LEGISLATIVE UPDATE AND TAX REMINDERS

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Recent Pension Changes

The Pension Protection Act of 2006, **PPA**, was signed into law on August 17th, 2006, weighing in at an astounding 900 pages. The PPA, not only entirely revamps the funding rules for all Defined Benefit Plans, but also makes countless changes affecting all Qualified Retirement Plans. Many of the changes are not effective until 2008, but some are more immediate. One of the major provisions of the PPA was to make permanent the pension provisions of The Economic Growth and Tax Relief Reconciliation Act of 2001, **EGTRRA**, which were scheduled to "sunset" at the end of 2010. Plan amendments are not required until 2009, but some changes are effective now.

PPA provisions effective for Plan Years beginning in 2007

- **More rapid vesting** is required for all Defined Contribution Plans. The new requirements extend the matching contribution vesting schedule to all employer contributions. Therefore, all employer contributions must vest as least as rapidly as under a three year cliff vesting schedule or a six year graded schedule.
- **The Special Tax Notice** and the Qualified Joint and Survivor explanation can be provided up to 180 days (up from 90 days) before distribution commences.
- **Benefit Statements** must automatically be provided once per calendar quarter for participant directed plans (including a notice which stresses the importance of diversification) and annually for non-participant directed plans. Defined Benefit Plans must provide statements once every three years. Some plans may find it difficult to meet the new 45 day deadline.
- **Rollovers** are allowed for *non-spousal* beneficiaries to an IRA through a trustee-to-trustee transfer and will then be treated as an inherited IRA. Effective for distributions made on or after January 1, 2007.
- **Default investment funds** used in the absence of a participant election must meet the DOL's Qualified Default Investment Alternative (QDIA) requirements. A QDIA may be a life-cycle, targeted-retirement-date fund or a balanced fund. A required notice must be furnished to participants 30 days in advance of the first investment in a QDIA and at least 30 days in advance of each subsequent Plan Year.

PPA provisions effective for Plan Years beginning in 2008

- **Funding Rules for Single-Employer Plans** are entirely revamped. Generally, the funding will be a plan's normal cost plus a seven-year amortization of any funding shortfall. The actuarial assumptions are prescribed by the PPA and use a corporate bond "yield curve". The real effect of this change is largely dependent on the level of interest rates in 2008.
- **Multi-Employer Plan funding rules** are basically unchanged for well funded plans except for shortened amortization periods for future benefit increases. However, if a plan is significantly underfunded, coined as endangered (less than 80% funded) or critical (less than 65% funded), a funding improvement or rehabilitation plan must be adopted.
- **A new Safe Harbor 401(k)** alternative is added which is based on Automatic Enrollment beginning at 3% of salary with automatic increases of an additional 1% each year until 6% of salary is attained. The new matching safe harbor lowers the match to 100% of the first 1% plus 50% of the next 5%, producing a maximum match of 3½% (the current maximum match is 4%). The non-matching safe harbor remains the same at 3% of salary for all non-highly compensated employees.

Roth 401(k)

Effective 1/1/2006, you can designate your 401(k) contributions as *after-tax* money that grows *tax-free*. The Roth 401(k) has significant advantages for certain highly paid employees. If you're maxing out your 401(k), designating them as Roth contributions to permit *tax-free* growth can be a real financial advantage. Visit www.the401kstore.com to read To Roth, or Not to Roth to get the full scoop.

401(k) Contribution Depositing Requirements

The DOL is still auditing and penalizing late depositors. Under current DOL rules, 401(k) contributions must be deposited **as soon as possible**, but not later than 15 working days after the end of the month for which they were withheld. Because of the confusion this rule has caused, the DOL is supposed to come up with a hard-and-fast rule, but we haven't seen or heard anything yet.

IRS Dollar Limits for Retirement Plans	2004	2005	2006	2007
Elective 401(k) and 403(b) Deferrals	$ 13,000	$ 14,000	$ 15,000	$ 15,500
Catch-up Contributions (over age 50)	3,000	4,000	5,000	5,000
Maximum Defined Contribution limit	41,000	42,000	44,000	45,000
Maximum Defined Benefit limit	165,000	170,000	175,000	180,000
Maximum Compensation limit	205,000	210,000	220,000	225,000

Miscellaneous

- Blackout periods require minimum of 30 days advance notice
- In-service minimum 70 ½ distributions are only required for 5% owners
- Contributions must be made by your tax-filing time with extensions to be deductible and must be made within 8 ½ months of the Plan Year end if subject to Minimum Funding Standards.
- Controlled Groups are treated as a single employer for all retirement plan purposes.
- Sub-S pass through income is not compensation for Plan purposes.