption</td>
</tr>
<tr>
<td>associations and trusts for supplemental unemployment compensation and black lung disability</td>
<td></td>
</tr>
<tr>
<td><strong>7. Repeal special provisions</strong></td>
<td>Continue current law</td>
</tr>
<tr>
<td>regarding incentive stock options</td>
<td></td>
</tr>
<tr>
<td><strong>8. Repeal exclusion of military</strong></td>
<td>Continue current law</td>
</tr>
<tr>
<td>compensation with offsetting adjustments in military pay, mustering out pay</td>
<td></td>
</tr>
<tr>
<td><strong>9. Repeal exclusion of rental</strong></td>
<td>Continue current law</td>
</tr>
<tr>
<td>allowances or rental value of minister's home</td>
<td></td>
</tr>
<tr>
<td><strong>10. Allow exclusion of employer-provided legal services</strong></td>
<td>Extend exclusion of employer-provided legal services (would expire under current law). Make employees &quot;use or lose&quot; yearly contributions to group legal services plans</td>
</tr>
<tr>
<td>to expire</td>
<td></td>
</tr>
<tr>
<td><strong>11. Allow exclusion of employer-provided education assistance</strong></td>
<td>Extend exclusion of employer-provided education assistance (would expire under current law), and drop limit on excludable amount. Repeal exclusion for scholarships and fellowships in excess of tuition</td>
</tr>
<tr>
<td>to expire</td>
<td></td>
</tr>
</tbody>
</table>
November 1984 Treasury Department

D. Wage Replacement Payments

1. Repeal tax-exempt threshold for unemployment insurance compensation

2. Repeal tax exemption of workers' compensation payments, black lung, and certain veterans' disability payments, but make such income eligible for the credit for the blind, elderly, and disabled

E. Other Excluded Sources of Income

1. Repeal exclusion of scholarships and fellowships in excess of tuition

2. Repeal exclusion of awards and prizes

F. Business Deductions for Personal Expenses

1. Deny all entertainment expenses including club dues and tickets to public

May 1985 Reagan

Same

Same

Repeal tax exemption of workers' compensation and black lung disability payments, but make such income eligible for the credit for the blind, elderly, and disabled. Make taxable disability payments eligible for a means-tested tax credit. Continue exclusion of veterans' disability payments

Same

Same except if awardee designates the prize or award to a tax-exempt organization (charitable)

Limit deduction of business meals to $25 X the number of
Business Deductions for
Personal Expenses (continued)

events except for business meals furnished in a clear business setting. Limit deduction for business meals on a per meal, per person basis

2. Limit deductions for meals and lodging away from home in excess of 200% of the federal per diem. When travel lasts longer than 30 days in one city, limit deductions to 150% of the federal per diem (and disallow incidental expenses)

3. Establish bright-line rules to separate indefinite and temporary assignments at 1 year

4. Extend foreign travel rules for allocation of expenses between personal and business expenses and travel

5. Deny any deduction for travel as a form of education

6. Deny deductions for seminars held aboard cruise ships

7. Deny any deductions for travel by ocean liner, cruise ship, or other form of luxury water transportation above cost of otherwise available business transportation with medical exception

people present at the meal. 50% of the excess of this would be nondeductible

Continue current law

Same

Same

Same

Same

Same

Same
G. Miscellaneous

1. Increase limits on moving expenses

2. Special rule for allowing deduction for some commuting expenses of workers who have no regular place of work

H. Retirement Savings

1. Raise IRA limits to $2,500

2. Make IRAs available to both employees and spouses working in the home

3. Subject all tax-favored retirement plans (TFRPs) to uniform distribution rules
   a. Subject all preretirement distributions from TFRPs to a 20% premature distribution tax, generally, and 10% for tuition and first home purchase
   b. Subject all TFRPs to uniform minimum distribution rules
   c. Repeal 10-year averaging for lump-sum distribution
   d. Eliminate special recovery rules for qualified plan distributions
   e. Repeal special treatment for distributions of employer securities

Continue current law

Continue current law

Leave at $2,000

Yes, $2,000 for each

Same

Same

Same

Same

Same
4. Simplify the deduction, contribution, and benefit limits for TFRPs

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Repeal aggregate-based deduction limits for profit-sharing and stock bonus plans</td>
<td>Same</td>
</tr>
<tr>
<td>b. Subject excess contributions to a 6% excise tax to recapture excessive tax benefits</td>
<td>Same</td>
</tr>
<tr>
<td>c. Repeal combined plan limit for non-top-heavy plans</td>
<td>Same</td>
</tr>
<tr>
<td>d. Subject all retirement distributions in excess of $112,500 per year to a 10% excise tax</td>
<td>10% tax on all retirement distributions over 1.25 times the defined-benefit plan limit</td>
</tr>
</tbody>
</table>

