



AMERICAN BENEFITS COUNCIL

January 22, 2018

The Honorable David Kautter
Acting Commissioner
Internal Revenue Service
1111 Constitution Avenue NW
Washington, DC 20224

Re: Recommendations for Standardized and Automatic Disaster Relief

Dear Acting Commissioner Kautter:

The recent series of natural disasters – including hurricanes, floods, and wildfires – have been devastating for many Americans. The American Benefits Council (“the Council”) applauds the disaster relief made available by the Internal Revenue Service (“IRS”), Pension Benefit Guaranty Corporation (“PBGC”), and Department of Labor (“DOL”) (collectively “the Agencies”). That relief has been a tremendous benefit for many individuals and businesses during a very difficult time of need and we commend the Agencies for recognizing and responding to that need.

We are writing to encourage the IRS to standardize this relief by: (1) streamlining its various forms of disaster tax relief, and (2) proactively coordinating its disaster relief procedures with other federal regulators in advance of future disasters. The current system for announcing disaster relief is reactive and staggered. This creates inefficiencies for the IRS and prevents individuals and businesses, at a time of crisis, from taking full advantage of the relief made available to them. Our recommendations below are offered in pursuit of a more proactive, standardized, and automated system for designing and announcing disaster relief.

The Council is a public policy organization representing principally Fortune 500 companies and other organizations that assist employers of all sizes in providing benefits to employees. Collectively, the Council’s members either sponsor directly or

provide services to retirement and health plans that cover more than 100 million Americans.

1. STANDARDIZE AND AUTOMATE ADDITIONAL FORMS OF DISASTER TAX RELIEF

During the recent string of disasters, the IRS announced various forms of tax relief through different IRS publications. For example, the IRS issued press releases extending the deadlines for paying taxes, filing returns, and performing other time-sensitive acts described in Rev. Proc. 2007-56. The IRS published Notices extending minimum funding deadlines for defined benefit plans and facilitating the use of leave-based donation programs. See IRS Notices 2017-48, 2017-49, 2017-52, and 2017-62. And through a series of IRS Announcements, the IRS relaxed the procedural and administrative rules that normally apply to retirement plan loans, hardship distributions, and unforeseeable emergency distributions for individuals affected by the disasters. See IRS Announcements 2017-11, 2017-13, and 2017-15.

The automatic press release system described in Rev. Proc. 2007-56 works well for the types of relief covered by that guidance. Individuals and business can predict the types of relief that will be available in the event of a disaster, press releases are typically published within days of a disaster, and all of the relief covered by Rev. Proc. 2007-56 is available, unless otherwise indicated. This kind of proactive relief is especially important in disaster areas when communication systems and other resources are limited.

The manner in which the IRS communicated *additional tax relief not covered by Rev. Proc. 2007-56*, however, can be significantly improved. During the most recent round of disasters, the system for communicating those additional forms of relief was reactive and staggered. As a result, individuals and business eligible for one form of relief did not know whether additional relief was forthcoming. Also, employers with nationwide operations could not readily determine whether relief made available for victims of one disaster, like Hurricane Irma, was also available for victims of another disaster, like Hurricane Maria. In some cases, the announcement of tax relief trailed the relevant disaster by weeks. This inefficiency prevents individuals and businesses from fully benefiting from the various forms of relief.

In order to make future disaster tax relief more efficient and to facilitate its use by individuals and business affected by disasters, we encourage the IRS to standardize its disaster tax relief procedures to make all forms of disaster tax relief automatic when an area is designated as a presidentially declared disaster area. This would include, but is not limited to, the extension of deadlines covered by Rev. Proc. 2007-56, the extension of certain defined benefit plan funding deadlines, the relaxation of retirement plan loan and hardship distribution rules, and the guidance facilitating leave-based donation programs. Like the extended deadlines covered by Rev. Proc. 2007-56, the other forms

of IRS disaster relief should be made standard and automatic, unless the IRS indicates otherwise.

2. PROACTIVELY COORDINATE DISASTER RELIEF WITH OTHER REGULATORS

During this most recent round of disasters, the Agencies independently announced their own disaster relief affecting employer-sponsored benefit plans, like retirement and health plans. While we appreciate that the Agencies generally coordinate their disaster relief in the aftermath of natural disasters, we believe that this suite of inter-agency relief would be more impactful if it were developed and coordinated before disasters occur.

The relief announced by the Agencies following natural disasters is generally consistent from disaster to disaster, except for necessary changes in locations and dates. Using the predictability and efficiency produced by the automatic disaster tax relief triggered by IRS press releases under Rev. Proc. 2007-56 as a model, we encourage the Agencies to work together to develop their own standardized and automatic inter-agency disaster relief system for employer-provided benefits that can be triggered by a single announcement. For example, under such a system, PBGC could agree to automatically make available certain relief, like extended premium deadlines, to employers already covered by the IRS's automatic disaster tax relief press release system. Similarly, DOL could agree to not treat any person as having violated Title I of ERISA solely for utilizing disaster tax relief offered by the IRS or PBGC.

In the absence of such a proactive system, individuals and businesses eligible for disaster relief from one regulator cannot be certain that they are eligible for disaster relief from another regulator until it is actually announced. A proactive disaster relief system that is coordinated in advance of future disasters, made known to the public, and triggered upon a single announcement would be much more efficient and useful.

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In an effort to promote inter-agency coordination, we are simultaneously sending similar letters to DOL and PBGC.

We are very interested in meeting with you and your staff to discuss our recommendations further and will be following-up to schedule a meeting. In the meantime, if you have any questions, please feel free to reach out to me by phone at 202-289-6700 or by email at ldudley@abcstaff.org

Sincerely,

A handwritten signature in black ink that reads "Lynn D. Dudley". The signature is written in a cursive, flowing style.

Lynn D. Dudley
Senior Vice President, Global Retirement and
Compensation Policy

Cc:

Robert Neis
Shahira Knight
Victoria Judson
Stephen Tackney
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