Overview of the New 2008 Pension Law

The Worker, Retiree, and Employer Recovery Act of 2008 was passed by Congress late last year. It was promptly signed into law on December 23, 2008.

This new federal legislation includes several important changes affecting qualified retirement plans and IRAs, and clarifies provisions in the Pension Protection Act of 2006 (PPA). The following is a brief summary of several key provisions in the new pension law.

Required Minimum Distributions

As a general rule, you must begin taking a required minimum distribution (RMD) from your qualified retirement plans, including 401(k) plans and traditional IRAs, by April 1 of the year after the year in which you turn age 70½. If you do not take the RMD, you are liable for a penalty tax equal to 50% of the required amount.

The amount of the RMD is based on your life expectancy and, significantly, the value of your accounts on the last day of the previous year (e.g., December 31, 2007, for 2008 distributions). In light of the recent stock market volatility, the new law suspends the RMD rule, but only for the 2009 tax year. Despite public calls for retroactive tax relief, there is no such waiver for the 2008 tax year. Note that the rule for RMDs will be reinstated for the 2010 tax year.

Nonspouse Rollovers

Prior to the PPA, only a surviving spouse was able to roll over proceeds tax-free from a qualified plan to a traditional IRA. A nonspouse beneficiary – such as a child or grandchild – could not use this technique. But the PPA permitted tax-free rollovers for plan distributions after 2006 as long as they were made directly from one trustee to another.

It was not clear at the outset if the administrators of qualified plans were required to provide this option to nonspouse beneficiaries. Under the new law, the option is mandatory, effective for distributions after 2009.

Single Employer Plans

The PPA set transitional funding requirements for pension plans, but some employers may have difficulty meeting the targets under current economic conditions. For instance, the target percentage for 2009 is 94%. The PPA requires employers who do not meet these targets to subsequently provide 100% funding. Under the new law, this rule is relaxed so that the employer can limit subsequent funding to the target percentage.

Multiemployer Plans

The new law also liberalizes several special PPA funding rules for multiemployer plans in "endangered" or "critical" status. For example, effective for plan years beginning after September 30, 2008, and before October 1, 2009, the current funding status of multiemployer plans may be frozen, based on the prior year's status.

Also, the rehabilitation period is extended from 10 years to 13 years for plans in endangered or critical status in 2008 or 2009 (from 15 years to 18 years for plans in "seriously endangered" condition).

Finally, the new pension law contains a slew of technical corrections to the PPA. Please to contact us to learn more. ■

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