September 20, 2017

Updated: IRS, PBGC and DOL Provide Additional Hurricane and Wildfire Relief

Updated November 21, 2017

By: Sterling Perkinson and Harrison Taylor

The IRS issued an announcement paralleling the relief granted to Hurricane Harvey victims to those in Florida affected by Hurricane Irma. Announcement 2017-13 (the "Announcement") relaxes hardship distribution standards for employees who live or work in a Florida county designated by FEMA to receive funds on account of Hurricane Irma, or who have family, such as parents, grandparents, children or grandchildren or dependents with a principal residence in an affected county. The full list of affected Florida counties can be found here. See our prior blog post on Hurricane Harvey - found here - for a more complete description of the relief offered by the Announcement.

In addition, Notice 2017-49 (the "Notice") extends certain deadlines for single-employer and multiemployer defined benefit plans that would occur after August 23rd for Hurricane Harvey or September 4th for Hurricane Irma until January 31, 2018. The extended deadlines apply to "Affected Plans," which include each of the following if located in either a Texas or Florida county designated by FEMA to receive funds for the damage caused by either Hurricane Harvey or Hurricane Irma:

- The principal place of business of the employer maintaining the plan or of employers employing more than 50% of the plan's active participants;
- The relevant office of the plan administrator;
- The relevant office of the primary record keeper; or
- The office of the enrolled actuary or other advisor retained to make funding determinations or certifications.

The extensions apply to the following deadlines:

- Single-employer Defined Benefit Plans

- Making a plan contribution for a plan year;
- Making an election relating to the plan's prefunding balance or funding standard carryover balance;
- Obtaining an ERISA certification of the adjusted funded target attainment percentage; and
- Furnishing a funding-based limitation notice;

- Multiemployer Defined Benefit Plans
  - Making certifications by a plan actuary; and
  - For certain endangered or critical status plans, adopting or updating a funding improvement or a rehabilitation plan.

The IRS has also extended Form 5500 filing deadlines for affected plans (see: Hurricane Irma relief and Hurricane Harvey relief).

PBGC has also extended PBGC-related deadlines for affected plans until January 31, 2018. See https://www.pbgc.gov/prac/other-guidance/dr/updates.

The Department of Labor has also provided guidance relating to plans that are affected by Hurricane Harvey and Irma. See: https://www.dol.gov/newsroom/releases/ebsa/ebsa20170915.

Update: The IRS extended hardship distribution and loan relief to victims of Hurricane Maria and the California wildfires by Announcement 2017-15. This relief applies to hardship distributions made no later than March 15, 2018. The lists of FEMA-designated disaster areas for Hurricane Maria and the California wildfires are available at: https://www.fema.gov/disasters/.