5. Miscellaneous changes

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Extend deduction limits for TFRPs to ESOPs, and repeal the ESOP credit</td>
<td>Same</td>
</tr>
<tr>
<td>b. Repeal &quot;cash or deferred arrangements&quot;</td>
<td></td>
</tr>
<tr>
<td>c. Impose a 10% tax on asset reversions from qualified plans</td>
<td>Same</td>
</tr>
</tbody>
</table>

1. Section 401(k) salary reduction capped at $8,000 with IRA offset
2. Special ADP rules for 401(k) plans
3. Special nondiscrimination rules
4. Section 401(k) available only to taxable employers Tax-exempt employers to use section 457 plans
5. Hardship withdrawal provision repealed

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Employer-Provided Health Benefits: Coverage, Provisions and Policy Issues

examines and evaluates the scope, conditions, areas and levels of coverage offered through employer-sponsored group plans. It spotlights some of the key health-care cost containment plans being proposed, and looks at the types of employers they would affect. Taxing employer contributions to health insurance, requiring employers to offer multiple insurance options, and modifying public insurance coverage are among the proposals examined. This book is of vital interest for anyone directly or indirectly affected by employer-provided health benefits.

Topics include: • Private and public sources of health insurance coverage • Provisions of employer group health insurance coverage • Controlling the cost of employer group plans • Classifying changes in benefit design • Changing incentives to use health care • Recent changes in employer plan benefits • Effectiveness of plan redesign • Tax laws affecting health insurance expenditures • Growth of employer contributions to health insurance • The effect of tax preferences • Proposals to reform tax preferences for health insurance • Effectiveness of tax policy in containing health care costs • Procompetition proposals • Reimbursement reform • And more.

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Why Tax Employee Benefits?

With federal deficits skyrocketing, Washington is seriously considering taxing employee benefits. EBRI's pioneering tax policy forum contains pointed advice and insights on this mounting issue from leading experts in the fields of benefits and tax policy. This book is an important source for anyone with a stake in the future of tax-favored employee benefits.

Topics include:
• Description of tax-favored employee benefits • Proposals to reform tax preferences for health insurance • Revision of regulations and threatened termination of plans • Why do employers provide benefits? • What changes can we expect in the future? • Why not let employees provide their own benefits? • Who pays the high cost of benefits? • The implications of proposed changes • Reasons for special provisions in the U.S. tax code • Some radical solutions • Tax incentives or exemptions vs. government loans and grants • The need for fundamental tax reform • The flexible approach to taxable and non-taxable compensation • Premiums vs. reimbursements • In defense of cafeteria plans • Reduced comprehensiveness of employer-paid health insurance • Increased cost sharing • Effects of tax on rates of coverage • Medicaid's approach to containing costs • Potential changes in use of HMOs • Taxing Medicare benefits • And much more.

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tions, the Senate budget would put the nation within $20 billion of a balanced budget in five years, whereas the House version would leave a $75 billion deficit.

One of the more controversial provisions in the Senate's budget document includes a one-year freeze on the cost-of-living adjustment (COLA) for Social Security and other nonmeans-tested retirement and disability programs. On the other hand, the Senate voted to increase Supplemental Security Income (SSI) payments by $10.00 a month for individuals and $15.00 for couples. The Senate's plan does not freeze COLAs or reduce indexing for either SSI or food stamps. Major changes in the Civil Service Retirement System contained in the Senate's spending proposal include raising the 7-percent contribution rate for employees to 9 percent in fiscal year 1987 and beyond; increasing postal service and District of Columbia employer contribution rates significantly; requiring that certain federal employee benefits conform to those in the Social Security program; and making unspecified cuts designed to save more than $2.1 billion over a three-year period.

The House voted to retain the full COLA for Social Security and other income security programs for the next three years. The difference in revenues is from cuts in proposed defense spending. Where the Senate plan allows the Pentagon's budget to increase with inflation in fiscal year (FY) 1986, the House holds FY 86 defense spending to FY 85 levels with no inflation adjustment. Both the House and Senate allow a defense spending increase 3 percent above inflation in each of the following two years. The House budget resolution also calls for development of legislation to provide a supplemental retirement program for federal workers covered by Social Security (i.e., those hired after January 1, 1984). The Senate has been working on the issue, and legislation establishing a supplemental retirement program for civil service employees could be introduced within the next several weeks.

Medicare spending, which pays doctor and hospital services for about 30 million elderly and disabled Social Security recipients, would be frozen at current fiscal year spending levels if House spending provisions are adopted. This freeze would save about $13.1 billion in revenues over a three-year period. The Senate's plan calls for $16.3 billion in savings over the next three years by freezing all provider payments, including those to doctors, hospitals, laboratories and medical equipment suppliers and by extending current law to make Medicare a secondary payer for all working aged over age 65 covered under an employer's health plan. The Senate also voted to increase the Medicare Part B monthly premium beginning in 1987 to an amount equal to 30 percent of the program costs by 1990. If the Senate-proposed premium increase becomes law, annual premiums paid by beneficiaries will increase from the current $186 to $366 by 1990. If the current 25 percent rate is maintained, premium costs would reach $246 by 1990.

