Retirement Plan Update

Issue 17 | A publication of Retirement Planners & Administrators, Inc. | July 2007

Update On The Pension Protection Act of 2006

In our last newsletter we reviewed the major provisions of the Pension Protection Act (PPA), and while amendments incorporating the provisions are not required until 2009, plans must be operated with these provisions. Now that some of those provisions have taken affect, and the IRS and DOL have released additional guidance, here is a summary of their affect and how RPA is insuring our clients comply:

PPA Change:
Beginning in 2007, the PPA no longer permits the use of a 5-year cliff or 7-year graded vesting schedule for profit sharing contributions.

RPA Response:
RPA is calculating vesting on a 3-year cliff or a 6-year graded schedule as applicable for those clients that had the longer schedules.

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PPA Change:
Beginning in 2007, non-spouse beneficiaries will be permitted to roll over the death benefit to an Inherited IRA.

RPA Response:
This is a positive change, with no additional expense or burden on our clients, therefore all our plans will permit these rollovers, and RPA will include this provision in our amendment package you receive in 2009.

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PPA Change:
The use of a Qualified Default Investment Alternative (QDIA) to invest the contributions of a participant that did not affirmatively select funds will provide additional protection to the fiduciaries of the plan. A QDIA is a balanced, life-cycle or target-date fund, or a professionally managed account. Additionally, a yearly notice must be provided to affected participants.

RPA Response:
Prior to the PPA it was common-place to use a money market fund or stable value fund as the default investment in a plan. We recommend that plans change their default fund to be either a balanced-type fund or a life-cycle fund. Please consult your plan's investment advisor, or if you don't have an advisor please contact your assigned administrator.

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PPA Change:
Beginning in 2007, benefit statements must be provided at least quarterly to plans that allow participants to direct the investments in their account.

RPA Response:
The majority of our clients are using a daily valuation product that provides quarterly statements. We will be contacting clients who are using an annual balance-forward valuation for their plan in order to provide the options to comply with the regulation.

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PPA Change:
Participants must be provided with information on vesting at least annually. Additionally, when a separate annual vesting statement is provided separate from benefit statements, an explanation of how, when and by whom the vesting statement will be provided.

RPA Response:
On May 11, 2007 an email was sent detailing the use of an annual statement to satisfy the vesting notification requirement. This included a notice that was required to be distributed to all participants informing them of the annual vesting notice. If you did not receive this email please contact your assigned administrator.

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PPA Change:
Participants must be given a statement of the importance of a diversified investment portfolio, and reference must be made to the DOL's website regarding individual investing and diversification.

RPA Response:
This requirement is being satisfied for most clients by their investment providers who are including the required information. These investment providers include companies such as John Hancock, RPA Daily, ING, Nationwide, and American Funds Direct. If your plan allows participants to open individual brokerage accounts, or other non-bundled accounts, you will most likely be required to distribute a quarterly notice to your participants. Please call our office if you need a sample notice. ❖

Do you have an enrollment period coming up? Give us a call and we will arrange for a representative from your investment company and/or an RPA representative to attend your enrollment meeting.

Roth Deferrals

The ability to allow Roth deferrals in a plan became effective on January 1, 2006 and as we predicted only a small number of our clients adopted the provision. Although Roth deferrals remain a hot topic in some circles, the number of participants who elect to make Roth deferrals remains low. The reasons may be the additional rules on Roth deferrals, which can be confusing, such as the 5-year clock and the extra steps involved in rolling Roth balances into a Roth IRA and not a traditional IRA.

If you are interested in adding the ability to make Roth deferrals to your plan please contact your assigned administrator ❖

Investment Policy Statement

An investment policy statement is a record of the steps taken by the plan's fiduciaries in selecting and monitoring the investment options in the plan. It can also document the steps taken in the selection of an investment advisor who is hired to select and monitor the investment options in the plan. Although an investment policy statement is not required under ERISA, the Depart-ment of Labor "believes that such statements serve a legitimate purpose in many plans by helping to assure that investments are made in a rational manner and are designed to further the purposes of the plan and its funding policy".

An investment policy statement is also another layer of protection against litigation from a participant who claims the funds in the plan were inappropriate or not adequate. In this type of situation it would be the fiduciaries who would need to prove that their decision making process was sound and in the interest of the participants.

If you would like more information on investment policy statements please contact your assigned administrator or your plan's investment advisor.❖

Who is a Fiduciary?

A person is a fiduciary with regard to a plan if he or she: (i) exercises any discretionary authority or discretionary control with respect to management of such plan, or exercises any authority or control with respect to management or disposition of its assets, (ii) renders investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of such plan, or has any authority to do so, or (iii) has any discretionary authority or discretionary responsibility in the administration of such plan. The employer and its officers and directors may be considered plan fiduciaries to the extent they act or serve in a capacity by performing functions that are covered in ERISA's definition of a plan fiduciary. Plan fiduciaries generally include plan trustees, plan administrators, investment managers, and members of a plan's investment committee.

The duty of a fiduciary is to act in the best interest of the plan participants and beneficiaries.

2007 Plan Limits

401(k), 403(b), 457 Deferral	$15,500
401(k), 403(b), 457 Catch-up	$5,000*
Maximum Compensation	$225,000
DC Plan 415 Limit	$45,000
Social Security Wage Base	$97,500
SIMPLE Deferral Limit	$10,500
SIMPLE Catch-up	$2,500*
HCE Comp. Determination	$100,000
Top-Heavy Key Employee	$145,000
Defined Benefit 415 Limit	$180,000

*Available to participants who will be age 50 or older by December 31.

Reminders & Tid-bits:

Deposit Employee Deferrals Immediately

The Department of Labor (DOL) rules state that employee deferrals and loan payments must be deposited as soon as the amounts can be separated from the employer's general assets, but no later than the 15th business day of the following month. The DOL believes many employers can remit deferrals to the plan within days after each payroll cycle.

Summary Plan Description

You must give a copy of the Summary Plan Description (SPD) to every newly eligible participant within 90 days of their becoming eligible.

Safe Harbor Contribution Notices

If your plan is utilizing Safe Harbor Contributions to avoid certain tests, you must hand out your Notice to participants 30 days before the beginning of your plan year, and to new participants as they become eligible.

Fidelity Bond

A Fidelity Bond protects the plan assets against fraud. Regulations require a plan to have a Fidelity Bond for no less than 10% of the plan assets. Not having a Fidelity Bond can subject even the smallest of plans to a costly annual audit. Be sure to project the plan assets for the next couple of years to avoid having to request an increase each year.