

Qualified Retirement Plans

- **Pension Protection Act Amendments for Qualified Plans:** Generally, all tax qualified plans (both defined contribution and defined benefit) must be amended to comply with the Pension Protection Act of 2006 (PPA) no later than the last day of the first plan year beginning in 2009 (i.e., December 31, 2009, for calendar year plans). The amendment deadline for governmental plans is the last day of the first plan year beginning in 2011 (i.e., December 31, 2011, for calendar year plans). Click [here](#) for a summary of the PPA amendments.
- **Plan Restatements and Determination Letters for Volume Submitter and Prototype Plans:** Under IRS procedures the deadline for restating pre-approved prototype or volume submitter plans is April 30, 2010. If the employer makes any changes to the pre-approved plan document, then the plan should file for an individual determination letter from the IRS. The determination letter application deadline is also April 30, 2010.
- **Plan Restatements and Determination Letters for Cycle D Filers:** Under IRS procedures, each individually designed retirement plan maintained by an employer with an employer federal tax ID number ending in four or nine must be restated by January 31, 2010. The deadline for requesting a determination letter with respect to a restated plan is also January 31, 2010. It is imperative that you contact us immediately if you would like our assistance with Cycle D plans.
- **401(k) Safe Harbor 401(k) Notices:** Annual safe harbor notices for calendar year plans must be provided to participants by December 1 of each year.
- **401(k) Automatic Enrollment:** Required annual notices for automatic enrollment arrangements must be provided to participants by December 1 of each year for calendar year plans.
- **Qualified Default Investment Alternatives for Participant Directed Plans:** Participant notices for plan sponsors who desire safe harbor relief from fiduciary liability for qualified default investment alternatives must be provided by December 1 of each year for calendar year plans.
- **Required Minimum Distributions:** Employers must decide by November 30, 2009, whether or not to waive the 2009 minimum distribution requirements applicable to 401(k), 403(b), 457(b) and other individual account plans. The 2009 waiver does not apply to defined benefit pension plans. Plan amendments need not be adopted until 2011. Employers who choose to impose the 2009 waiver may add the waiver as a mandatory plan requirement or allow each affected participant to choose to receive or not receive 2009 required distributions. Employers may wish to notify participants who received distributions that were not required that they have until November 30, 2009, to roll over to an IRA and avoid tax on the distribution.
- **Discretionary Amendments to Qualified Retirement Plans:** Generally, discretionary amendments must be executed before the end of the plan year in which they are implemented (December 31 for calendar year plans). The IRS publishes a list of recent guidance that may require discretionary amendments on its website at <http://www.irs.gov/retirement>.
- **403(b) Written Plan Documents:** All Code Section 403(b) plans must be set forth in writing no later than December 31, 2009. This requirement applies to both ERISA and non-ERISA plans. Certain church plans may be excepted from this requirement.
- **Posting Form 5500 Defined Benefit Plan Information on Intranet:** Beginning with the 2008 Form 5500, sponsors of defined benefit plans are required to post identification, basic plan information, and actuarial information on an intranet website, if available. The Department of Labor (DOL) is required to post the same information on the DOL website. The Form 5500 information should be posted to your intranet website as soon as possible after filing.

- **Defined Benefit Plan Statements:** The PPA generally requires that defined benefit pension plans provide benefit statements to participants every three years, subject to certain exceptions. If you have not previously provided those benefit statements, you will be required to do so in 2010. Alternatively, employers may send an annual notice that describes how to obtain a statement.
- **New Safe Harbor Tax (Section 402(f)) Notice:** The IRS has provided two revised safe harbor tax notices (one for participants with a Roth account and one for participants with no Roth account) that may be provided to participants who receive plan distributions. Effective January 1, 2010, the revised safe harbor tax notices must be used to take advantage of the safe harbor.