The Senate also voted to cut Medicaid spending by $1.2 billion over the next three years; the House would not freeze or cut the Medicaid program, which provides medical care for about 22 million low-income people.

The Senate's budget includes a Pension Benefit Guaranty Corporation (PBGC) premium increase from the current $2.60 per participant per year to $7.50—the same increase requested by the administration. Although the House's proposed budget does not specify a PBGC premium increase, it assumes additional PBGC revenues of nearly double the administration's request.

Recordkeeping Rules Repealed
Legislation enacted last year under the Deficit Reduction Act of 1984 (DEFRA) is now on its way to becoming obsolete. Overwhelming opposition to detailed recordkeeping of the business use of items such as cars and computers has resulted in new legislation (H.R. 1869) revising last year's measures. Passed by both houses of Congress and on its way to the president's desk, H.R. 1869, sponsored by Rep. Dan Rostenkowski (D-IL), repeals the DEFRA provisions that required individuals to keep contemporaneous records showing the date, mileage, and purpose of each trip. In addition, the implementing regulations issued by the Department of Treasury in January 1985 are repealed.

The substantiation of the automobile business deductions requirement is generally returned to prior law, except for the addition of a requirement that there be some written evidence corroborating the taxpayer's statement. Because the act is effective as if the DEFRA provisions had never been enacted, prior law recordkeeping requirements apply for 1985. The revised substantiation requirements apply to taxable years beginning after December 31, 1985.

The bill requires that the Treasury issue regulations to carry out the provisions of this act no later than October 1, 1985.

Extended Unemployment Aid To End
A program providing federal unemployment benefits to jobless workers whose state assistance has run out has nearly expired.

Implemented three years ago, the Federal Supplemental Unemployment Compensation Program covered about 340,000 people when its phase-out was approved by Congress and the President in April. Since benefits provided under the program do not last more than 14 weeks, the additional assistance is expected to end in July.

Democrats had been pushing for a three-month extension; the administration opposed it, saying that it would cost $440 million. The phase-out is expected to have a $180 million price tag by the program's end in July.

Technical Corrections to DEFRA and REA
The House Ways and Means Committee held hearings May 16 on legislation that would make technical corrections
to the Deficit Reduction and Retirement Equity Acts of 1984 (DEFRA and REA, respectively). The revisions are contained in H.R. 1800 and H.R. 2110, respectively.

H.R. 1800 includes provisions that would repeal the 10-percent excise tax on plan distributions before age 59 1/2 attributed to pre-January 1985 contributions and would prevent those over 70 1/2 years of age from rolling over distribution amounts into IRAs. The measure also includes changes that would affect voluntary employee beneficiary associations (VEBAs), cafeteria plans, and employee stock ownership plans (ESOPs) and makes other miscellaneous benefit changes.

Two changes to REA relate to spousal consent and qualified domestic relations orders (QDROs). H.R. 2110 would require the consent of a participant's spouse before a participant's account balance could be used as security for a loan. The bill also would require that a distribution before the plan's earliest retirement age pursuant to a QDRO is disqualifying if the distributed amount is greater than $3,500. Other provisions would make changes to REA's break-in-service rules, lump-sum treatments, pre-retirement survivor annuities, and death benefits.

Technical Changes to Social Security
Legislation making minor technical changes in the Social Security Act has passed the House and is awaiting action in the Senate Finance Committee. One of the more significant aspects of the bill (H.R. 2005) would extend the Social Security Administration's (SSA) authority to conduct vocational rehabilitation projects in an effort to encourage disabled persons to return to work.

Economic Equity for Women
A package of measures designed to enhance the economic status of women was introduced on May 13 by Rep. Patricia Schroeder (D-CO). Known as the Economic Equity Act of 1985, the omnibus legislation (H.R. 2472) contains 22 individual bills dealing with retirement security, child and dependent care, health insurance, pay equity, and discrimination in insurance. The bill is a compilation of legislation previously introduced or discussed, including the so-called "VIP" (vesting, integration, and portability) legislation drafted last year.

The VIP portion of this legislation would allow workers to qualify for full pension benefits after five years of work instead of the generally required 10 years, provide a minimum benefit above Social Security in integrated plans, permit small vested pension benefits to be rolled over to a portable pension account, and make other changes to cover part-time and mobile workers.

