HOLLAND&HART. BENEFITS LAW GROUP

News Alert

August 21, 2006

Pension Protection Act Changes Affecting Defined Contribution Plans

On August 17, 2006, President Bush signed the Pension Protection Act (the "Act") into law. The Act was passed on August 3, 2006 and makes extensive changes to defined contribution plans and defined benefit plans.

The Benefits Law Group issued its first News Alert on August 14, 2006, which summarizes the Act's automatic enrollment and fiduciary provisions. This second News Alert highlights certain other defined contribution plan topics and will be followed by two News Alerts addressing provisions of the Act that affect defined benefit plans.

EGTRRA Made Permanent. The Act makes permanent many of the EGTRRA changes scheduled to sunset at the end of 2010 including:

- age 50 catch-up contributions ($5,000 in 2006)
- increased elective deferral limit ($15,000 in 2006)
- increased IRA contribution limit ($5,000 in 2006)
- Roth 401(k) contributions
- increased contribution, benefit, compensation and deduction limits

Employer Security Diversification. Defined contribution plans must be amended to allow participants to diversify investments in publicly-traded employer securities. Participants must have the right to diversify employer securities immediately with regard to employer securities attributable to employee pre-tax and after-tax contributions. Employer securities attributable to employer contributions are subject to the diversification rules after the participant has completed three years of service. Diversification for existing accounts may be phased-in. Plan sponsors must provide at least three different investment options, each with different risk and return characteristics, and are required to notify participants of their investment option alternatives. These diversification requirements are effective for plan years beginning after December 31, 2006 and do not apply to certain ESOPs or defined contribution plans that invest in non-publicly traded employer securities.

Accelerated Vesting Requirements. The Act applies the current vesting rules for matching contributions to all employer contributions made after the 2006 plan year. Employer contributions must now vest under either a three-year cliff vesting schedule or a six-year graded schedule providing for 20% incremental vesting after two years of service through six years of service.

Hardship Distributions. The IRS is required to issue regulations permitting hardship distributions for expenses of the participant's beneficiary under a plan. For example, a plan may be amended to permit a hardship distribution to a participant to pay for the participant's parent's unreimbursed medical expenses so long as the participant has named the parent as his beneficiary under the plan.

Rollovers by Nonspouse Beneficiaries. Effective for distributions after December 31, 2006, the Act permits nonspouse beneficiaries to transfer death benefit payments made on behalf of a deceased employee from a qualified plan, a governmental 457 plan or a 403(b) plan to an IRA. The payment must be transferred directly to the IRA, and the IRA must be established solely to receive the death benefit. In addition, the IRA will be subject to the minimum distribution rules that apply to beneficiaries.

Missing Participants. The Act permits plan administrators of terminated defined contribution plans to take advantage of the PBGC missing participants program. Under this program, plan administrator may transfer a missing participant's account to the PBGC as trustee until the PBGC locates the missing participant. This provision will not be effective until after the PBGC issues final regulations.

Participants Called to Active Duty. Reservists called up for active duty between September 11, 2001 and December 31, 2007 for a period greater than 179 days may take a distribution of elective deferrals from an employer plan or from an IRA without incurring the 10% early distribution tax. Amounts withdrawn from an IRA may be recontributed within a certain period of time and such amounts are not subject to the IRA contribution limits and are not deductible.

Benefit Statements. Quarterly benefit statements must be provided to participants who are allowed to direct investments. Otherwise, annual benefit statements must be provided. The benefit statement must include certain information which will be included in the model benefits statement issued by the Department of Labor in the next several months.

Bond Increase. Effective for plan years beginning after December 31, 2007, the maximum bonding requirement for plans holding employer securities is increased from $500,000 to $1,000,000.

If you have any questions about these or any other provisions of the Pension Protection Act, please contact a member of the Benefits Law Group.

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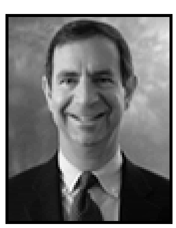

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