

VEBA Transfers

More Changes to Retiree Healthcare Benefits

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A new trend has emerged in the provision of retiree healthcare. Employers who traditionally offered healthcare coverage to retirees are beginning to transition this benefit to Voluntary Employee Benefit Association (VEBA) Trusts. Instead of administering retiree benefit payouts itself, the employer contributes directly to the VEBA and the VEBA, in turn, pays the retirees.

How does a VEBA Trust work?

Over the past year, United Auto Workers (UAW) union officials confirmed that Chrysler, GM and Ford employees represented by the union have approved contracts to establish VEBA Trusts. Under these agreements, the automakers will transfer funds to a VEBA managed by the UAW, a move that will shift retiree healthcare liabilities from the company to the association. A similar plan has been established at Goodyear Tire and Rubber. The trustee or a committee (in lieu of the employer) will become the sponsor of the group health plan funded by the VEBA.

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A segue with Medicare/Medicaid services

In response to this trend, the Center for Medicare and Medicaid Services (CMS) issued guidance on October 30, 2008 for plan sponsors establishing group health plans to be funded through a VEBA Trust, and who wish to receive the Retiree Drug Subsidy (RDS). Specifically, the CMS pronouncement addresses scenarios where such a group health plan (the VEBA Trust) absorbs some or all of the retirees of a sponsor who **already participates** in RDS.

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Plan ownership and responsibility

CMS states that the identity of the plan sponsor has not changed as a result of a change of ownership, as defined by the Regulations at 42 C.F.R. 423.892. Rather, the identity of the plan sponsor has changed for other reasons. For purposes of RDS, the VEBA-funded group health plan is considered to be a different group health plan than the one sponsored by the previous plan sponsor. Despite the fact that the participants, benefits and/or cost-sharing are identical, the plan is considered to be a new entity. Therefore, if it wishes to participate in RDS, the sponsor of the group health plan funded by the VEBA must submit a new application under its own name and Employer Tax Identification Number.



If the transfer of retirees from the previous RDS plan sponsor to the VEBA occurs in the middle of the previous plan sponsor's plan year, costs incurred by the previous plan sponsor cannot be carried over toward satisfying the cost threshold and cost limit that apply to the new plan sponsor's RDS application. CMS regulations do not prohibit transfers to the VEBA Trusts. They merely regulate the post-transaction administration and application process.

At this time, VEBA Trust transitions occupy a relatively small niche market. If you have questions about this issue, please contact Mike Ehmke at 402.964.5522 (mehmke@ssgi.com) or Tony Sorrentino at 402.964.5470 (tsorrentino@ssgi.com).