Other features of the legislation are provisions that would:

- increase the amount of money that nonworking spouses can contribute to individual retirement accounts,
- require couples to share equally in Social Security benefits (For a discussion of the concept of "earnings sharing," see "Controversy Surrounds Social Security Earnings Sharing" in March/April Employee Benefit Notes.),
- provide $300 million in direct grants for the establishment of child care services, and
- induce companies to provide five years of health insurance coverage for nonworking spouses after they are widowed or divorced.

Similar legislation has been introduced in the Senate; Sen. David Durenberger (R-MN) is the author of S. 1169, introduced May 20 with 23 cosponsors.

Pensions and Social Security

Pension Fund Investments in South Africa
More than 30 measures have been introduced in Congress prohibiting South African imports, exports, or investments. Although most of the measures merely condemn South Africa for its apartheid system, several bills would restrict United States citizens or firms from making certain investments in the country, and at least two of the proposals specifically address pension fund investments.

So far, H.R. 1406, with 128 cosponsors, appears to be the House bill most likely to win congressional approval. Authored by Rep. William Gray (D-PA), it would prohibit certain loans and investments, including those made by pension funds, by U.S. citizens or businesses in South Africa, and ban the sale of or investment in South African gold coins. Gray's proposal has been approved by the House and now moves to the Senate for further consideration.

Terminating Overfunded Pension Plans
A joint oversight hearing on the subject of overfunded pension plans has been scheduled for June 12 by the House Select Committee on Aging and the House Labor-Management Relations Subcommittee. The Aging Committee, chaired by Rep. Edward Roybal (D-CA), has been a long-standing critic of the termination of overfunded pension plans to recoup excess assets. The chairman of the Labor-Management Relations Subcommittee, Rep. William Clay (D-MO), added his voice to this criticism at a recent interest group meeting, saying "I am concerned about some of the outrageous examples of corporate raids on pension plans. But I also am convinced that this is a very complicated subject. Congress needs much more information than it currently has on the possible effects of any proposed changes to ERISA (Employee Retirement Income Security Act) to limit reversions. We need to focus particularly on how the funding patterns of plans might change and the impact of those changes in funding on the Pension Benefit Guaranty Corporation."

Pension Accruals
If it is determined that the Equal Employment Opportunity Commission does not have legal authority to issue regulations requiring pension accruals for post-retirement-age workers. Congress may pass legislation requiring such accruals. Rep. William Clay (D-MO) said in re-
marks to the Association of Private Pension and Welfare Plans that legislation will most likely be introduced in the House by Rep. Mario Biaggi (D-NY) and that the House Labor-Management Relations Subcommittee is expected to consider the bill and send it to the House floor.

PEPPRA

Rep. Clay will be reintroducing the Public Employee Pension Plan Reporting Act (PEPPRA), which establishes reporting, disclosure, and fiduciary standards for state and local government pension plans. Similar legislation was passed by the House Education and Labor Committee last year, but no further action was taken.

Hearings on Social Security and Private Pensions

The House Ways and Means Subcommittee on Social Security has announced that it will hold hearings late this summer related to retirement income security policy, focusing on both Social Security and private pensions. The committee said the hearings will consider the needs of the Social Security system as the "baby boom" generation approaches retirement, and the feasibility of splitting Social Security earnings credits between husbands and wives. The House Education and Labor Committee held hearings on the issue earlier this year. EBRI's research director, Emily Andrews, addressed the extent to which a national retirement income policy should address pension coverage.

Social Security: An Independent Agency?

SSA would become an independent agency under provisions of H.R. 825, introduced by House Ways and Means Committee Chairman Dan Rostenkowski (D-IL).

The bill, developed upon a recommendation of the National Commission on Social Security Reform, calls for the creation of an independent SSA agency to be governed by a three-member bipartisan board chosen by the president.

Rep. James Jones (D-OK), chairman of the subcommittee, noted at the hearing on the issue that "the agency is responsible for paying benefits to over 35 million Americans, maintaining wage records for over 116 million workers, and handling the claims and information requests for millions of others. Congress can have no higher priority than to assure the efficient, fair and even-handed administration of the Social Security programs. This hearing is part of our continuing inquiry into the best way to do that, whether through an independent agency, or through any other additional changes that might be necessary."

New Plan to Restructure Social Security Tax System

A reduction in Social Security payroll tax rates, coupled with eliminating the ceiling on wages, would increase Social Security and Medicare revenues by about $27 billion in 1986, according to Rep. Edward Roybal (D-CA). In remarks on Social Security and the deficit before the Select Committee on Aging, Roybal outlined a plan to reform Social Security, which he has since introduced as legislation (H.R. 2471).

The "Fair and Complete Tax for Social Security" would reduce Social Security taxes by 2 percent, and apply the tax equally to persons of all income levels. The measure would retain the full Social Security cost-of-living adjustment and repeal scheduled 1988 and 1990 tax increases. According to Roybal's estimates, this would save the median family $353 in taxes over the next three years.

