



## The Pension Protection Act of 2006

It seems each year lawmakers enact legislation that changes the face of retirement plans. The 2006 tax year was no exception! The Pension Protection Act of 2006 (PPA), enacted on August 17, 2006, makes some significant changes to the reporting and disclosure rules that apply to retirement plans. The law brings about other changes affecting retirement plans as well.

The IRS and Department of Labor (DOL) are required to provide guidance regarding various provisions in the law; however, they have an extended time frame to do so. In the interim, plan sponsors are required to operate their plans under a "good faith" interpretation of the law.

***In the event your plan is affected by the changes enacted by the PPA, your third party administrator should contact you to discuss your individual situation and the actions that need to be taken to take advantage of or comply with this new law.***

### EGTRRA Permanency

To put it simply, the Economic Growth and Tax Relief Reconciliation Act of 2001, "EGTRRA", made some significant and beneficial changes to the law, such as increased compensation limits, catch-up contributions, increased deduction limits, increased 401(k) limits, Roth 401(k) contributions and a number of other changes; however, EGTRRA was drafted so that its provisions would "sunset" in 2011. **The PPA makes the pension-related provisions of EGTRRA permanent.** Without this important change, plans would have reverted back to the "old days" with the decreased deduction, compensation and contribution limits that were in existence prior to EGTRRA.

### Periodic Retirement Plan Statements & Additional Reporting Requirements

One of the most significant changes requires that Plan Sponsors provide periodic benefit statements (or participant statements) on a more frequent basis **under certain circumstances** and that certain additional information be disclosed on the statements.

These provisions are generally effective for Plan years beginning after December 31, 2006.

***The U.S. Department of Labor must issue guidance on how to meet these new requirements. In the interim, Plan Sponsors must make a "good faith" effort to comply with the requirements.***

**Plans that do not allow for participant direction of investments (Trustee directed plans, or "pooled accounts"), will be required to provide a participant statement on an annual basis.**

In addition, **all** participant statements will be required to disclose the following additional information:

- Total account balance and vesting information (*Note: Our participant statements already include this information*)
- An explanation of any permitted disparity (social security integration contribution formula) used to determine benefits
- The value of each individual investment to which assets have been allocated, including assets in employer securities, as of the last valuation date

**For plans that allow for participant direction of investments, even if participants have elected not to exercise this option, plan sponsors will be required to provide participant statements on a quarterly basis.**

Participant statements for plans offering participant direction of investments will be required to disclose the following **additional** information:

- An explanation of any limitations that may exist regarding a participant's right to diversify investments
- An explanation of the importance for diversification of investments and the risk of holding more than 20% in any security
- A notice directing participants to the Department of Labor's (DOL) website for sources of information regarding individual investing and diversification

**If your plan currently provides for participant direction of investments through a daily valuation platform, such as QPA's platform, John Hancock, American Funds, MFS Investments, Transamerica or the Hartford, and does not hold any investments outside the platform, you will only be subject to reporting the additional disclosure requirements. We will work with our recordkeeping partners to ensure that your plan is meeting these requirements in a timely manner.**

**If your plan currently provides for participant direction of investments through a daily valuation platform and holds investments outside the platform, you will be required to provide a consolidated quarterly participant statement. You will still be required to value your "pooled account" portion of the Plan on an annual basis. The latest annual value will be reported to the participant, along with their current daily or quarterly valued investments.**

**Lastly, if your plan allows for self-directed brokerage accounts or some combination of participant directed and trustee directed investments, you will be required to provide a consolidated quarterly participant statement.**

The first pension benefit statement under PPA is required for the quarter ending March 31, 2007 for a calendar year plan that permits participants and beneficiaries to direct investments (December 31, 2007 for a calendar year plan that does not permit investment direction).

**Manner of Distributing Statements.** Benefit statements may be distributed in written, electronic, or other forms, provided that the form is reasonably accessible to participants and beneficiaries. Providing continuous access to plan/account information through one or more secure websites will be considered good faith compliance with the benefit statement requirements, provided that participants and beneficiaries are furnished with an explanation of the availability of the information and how such information can be accessed.

