



AMERICAN BENEFITS COUNCIL

January 22, 2018

The Honorable Preston Rutledge
Assistant Secretary
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Re: Recommendations for Standardized and Automatic Disaster Relief

Dear Assistant Secretary Rutledge:

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 Department of Labor (“DOL”), Internal Revenue Service (“IRS”), and Pension Benefit Guaranty Corporation (“PBGC”) (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 Agencies to proactively standardize and coordinate their disaster relief procedures in advance of future disasters. The current system for announcing disaster relief is reactive and staggered. This creates inefficiencies for the Agencies 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.

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.¹ 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 IRS 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

¹ Rev. Proc. 2007-56 automatically extends the deadlines for filing returns, paying taxes, and performing other time-sensitive acts when the IRS issues a press release announcing the relief. 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.

Sincerely,

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

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