Although several witnesses appearing before the committee approved removing the ceiling on taxable wages, Robert Meyers, former executive director of the National Commission on Social Security Reform, said that he disagreed completely with that part of the proposal. "I believe that such a base and its level is not a financing matter, but rather it determines the benefit design and structure. The level of the earnings base should be such that economic security with respect to earnings above it should be provided through the private sector, either by the person individually or in cooperation with the employer," Meyers told the panel.

Health and Welfare

Mandatory Parental and Disability Leave

A new bill introduced by Rep. Patricia Schroeder (D-CO) would mandate parental and disability leave. The Parental and Disability Leave Act of 1985 (H.R. 200) would require an employer to provide a minimum of six months' leave for all employees who are temporarily unable to work because of short-term disability, and a minimum of four months' unpaid leave for a parent who wants to stay home with a newborn, newly adopted, or seriously ill child. In both cases, the job would be guaranteed upon return.

Although current law requires employers to treat disability due to pregnancy and childbirth in the same way as any other disability, federal law does not require employers to provide disability plans. Employers with fewer than 15 employees are exempt from the federal requirement unless state or local laws provide otherwise. If the employer does not offer such a plan, then there is no obligation to provide maternity leave. Only five states have mandated short-term disability policies: New York, New Jersey, California, Rhode Island, Hawaii, and the territory of Puerto Rico. Maternity leave, therefore, is up to the discretion of the employer in cases where neither of these situations exist.

Federal law, moreover, does not require an employer to extend job guarantees to employees upon return from disability or maternity leave. "The United States is the only country in the industrialized world without a policy providing some period of job-protected maternity leave with some level of wage replacement," said Schroeder in introducing the bill. Her bill would establish a commission to study and recommend within two years means for implementing a national paid disability and parental leave policy.
Employer Well-Child Health Coverage

Legislation pending in the Senate would penalize employers who fail to provide group health plans without well-child coverage. The Child Health Incentives Reform Act of 1985 (S. 376), sponsored by Sen. John Chafee (R-RI), requires employers to offer well-child coverage or lose tax deductions for contributions to group health plans. The bill describes provisions the plans should contain, such as vision and hearing tests and immunizations. It does not address, however, whether the employee or the employer is responsible for the payment of premiums.

EBRI research associate Deborah Challet noted that "the legislation might be meaningless if there is not some definition of 'coverage,' since a high deductible could preclude any meaningful coverage." She also pointed out that in the past, Congress has been reluctant to mandate deductibles and copayments, and there is no indication that they want to start now.

Changes in Medicare Reimbursement Reviewed

The House Subcommittee on Health heard testimony in May on proposed changes in Medicare payment arrangements to hospitals, including the scheduled transition toward diagnosis-related groups (DRGs) and away from hospital-specific prospective payment rates. The subcommittee also heard the statements on the impact of the administration's proposed hospital payment rate freeze.

The General Accounting Office told committee members that unless rate changes are made in reimbursement rates, Medicare could overpay inpatient hospital services by about $900 million due to HHS's use of incorrect data in calculating its rates.

Hearings set for June by the Senate Finance Subcommittee on Health are to include consideration of planned legislation to modify the method of financing medical education under Medicare and strategies on health promotion and disease prevention for Medicare beneficiaries.

Low-Income Workers and Taxes

"It is disgraceful, but true, that since 1980 the poor have only seen their taxes go up and up, while more fortunate Americans have been able to benefit from the rate cuts put in place in 1981," Rep. Charles Rangel (D-NY) made these remarks when he announced a June 6 hearing to investigate the causes and consequences of the growing federal tax burden on those with incomes below the poverty line.

Rangel said that in 1980, a family of four with an income at 75 percent of the poverty line received a net refundable tax credit of $99 (in 1984 dollars). That same family today has a federal tax burden of $44.

The New York Democrat said that the House Ways and Means Subcommittee on Select Revenue Measures will explore the reasons for the current situation and monitor the administration's plans to mitigate federal tax burdens of the poor.

Social Security Disability Determinations

SSA has published proposed rules implementing the 1984 law that provides a standard of review for determining whether disability benefits continue under the Social Security and Supplemental Security Income programs. The Social Security Disability Benefits Reform Act of 1984 provides that no disability benefits will be terminated unless substantial evidence shows that medical improvement in the individual's impairment(s) has occurred, that he or she can perform substantial gainful activity (SGA), or that certain exceptions to medical improvement apply. SSA's proposed regulations tell how the agency will apply the standards, discuss the evaluation process used to determine whether an individual continues to be disabled, and provide explanations of terms used in the proposed rules.