### *Simplified Form 5500 Reporting for Small Plans*

Effective for plan years beginning after December 31, 2006, plans with 25 or fewer participants will be subject to simplified reporting requirements, in general, on the Form 5500.

In addition, the filing requirement for one-participant plans (Form 5500-EZ) will be exempt from the filing requirement, in general, where the plans assets do not exceed \$250,000 as of the first day of the plan year. The current threshold is \$100,000.

### *For Plans that are Not Top Heavy Faster vesting now required for Profit Sharing Contributions*

If you have Plan that is **not Top Heavy** and your plan provides for a 7-year graded vesting schedule for profit sharing or other non-elective contributions, effective for plan years beginning on or after January 1, 2007, **you will be required to change to a 6-year graded vesting schedule.**

Existing profit sharing balances (or other non-elective balances) can continue to vest under the 7-year schedule; however, any profit sharing contributions made for 2007 and future years will be required to vest under the 6-year schedule (or 3-year cliff schedule, where applicable). *Alternatively, Plan Sponsors may elect to vest all profit sharing balances under the 6-year schedule for simplicity purposes.*

**In the event your plan is affected by this provision, your third party administrator should contact you to discuss the various options available for compliance with the provision.**

### *New Distribution Provisions*

The PPA modified the notice requirements and provisions with respect to distributions from qualified plans. In addition, the PPA expands the ability to make retirement benefits more portable.

Effective in 2008, distributions from qualified plans can be directly rolled over to Roth IRAs.

In addition, non-spousal beneficiaries will be allowed to rollover their benefits to an IRA for distributions made after December 31, 2006. The Plan's document must provide for this option. You should contact us regarding any distributions to be made after December 31, 2006 to ensure that the new modified notice requirements have been compiled, as we are currently awaiting guidance from the IRS on this matter.

### *Employer Stock Diversification & Notice Requirement*

Effective for plan years beginning after December 31, 2006, plans that offer **publicly traded employer stock**, must allow participants

to "diversify" their investments (including employer stock) and must provide a notice to plan participants informing them of their rights. The Internal Revenue Service has issued a "model notice" for this purpose. This notice was to be provided no later than January 1, 2007 to plan participants for calendar year plans.

### *Default Investment Safe Harbor Provisions*

The DOL has issued proposed regulations that will provide protection for employers from fiduciary liability related to "default" fund investments where certain criteria are met for plan years beginning in 2007 or later.

To qualify, the employer must provide annual notice to employees. The default investment must be one of the following types of investments:

- a life cycle fund
- a balanced fund
- a managed account with a strategy similar to a life cycle fund.

It is anticipated that the DOL will issue "final" regulations during the first quarter of 2007 to provide guidance regarding this new provision.

### *Other Changes*

Automatic enrollment allowed in all states. Effective in 2008, new rules allowed for plans utilizing "eligible automatic contribution arrangements"

Special safe harbor provisions for plans with "qualified" automatic contribution arrangements.

Various changes with respect to defined benefit plans.

Hardship distributions provisions will be expanded to allow participants to take distributions on behalf of their "named" beneficiary/(ies). The Plan's document must provide for this option.

Companies who maintain non-public intranet sites for purposes of communicating with their employees will be required to display their form 5500. The DOL will issue guidance regarding this provision.

Special provisions regarding safe harbor mapping of investments during "black-out periods"

PBGC program for "lost" participants expanded to cover terminating defined contribution plans

Effective for plan years beginning on or after January 1, 2008, 401(k) corrective distributions will be taxed in the year of distribution (in general, currently taxable in the prior year)

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The Department of Labor is required to provide guidance on how to meet the new PPA requirements. As of publication date, guidance has not been received for all of the relative provisions. Once received, final guidance may modify some of the provisions listed in this publication.

If Qualified Plan Administrators, Inc. may assist you in reviewing your current plan, or establishing a new plan, please contact Karen Dixon at 706-724-4557 or 803-252-0393.

**DISCLAIMER:** The information contained in this outline is of a general nature, based on opinions, and is not legal, financial, tax or accounting advice. Consult your independent practitioner for specific guidance regarding how these matters affect your Plan.