

GAO Highlights

Highlights of [GAO-20-70](#), a report to congressional requesters

Why GAO Did This Study

Some types of employers offer executive retirement plans to help select employees save for retirement. There are no statutory limits on the amount of compensation that executives can defer or benefits they can receive under these plans. However, employees in these plans do not receive the full statutory protections afforded to most other private sector employer-sponsored retirement plans, such as those related to vesting and fiduciary responsibility, among other things. These plans can provide advantages but they also have disadvantages because plan benefits are subject to financial risk, such as in a company bankruptcy. GAO was asked to review these plans.

This report examines, among other objectives, (1) the prevalence, key advantages, and revenue effects of executive retirement plans and (2) how federal oversight protects benefits and prevents ineligible participation. GAO analyzed industry-compiled Securities and Exchange Commission plan data for 2013 to 2017 (the most recent data available at the time of our analysis); reviewed relevant federal laws, regulations, and guidance; and interviewed officials from IRS and DOL, among others.

What GAO Recommends

GAO is making four recommendations, including that IRS improve its instructions for auditing companies that offer these plans, and that DOL consider modifying reporting by companies to better describe participants in these plans. IRS and DOL neither agreed nor disagreed with our recommendations.

View [GAO-20-70](#). For more information, contact Charles Jeszeck at (202) 512-7215 or jeszeck@gao.gov

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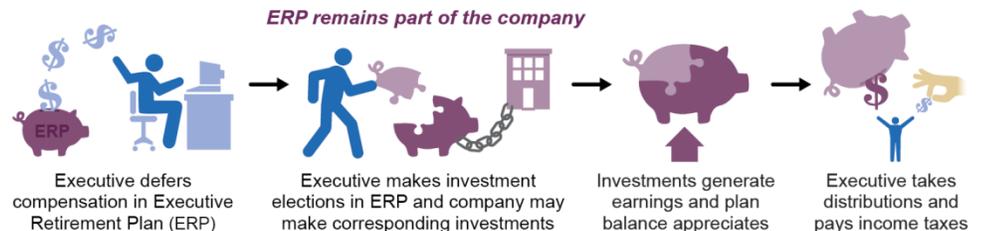
PRIVATE PENSIONS

IRS and DOL Should Strengthen Oversight of Executive Retirement Plans

What GAO Found

Executive retirement plans allow select managers or highly compensated employees to save for retirement by deferring compensation and taxes. As of 2017, more than 400 of the large public companies in the Standard & Poor's 500 stock market index offered such plans to almost 2,300 of their top executives, totaling about \$13 billion in accumulated benefit promises. Top executives at large public companies generally accumulated more plan benefits than top executives at the smaller public companies in the Russell 3000 stock market index. Advantages of these plans include their ability to help executives increase retirement savings and potentially reduce tax liability, but the plans come with risks as well. To receive tax deferral, federal law requires the deferred compensation to remain part of a company's assets and subject to creditor claims until executives receive distributions (see figure). Department of Treasury officials and industry experts said executive retirement plans can be tax-advantaged and may have revenue effects for the federal government; however, the revenue effects are currently unknown.

Federal Income Tax Treatment of Deferred Compensation in Executive Retirement Plans



Source: GAO review of industry literature and federal tax requirements for executive retirement plans. | GAO-20-70

The Internal Revenue Service (IRS) oversees executive retirement plans for compliance with federal tax laws. For example, IRS must ensure that key executives are taxed on deferred compensation in certain cases where that compensation has been set aside, such as when a company that sponsors a qualified defined benefit retirement plan is in bankruptcy. However, IRS audit instructions lack sufficient information on what data to collect or questions to ask to help its auditors know if companies are complying with this requirement. As a result, IRS cannot ensure that companies are reporting this compensation as part of key executives' income for taxation. The Department of Labor (DOL) oversees these plans to ensure that only eligible employees participate in them since these plans are excluded from most of the federal substantive protections that cover retirement plans for rank-and-file employees. DOL requires companies to report the number of participants in the plan; however, the one-time single page filing does not collect information on the job title or salary of executives or the percentage of the company's workforce participating in these plans. Such key information could allow DOL to better identify plans that may be including ineligible employees. Without reviewing its reporting requirements to ensure adequate useful information, DOL may continue to lack insight into the make-up of these plans and will lack assurance that only select managers and highly compensated employees are participating.