In general, SSA will consider whether there has been any medical improvement in the impairment(s) that was present at the time of the most recent medical diagnosis that the individual was disabled or continued to be disabled. Medical improvement is defined as any increase in the individual's functional capacity to do basic work activities since the most recent favorable medical determination. Under certain exceptions, if there has been no medical improvement but evidence shows that the individual is able to engage in gainful activity, then disability will be discontinued.

The proposed rules are designed to address the concern that thousands of disabled persons had been removed from disability rolls after superficial reviews were initiated to save money.

The proposed rules are published in the April 30 Federal Register, pages 18432-18443. Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, MD 21203, and must be received on or before June 14. For further information, contact Harry J. Short, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (301) 594-7337.

Peer Review Organization (PRO) Final Rules

The Health Care Financing Administration (HCFA) recently published final rules governing Peer Review Organizations (PROs), which monitor health care providers participating in the Medicare and Medicaid programs for utilization and quality control.

The action came after Senate Finance Committee chairman Sen. Bob Packwood (R-OR) called a hearing in an effort to determine why the secretary of HHS had not yet put into place all the regulations under which PROs are to operate. The committee also heard testimony on some of the concerns that both doctors and hospitals have with the program. One of the issues addressed was the inconsistency and confusion that had been caused by the lack of adequate rules governing PROs.

The new rules describe PRO functions
and relationships with health care providers, establish procedures for administrative appeals and judicial review of PRO determinations, and set forth guidelines for acquisition and disclosure of information.

The April 17 Federal Register contains the final rules' text on pages 15312-15374; a correction appears on page 15427 of the April 18 edition.

Proposed Regulation of Long-Term Care Facilities

HCFA is proposing a new rule to protect patients of long-term care facilities (LCFs) that fail out of compliance with the Medicare or Medicaid programs. LCFs would retain certification but be denied funding for new admissions until deficiencies are corrected, for a period of up to 11 months—provided the violations do not immediately threaten patients' well-being.

At any time during the 11-month period, the secretary of HHS (HHS oversees HCFA) or the state Medicaid agency could decertify an LCF that threatened patients' lives by the deficiencies. If the violations were uncorrected at the end of 11 months, the LCF's Medicare or Medicaid agreements would be terminated. The law currently permits HCFA to terminate the Medicare and Medicaid agreements of any LCF that fails to comply with the programs, but it does not provide for an intermediate measure.

HCFA believes the proposal would promote compliance among LCFs without inconveniencing or jeopardizing the health of patients by forestalling and possibly eliminating the need to transfer them to other facilities.

Public comment on the proposed rule closed in March. HCFA expects to publish a final rule this fall.

At EBRI

Second Edition of Fundamentals Now Available

The second edition of EBRI's popular Fundamentals of Employee Benefit Programs has recently been published. Widely acclaimed as a thorough, accurate, and readable primer on the whole range of employee benefits, the first edition was revised to incorporate recent changes in tax laws and federal regulations. New chapters have been added, including an overview of the provision and taxation of employee benefits, 401(k) salary reduction plans, child care benefits, educational assistance benefits, Keogh plans, and health care cost containment. The addition of a comprehensive index makes this 256-page book an easy and thorough reference guide for employers and employees alike. The book is available in softcover ($15.00) or hardcover ($28.00).

Congressional Staff Briefings

On May 29, EBRI held the third in its continuing series of congressional staff briefings on employee benefit topics. The latest briefing covered retiree health benefits—the role of public and private health insurance protection for retirees, provisions and financing of coverage, and recent government actions affecting retiree health plans. Faculty included representatives from EBRI, AT&T, Frank B. Hall Consulting Company, Martin E. Segal Company, and The Wyatt Company. The next briefing, planned for July, will discuss welfare benefit plans.

EBRI Policy Forum Examines Medicare Reforms


The forum was divided into two panels, one on the theoretical and practical options for Medicare reform and the second on the impact of changes in Medicare eligibility, financing and reimbursement, and on private supplementation to Medicare coverage. Forum attendees consisted of a cross-section of congressional staff, corporate executives, labor representatives, academia, and advocacy groups.

EBRI Cosponsors Policy Dialogue

Along with the American Association of Retired Persons and the Washington Business Group on Health, EBRI is cosponsoring a three-day policy dialogue on "Older Workers and Employee Benefits" from June 28 through June 30. EBRI sponsors cooperated in setting the agenda for the meeting.

