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Important Effective Dates Under PPA 2006

Provisions Effective Retroactively

1. Cash balance and hybrid plan rules (generally on or after June 29, 2005)
 - a. General provisions regarding age discrimination issues.
 - b. Plan will not be age discriminatory if under the terms of the plan a participant's accrued benefit is equal to or greater than a similarly situated younger employee. Ok to express accrued benefit as a hypothetical account balance.
 - c. "No inference" language for plans in existence prior to June 29, 2005. (Means that PPA's age discrimination protections are not retroactive. But, recent court rulings have generally supported cash balance plans in this respect.)
 - d. For conversions to cash balance plans on or after June 29, 2005, the participant's accrued benefit after the conversion cannot be less than the sum of:
 - (1) the participant's accrued benefit for years of service before the effective date of the conversion, determined pursuant to the pre-conversion terms of the plan, plus
 - (2) the participant's accrued benefit for years of service after the effective date of the conversion, determined pursuant to the post-conversion terms of the plan.
2. Plant shutdown benefit guarantees by PBGC (effective for benefits triggered after July 26, 2005)
 - a. PBGC guarantee is phased in over 5 years from the date the plant shutdown or unpredictable event occurred
 - b. Note: Beginning in 2008, if a plan is less than 60% funded under new rules, it may not pay shutdown benefits.

Provisions Effective on Enactment (August 17, 2006)

1. EGTRRA permanency
 - a. The EGTRRA provisions were set to expire 12-31-2010. Now permanent. (Example: catch-up contributions in 401(k) and 403(b) plans.)

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2. Funding future retiree medical benefits - Code Section 420 transfers.
 - a. Can transfer excess pension assets to pay retiree health liabilities for not less than 2 and not more than 10 years. (Prior law: could transfer only enough for current year's retiree medical benefits.)
3. Airline funding relief.
4. PBGC termination premiums
 - a. Makes permanent the \$1250 per participant premium imposed on plans that terminate (underfunded) in bankruptcy. The premium is imposed for three years after the plan sponsor emerges from bankruptcy reorganization.
5. PBGC missing participant program (actually, this program will become effective upon publication of regulations.)
 - a. Missing participant program for defined benefit plan participants is now available for defined contribution plans, multiemployer plans, and professional service employer plans. These plans can "distribute" to missing participants via PBGC.
6. Employer-owned life insurance (for contracts issued or materially changed after enactment.)
 - a. As a general rule, COLI death benefits are excluded from income only to extent of premiums paid.
 - b. However, if decedent was employed in previous 12 months before death, or was a director or highly compensated employee when the policy was issued, and if certain notice and consent requirements are met, the proceeds are fully tax free.
7. Increased defined benefit plan deduction limits
 - a. For 2006 and 2007, the deduction limit is equal to 150 percent of the plan's current liability. In 2008, limit will be based on a formula that looks at funding targets, "cushion" amounts, target normal costs, and minimum required contributions.
8. Restrictions on executive deferred compensation based on defined benefit plan funding
 - a. Amounts set aside in Rabbi trust or otherwise will be taxable to executives if the employer's qualified plans do not meet or exceed certain funding standards (eg, less than 80 percent funded).
9. Cash balance and hybrid plan whipsaw provisions
 - a. Cash balance plan will be able to pay the hypothetical account balance without comparison to minimum present values under Internal Revenue Code Section 417(e).

Provisions Effective in 2007

1. Defined contribution plan vesting
 - a. All employer contributions, not just matching contributions, made to a defined contribution plan must vest under a 3-year cliff or 6-year graded vesting schedule.
2. IRA inflation adjustments
 - a. The AGI limits for making deductible contributions to a traditional IRA or Roth IRA are indexed for inflation
3. Investment diversification
 - a. Amounts attributable to elective deferrals and after-tax contributions must be able to be diversified (out of employer stock, where applicable) at all times, and amounts attributable to matching contributions and nonelective employer contributions must be able to be diversified after 3 years of service.

4. Investment advice
 - a. Provides an exemption for the provision of advice to participants and receipt of fees by a "fiduciary advisor".
 - b. New provisions suggest a prompt review of investment methods in participant-directed account plans.
5. Phased retirement distributions
 - a. Defined benefit pension payments may commence for an employee who attains age 62 and continues employment.
 - b. A possible design change to help retain older workers.

Provisions Effective in 2008

1. Defined benefit plan funding (with transition relief through 2010)
 - a. Prior "funding relief" rules remain in effect through 2007
 - b. More rigorous funding rules become effective in 2008.
 - c. Generally, must fund 100% of liabilities, with phase-in, over a 7 year period.
 - d. New rules on interest rates and determination of funding assets apply.
 - e. However, some pre-2008 funding manipulations (e.g., creation of credit balances) may be desirable
2. Benefit limitations based on plan funding
 - a. If less than 80 percent funded, no amendments that increase benefits and limited accelerated forms of distribution
 - b. If less than 60 percent funded, no amendments that increase benefits, no accelerated forms of forms of distribution, no additional benefit accruals, and no plant shutdown benefits
3. Funding notice requirement
 - a. Will need to send, within 120 days after the end of the plan year, a detailed notice of the funding status of the plan to the PBGC, plan participants/beneficiaries, and unions.
4. Calculation of variable-rate PBGC premiums
 - a. Change in interest rate used to determine unfunded vested benefits
 - b. Full funding limit exception is repealed. This will raise premiums for some previously exempt employers.
5. Lump-sum distribution interest rate assumptions (phased in through 2012)
 - a. Use of yield curve to determine interest rate for lump sums and new mortality tables will also be required.
6. Joint and 75 percent survivor annuities
 - a. Participants must be permitted to elect "qualified optional survivor annuity" with 75% survivorship annuity available.
 - b. This will add an annuity form often considered redundant.
7. Automatic 401(k) plan enrollment
 - a. Can have automatic enrollment and avoid nondiscrimination testing if certain contribution levels and matching contributions are maintained
 - b. The auto-enrollment safe harbor is in addition to current safe harbors.

- c. Minimum initial "default" employee contribution is 3% and escalates at 1% for three years (to a minimum of 6%.)
- d. Must include minimum employer contributions for non-HCE's.
 - as match: Dollar for dollar on first 1%, \$0.50/dollar on next 5%.
 - as nonelective contribution: 3%
- e. Must vest employer contributions after two years.
- f. Must meet notification requirements and offer opt-outs.

Provisions Effective in 2009

1. Plan amendments
 - a. In general, plans must be amended on or before the last day of the first plan year beginning on or after January 1, 2009 to effectuate the changes made by Pension Protection Act.

Provisions Effective in 2010

1. Long-term care insurance tax rules
 - a. Guideline premium is not increased by charges against CSV for coverage under the qualified long-term care insurance contract. Instead, for purposes of the limitation, the charges reduce premiums paid under the contract.
2. New hybrid plan available, combination of defined benefit and 401(k) plan ("DB/K Plan")