



Most PPA06 Retirement Plan Amendments Must Be Adopted By December 31, 2009

This is a reminder that amendments to qualified retirement plans to comply with changes mandated by the Pension Protection Act of 2006 (“PPA06”) must be adopted by the last day of the plan year beginning in 2009. The deadline for governmental plans is the last day of the plan year beginning in 2011.

This means that PPA06 amendments for calendar year (nongovernmental) plans must be adopted by December 31, 2009. PPA06 amendments for non-calendar year plans must be adopted by the last day of the plan year beginning in 2009. For example, a plan with a June 30 plan year end will need to adopt PPA06 required amendments by not later than June 30, 2010. The PPA06 plan amendment deadline applies regardless of the EGTRRA restatement cycle of an individually designed plan or the April 30, 2010 prototype and volume submitter EGTRRA restatement deadline.

Some of the PPA06 qualified retirement plan changes relate to:

- Distribution Notice Contents and Timing;
- Publicly Traded Employer Stock Diversification Rights;
- Vesting in Defined Contribution Plans;
- Vesting in Hybrid Plans, such as Cash Balance Plans;
- Benefit Restrictions in Underfunded Defined Benefit Plans;
- Lump Sum Payment Interest and Mortality Assumptions in Defined Benefit Plans;
- In-Service Hardship Withdrawals of Elective Employee Deferrals Based on a Beneficiary’s Hardship; and
- Qualified Reservist Distributions of Elective Employee Deferrals.

Additionally, consideration should be given to including changes mandated by or permitted by the Heroes Earnings Assistance and Relief Tax Act of 2008 (“HEART Act”), even though the deadline for HEART Act amendments is the plan year beginning in 2010. HEART Act amendments in 2009 may be more appropriate because one of the mandated changes has a January 1, 2007 retroactive effective date and the permitted changes may be effective as of the plan year beginning in 2009.

Finally, consideration should also be given to including the 2009 waiver of minimum required distributions from defined contribution plans in the Worker, Retiree and Employer Recovery Act of 2008 (“WRERA”), even though this WRERA plan amendment deadline is the end of the plan

year beginning in 2011 (which doesn't make sense because the wavier only applies to minimum distributions that would otherwise be required to be made for 2009).

Please let us know if we can be of assistance.

July 22, 2009