Presentations

During May and June, EBRI President Dallas Salisbury made a number of presentations on employee benefit topics, including:

- "The Employee Benefit Success Story" before the Society of Professional Benefit Administrators May 1; a legislative update May 8 before the Batus, Inc., Human Resource Conference; on May 9 on the "Impact of Proposed Tax Reform Legislation on the Public Sector" before the Pension Commission Clearinghouse Conference and one on "Employee Benefit Trends" at the Bank of New York's Employee Benefit Trust Seminar;
- "Benefit Plan Trends and the Benefit Industry's Role in Setting National Policy" May 10 at the Midwest Pension Conference, Cleveland Chapter; May 15 on "An Update on Issues and Developments in the Pension World" before the Institutional Investor Pensions Meeting; May 20 on a "Washington Insider's View of Benefits Taxation" before Boston University; on "Tax Reform and Employee Benefits" May 23 at IBM's Washington Update Meeting; June 3 on "The Future Direction of Employee Benefits" at the International Foundation Corporate Benefits Management Conference; and "Proposals to Tax Employee Benefits" on June 6 before the Group Underwriters Association of America.

EBRI's research director, Emily Andrews, discussed both the short-term

Deborah Chollet, EBRI research associate, presented "Employee Benefits and Cost Maintenance" to the Ninth Annual Conference on Collective Bargaining cosponsored by Georgia State University and the National Labor Relations Board and also spoke on May 23 before IBM's Washington Update Meeting on the short-term and long-term outlook for Medicare and health benefits.

Sophie Korczyk, EBRI research associate, spoke on "Tax Reform Proposals and Retirement Plans" May 31 before the Middle Atlantic Actuarial Club; on June 13 participated in a briefing for senior staff and affiliates of the National Rural Electric Cooperative Association on pending tax reform proposals; and June 24 through 27 addressed tax reform proposals and employee benefits before the International Foundation of Employee Benefit Plans.

Testimony

EBRI submitted testimony to the Senate Finance Committee on proposals to tax employee benefits as part of the new tax reform bill and to the Senate Aging committee on retirement policy.

Articles

Frank McArdle, EBRI education and communications director, wrote a commentary on "Employee Benefits: Target of Taxmen" for the Long Beach, CA, Press-Telegram.

Announcements and Publications

NBC to Air Pension Report

NBC is tentatively due to televise a special report called "White Paper on Pensions" on Saturday, July 27. The program will focus on pension investment issues and will include footage from APPWP's annual meeting, held in Washington, DC in May.

Organ Transplant Study

A Health Resources and Services Administration (HRSA) task force is seeking information on the insurance ramifications of organ transplantation and immunosuppressive therapies for a report due to Congress later this year.

One issue being studied is the extent of insurance reimbursement by private insurers and the public sector for transplant procedures and related long-term immunosuppressive drug therapy.

A May 22 public hearing dealt with problems patients encounter in obtaining and paying for immunosuppressive medications. A hearing dealing with other issues, particularly access to organ transplants, will be held later in the year.

The task force was mandated by the National Organ Transplantation Act passed last year. Any person or organization wishing to provide information should immediately contact Jon Gold, Office of Organ Transplantation, Office of the Administrator, HRSA, Room 17-60, Parklawn Building, Rockville, MD 20857, (301) 443-7577.

The June 1984 EBRI Issue Brief (#31), "Rationing High-Cost Health Care: The Case of Organ Transplants," explores this subject in depth.

National PPO for Teamsters

The International Brotherhood of Teamsters and Voluntary Hospitals of America (VHA) have formed the first national network of preferred provider organizations (PPOs)—a move expected to save the Teamsters tens of millions of dollars in health care costs annually.

The network of PPOs, called National Advantage, will serve more than 750,000 Teamsters and their dependents—an average of one out of every 300 Americans—by early 1986. In 1984, the Teamsters' health care tab totaled $350 million.

Medical services will be provided by joint physician-hospital PPOs at predetermined costs. National Advantage is the first risk PPO, meaning that doctors and hospitals share the financial risk if quality and cost-saving goals are not met—and share in the savings if they are.

As an incentive for Teamsters and their families to use the PPO's health care providers, additional benefits will be extended to members who spend 90 percent of their health care dollars with those providers.

Some 70,000 Medicare-eligible retired Teamsters and their spouses perhaps stand to gain the most from seeking medical care through the PPO. The plan will waive the $400 deductible and all coinsurance charges for hospital stays, and physicians will accept amounts approved by Medicare as payment in full.

VHA represents more than 400 not-for-profit hospitals throughout the country.

High Tech Panel to Aid Disabled

Various forms of high technology might be of great value to disabled persons, allowing certain jobs to be performed with greater ease, or even enabling individuals to perform certain tasks that had previously been considered impossible. That is the idea behind establishing a new National Advisory Board on Technology and the Disabled. The Board will help implement a system to disseminate nationwide high technology information that is of use to the disabled and gather teams of technical volunteers to work with various disability groups.

Recently established by Health and Human Services Secretary Margaret Heckler, the Board will work closely with the private sector to assist and advise the Secretary on the use of new technology to assist people with disabling conditions. The panel will also encourage research by both public and private sectors.

