Summary of Pension Protection Act of 2006

On August 17, 2006, President Bush signed into law the Pension Protection Act of 2006 (the Act), which is the most comprehensive pension reform legislation since ERISA was enacted in 1974. The Act, which comprises approximately 400 pages, will lead to many companies changing the way their plans are designed and administered, amend plan documents, increase plan funding, and make additional plan disclosures in regulatory filings and to plan participants. Plan sponsors and administrators will need to understand the effects of the new law on their plans and seek professional advice and assistance in implementing the new requirements.

The Act will significantly affect plans in many ways. Among other things, the Act strengthens plan reporting and participant disclosure rules, requires stricter funding rules for single-employer and multiemployer defined benefit pension plans, resolves legal uncertainty surrounding cash balance and other hybrid defined benefit plans, allows plan fiduciaries to give investment advice to participants, and makes permanent significant tax retirement savings incentives enacted under prior law.

Key Provisions of the Act

Key provisions of the Act include the following:

*Reporting and disclosures*

- Requires plan Form 5500 annual reports to be made available electronically on DOL's website and on the company sponsor's Intranet website
- For multiemployer defined benefit plans, requires actuarial certification as to whether plan is in endangered or critical status
- Directs the Secretary of the Treasury and the Secretary of Labor to simplify Form 5500 annual return reporting requirements for certain plans with fewer than 25 participants and the filing requirements for one-participant plans
- Requires additional information to be provided in the Form 5500 annual report for certain defined benefit pension and multiemployer plans

*Participant notices*

- Require single-employer defined benefit pension plans to provide an annual funding notice, similar to the current rules for multiemployer plans
- Eliminates the summary annual report requirement for single-employer defined benefit pension plans (detailed information about a defined benefit pension plan must be provided to participants in an annual funding notice)
- Requires quarterly benefits statements for participant-directed defined contribution plans; annual statements for other defined contribution plans; and statements every three years for defined benefit pension plans
- Requires notices to workers and retirees for plan terminations and blackout periods

**Pension funding**

- Establishes new minimum funding standards for single-employer and multiemployer defined benefit pension plans
- Extends interest rate rules for the funding standard account for multiemployer defined benefit plans that require the use of a rate based on long-term investment grade
- Amends the interest rate calculation for lump sum distributions
- Accelerates contribution requirements for at-risk plans
- Requires single-employer plans that are fully-funded to pay variable-rate premiums to PBGC and establishes special PBGC premiums for small plans
- Limits benefit increases and accruals for underfunded plans
- Requires shutdown benefits be funded through corporate assets
- Promotes increased funding for retiree medical costs and long-term care costs by allowing transfer of excess pension assets to fund the estimated retiree medical costs

**Revenue and other provisions**

- Resolves legal uncertainty surrounding cash balance plans and includes other reforms affecting hybrid plans, defined contribution plans, and nonqualified deferred compensation plans
- Allows companies with up to 500 employees to establish combined defined benefit and automatic enrollment 401(k) plans using a single plan document and trust fund beginning in 2010
- Allows fiduciary advisers of a plan to give investment advice to 401(k) participants or beneficiaries if certain requirements are met. Creates a prohibited transaction exemption for advice provided by a "fiduciary adviser" under an "eligible investment advice arrangement." Also establishes a new independent audit requirement for defined contribution plans with eligible investment advice arrangements with respect to compliance with applicable requirements for such arrangements. (While the Act does not specifically require a CPA to perform the audit, the EBPAQC will offer assistance to the DOL on establishing appropriate auditor qualifications, audit objectives, and reporting standards.)
- Increases deduction limits for single-employer and multiemployer plans
- Makes permanent the retirement savings incentives enacted under the Economic Growth And Tax Relief Reconciliation Act of 2001 (EGTRRA) including annual contribution limits for IRAs, Roth 401(k) plans, enhanced portability of retirement benefits, and reduced administrative burdens on plan sponsors
- Makes the "Saver's credit" permanent
- Creates a safe harbor to encourage employers to offer automatic enrollment in their defined contribution plans
- Allows direct rollovers from retirement plans to Roth IRAs
- Requires defined contribution plans to permit employees to diversify out of investments in employer securities if the securities are publicly traded
- Establishes new rules for testing defined benefit plans, including cash balance and other hybrid plans, for age discrimination under the Code, ERISA, and the Age Discrimination in Employment Act (ADEA)
- Allows annuity contracts and life insurance contracts to include long-term care insurance contracts
- Modifies certain prohibited transaction rules on plan participation in block trades brokered by a party in interest, transactions with parties in interest through regulated electronic communications networks, and certain cross-trading and foreign exchange transactions
- Title XII of the Act also includes miscellaneous provisions related to exempt organizations and charitable contributions, including public disclosure of Forms 990T by 501(c)(3) organizations

The Act will be phased in over the next few years. Some of the disclosure requirements and diversification rules will go into effect in 2007, while most of the other rules will not be effective until 2008. Other rules, such as those involving cash balance or hybrid plans, will be effective retroactively or upon enactment.


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