BENEFITS PASSPORT

Updates and Information on International Benefits

BP 2013-01
January 31, 2013

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AMERICAN BENEFITS COUNCIL

AMERICAN BENEFITS INSTITUTE

The American Benefits Institute is the education and research affiliate of the American Benefits Council. The Institute conducts research on both domestic and international employee benefits policy matters to enable public policy officials and other stakeholders make informed decisions. The Institute also serves as a conduit for global companies to share information about retirement, health and compensation plan issues.

OECD Working Party on Private Pensions Meeting, Cross-Border Pension Taxation

OECD's Working Party on Private Pensions (WPPP) Holds Meeting; Considers Investment Policies, Country Developments

The Organization for Economic Cooperation and Development (OECD) is a Paris-based organization that provides a forum for governments of the 34 member countries to work together to solve common economic problems. At the invitation of the U.S. government, the Council has for many years served as a private sector advisor to the U.S. delegation to the OECD. In particular, our involvement is to advise members of the Insurance and Private Pensions Committee on matters that relate to the ability of companies to operate health and retirement plans globally. For example, if the European Union is pursuing some policy that may present an impediment to companies operating their plans in a manner to meet corporate strategies, the Council will alert the U.S. delegation to this concern and assist them in helping achieve a positive resolution of the matter.

The Council urges both our U.S.-based and non-U.S.-based company members to bring to our attention both challenges and opportunities in the international arena so that, as appropriate, we can seek to enlist the support of the U.S. government's delegation to OECD to pursue sound policies.

At the OECD, much of the responsibility to analyze policy and technical issues relevant to private sector employers falls within the purview of the Insurance and Private Pensions Committee's Working Party on Private Pensions (WPPP). This group met in December and David Powell, of Groom Law Group, Chartered, attended the meeting and prepared a **detailed report**.

Having issued recent guidelines on global pension governance, pension supervision and best practices for alternative investments by pension funds, the WPPP has begun examining longevity risk and investment by large pension funds, particularly infrastructure investment. At the December meeting, much of the discussion on infrastructure investment examined both the role of socially responsible investment and long-term investment for long-term liabilities.

In addition to presentations on specific country developments in Russia, Finland and Columbia, there were several presentations made by business and labor organizations. These presentations led to a discussion of the trend from defined benefit pension plans to defined contribution plans, the appropriate amount of risk-sharing between employers and employees and the effect of the recent financial crisis on both types of retirement plans.

DEVELOPMENTS AFFECTING TAXES ON CROSS-BORDER PENSION INVESTMENT

Cross-border pension investment in the European Union continues to present many challenges, including compliance with myriad tax rules. For several years, the European Commission and European Union (EU) plan sponsors have sought to reduce the negative consequences of taxes imposed on foreign pension funds based on the argument that such rules are discriminatory against foreign investors in favor of local country investors and pension funds. This has led to a number of cases being brought before the European Court of Justice.

The discrimination argument may well extend beyond EU investors to non-EU investors, including United States pension funds. If these taxes are found to be discriminatory, it may be possible to claim a refund. The issue and recent judicial developments are more fully described in **a summary** prepared by David Powell of Groom Law Group, Chartered.