Low-Cost Educational Benefits

Employers can offer their employees a low-cost alternative to scholarships and grants through a corporate loan program
set up by United Student Aid Funds, Inc. (USA Funds), a rarely publicized organization that has guaranteed more than $6 billion in loans to more than two million borrowers since 1960. USA Funds is a private, not-for-profit guarantor and servicer of student and parent loans.

The primary focus of its Corporate Loan Program is making low-cost guaranteed loans accessible to employees, their spouses, and/or their children. USA Funds has a group of nationwide lenders available that will provide funds for these borrowers, regardless of the location of the company involved. Lender coverage is prearranged in accordance with the company's needs and/or preference. This insures uniform treatment for borrowers at all locations.

The only payments required of the employer are for administrative purposes. Three fee options are available, allowing employers to choose the option that best suits their needs. There is no student guarantee fee, which is required by most guarantee agencies, and the companies sponsoring this program face no liability under any condition in the event a loan defaults.

For more information, contact United Student Aid Funds, Inc., 8085 Knue Road, P.O. Box 50827, Indianapolis, IN 46250, (317) 849-6510.

Government Reports and Publications


Approximately 85 percent of the U.S. population is covered by some type of health insurance plan, with 75 percent covered by private health insurance, according to a report by the Bureau of the Census. The report is the second in a series based on the Survey of Income and Program Participation, which collects monthly information on income, labor force activity, and program participation. The survey identifies persons covered by group or individual private health insurance plans, military health plans, and the Medicare and Medicaid programs. Coverage under private plans was generally associated with employment. About 61 percent of the population was covered by a plan related to current or past employment, either of themselves or another family member. Copies of the report (Series P-70-83-4) are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

Nongovernment Publications

Flexible Benefits in the Public Sector, William M. Mercer-Meidinger, Inc.

An increasingly diverse American work force is making flexible benefit plans more popular, according to William M. Mercer-Meidinger, Inc. Their recent report indicates that flexible benefit plans can be "an effective tool for public employers concerned about meeting rising employee benefit costs during an era of budgetary constraints, shrinking financial support from the federal government, and heightened taxpayer scrutiny of public expenditures."

Copies of the report, which describes critical factors that public employers must consider before implementing flexible benefit programs, may be obtained by contacting the Practice Development Group, William M. Mercer-Meidinger, Inc., 2600 Meidinger Tower, Louisville, KY 40202-3415, (502) 561-4763.

Performance Benchmarks for the Comprehensive Employee Assistance Program, by Donald Jones, Hazelden Foundation

Employee assistance programs may be cost-effective in improving employee productivity, says Donald Jones, but the claims cannot be proved because of lack of research in the area. He argues that managers will have to be able to demonstrate the effectiveness of employee benefit programs in the future as they compete with other employee benefits for limited corporate resources. In this 44-page report, Jones suggests several tentative benchmarks or standards against which managers can compare their programs, using data from Hazelden's Employee Assistance Services.

Jones is Manager of the Evaluation and Research Department at Hazelden. Jones examines utilization rates, family participation, number of alcohol and drug-related cases, referrals by supervisors, effect of training and mailings on program utilization, frequency use of telephone counseling services after business hours, and number of counselors to employee family units. The report can be ordered for $4.95 from Hazelden Educational Materials, Box 176, Center City, MN 55012.

Surveys


Hansen has released its 1984 investment performance survey, finding that "overall, the economy was strong in 1984." The 16th annual report on the performance of bank-pooled trust funds noted that while overall performance of common stocks reached modestly positive levels, wide swings occurred in the equity markets and resulted in old records broken, and new records set.

The company has been conducting major analyses since 1969, when several banks and insurance companies agreed to participate in a survey of commingled trust funds. "Today," the report says, "most of the large institutional investment management firms in the country provide data, making this the oldest and largest investment performance survey of its kind." For copies, contact Howard Wedelstaedt, 1417 Lake Cook Road, Deerfield, IL 60015, (312) 948-7400, ext. 2635.

401(k) Survey Report, Massachusetts Mutual Life Insurance Company

This survey is based on May 1984 questionnaire responses of approximately 792 companies and businesses, 342 of which have a 401(k) salary reduction plan. The findings cover what trends, if any, are developing in such areas as plan design features, plan experience, administration, and communications. Single copies of the survey are free. For more information, contact Mass Mutual, Group Pension Division, 1295 State Street, Springfield, MA 01111.
The Employee Benefit Research Institute (EBRI) is a nonprofit, nonpartisan public policy research organization based in Washington, DC. Established in 1978, EBRI provides educational and research materials to employers, employees, retired workers, public officials, members of the press, academics and the general public. Through its books, policy forums and monthly subscription service, EBRI contributes to the formulation of effective and responsible health, welfare and retirement policies. The Institute has—and seeks—a broad base of support among interested individuals and organizations, as well as among private-sector companies with interests in employee benefits education, research and public policy.

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