TRANSAMERICA CENTER
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December 24, 2008

TCRS 2008-12: The Worker, Retiree, and Employer Recovery Act of 2008 – Defined Contribution-Related Provisions

On December 23, 2008, the President signed into law the Worker, Retiree, and Employer Recovery Act of 2008 (Act). The Act includes Technical Corrections related to the Pension Protection Act of 2006 (PPA) and pension recovery provisions designed to provide relief for individuals and plan sponsors to help them deal with the economic downturn.

This summary focuses on the defined contribution-related provisions of the Act and includes a brief explanation of the new provisions and the corresponding effective dates.

Pension Provision Relating to Economic Downturn

Provision	Effective Date
The minimum required distribution for 2009 will be temporarily suspended for qualified plans, 403(a) and 403(b) plans, governmental 457(b) plans and IRAs. Under the Act, the suspension will not apply to the 2008 minimum required distribution that is due by April 1, 2009. This relief does not extend beyond 2009.	2009 calendar year (sunsets 12/31/09)

Technical Corrections Related To PPA

Provision	Effective Date
The definition of a "one-participant plan" is amended to conform to the Department of Labor regulations. Under the new definition, a one-participant plan means a retirement plan that on the first day of the plan year: (1) covered only one individual (or the individual and his/her spouse) and the individual (or the individual and his/her spouse) owned 100% of the employer (whether or not incorporated) or (2) covered only one or more partners (or partners and their spouses). One-participant plans are exempt from Title 1 of ERISA and will not be subject to the blackout notice requirements of the Sarbanes-Oxley Act of 2002.	Effective as though included in the Sarbanes-Oxley Act
If certain requirements are met, an exemption from the prohibited transaction rules of the Code and ERISA apply in the case of foreign exchange transactions between a plan and a bank or broker-dealer. The Act requires that the exchange rate used in these transactions cannot deviate by more or less than 3-percent from the interbank bid.	Effective as though included in PPA
For combined defined benefit and defined contribution plans, the combined plan deduction limit would not apply if contributions to the defined contribution plan do not exceed 6-percent of eligible employees' compensation. If contributions to the defined contribution plan exceed 6-percent, only the contributions in excess of 6-percent are taken into account in the combined deduction limit.	Effective as though included in PPA
The Roth IRA income limits do not apply to rollovers from a designated Roth account under a 401(k) or 403(b) plan to a Roth IRA.	Effective as though included in PPA

Provision	Effective Date
All plans must permit rollovers by non-spousal beneficiaries from qualified plans and similar arrangements. Thus, a direct rollover option and a 402(f) notice must be provided to these beneficiaries.	Plan years beginning after 12/31/09
The investment diversification requirements (applying to defined contribution plans which hold publicly traded employer securities) do not apply to one-participant plans, as defined above.	Effective as though included in PPA
Permissible withdrawals (withdrawals of automatic deferrals under the 90-day "opt-out" provision of PPA) under eligible automatic contribution plans are no longer required to satisfy ERISA section 404(c)(5) and the Department of Labor's rules relating to Qualified Designated Investment Alternatives. The Act also extends the permissible withdrawal rules to SIMPLE IRAs and SARSEPs and provides that a permissible withdrawal is disregarded in applying the annual deferral limit under Code section 402(g)(1) ($16,500 for 2009).	Effective as though included in PPA
The Act repeals the requirement that gap period income (the income from the last day of the employee's taxable year to the date of distribution), be distributed with distributions of excess deferrals (deferrals over the Code section 402(g)(1) limit).	Effective as though included in PPA
Under the Act, a qualified employer maintaining a combination plan consisting of a defined benefit plan and a 401(k) plan must apply the rules of ERISA separately to each component of the combined plan. Thus, if the combined plan is terminated, the defined benefit component and the 401(k) component must be terminated separately.	Effective as though included in PPA

Other Provisions

Provision	Effective Date
The penalty for failure to file a partnership return is increased by $4 per partner.	Returns filed after 12/31/08
The penalty for failure to file an S corporation return is increased by $4 per shareholder.	Returns filed after 12/31/08