PENSION PROTECTION ACT OF 2006
HIGHLIGHTS FOR DEFINED CONTRIBUTION PLANS

Effective Immediately

1. EGTRRA provisions that increased the various limits on benefit amounts and compensation, incorporated the Roth 401(k) and other features due to expire after 2010 will no longer expire. The 2010 sunset was eliminated. The EGTRRA changes included:
   a. Increased deferral limits for 401(k) plans, 403(b) tax sheltered annuities and 457 Plans.
   b. The elimination of the 25% of pay individual limit on DC allocations.
   c. Addition of Roth 401(k) contributions.
   d. Permitted catch-up contributions for employees age 50 and over.
   e. Enhanced rollover capability among different types of plans; 401(a), 403(b), individual IRA and governmental Section 457 plans.
   f. Required IRA rollovers for distribution of account balances between $1,000 and $5,000, unless employee elected a distribution.
   g. Addition of a Saver's tax credit for lower income employees.
   h. Increased IRA contribution limits.
   i. Increased maximum compensation that can be used for calculating benefits under retirement plans.
   j. Decoupled 401(k) contributions from other plan contributions for tax deduction limit purposes.
   k. Applied 25% tax deduction limit to contributions to all types of defined contribution plans, replacing the 15% limit on profit sharing and 25% limit on money purchase pension plans.
   l. Decoupled Section 457 limits from 401(k) contribution limits for plans maintained by non-profit organizations.
   m. Permitted deductions for dividends paid on employer stock in an ESOP even if not actually distributed to employee.
   n. Permitted IRA contributions to be made under employer's qualified plan.
   o. Repealed the non-discrimination "multiple use" test.
   p. Eliminated the "same-desk" rule for 401(k), 403(b) and Section 457 plans.
   q. Shortened the suspension period when a hardship distribution is taken (under the safe harbor rules) from one year to six months.
   r. Eased rules for eliminating distribution options in defined contribution plans.
   s. Allowed owner employees, shareholder employees in Sub-S and partners to take loans from qualified plans.

2. Prohibits states from reducing unemployment compensation on account of tax free rollovers or retirement benefits received by the individual.

3. Extends hardship rules to include any beneficiary of a participant (effective 180 days after enactment).

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Effective for Plan Years Beginning January 1, 2007

1. Permits non-spousal beneficiaries to roll over distributions to an IRA to avoid taxation.
2. Department of Labor is directed to issue within six months regulations detailing the types of funds that can be used as default funds in plans relying on ERISA § 404(c) and retain protection under ERISA §404(c) even though the participant has not made an affirmative investment election.
3. Vesting schedules for all defined contribution plans must be like those now applicable to top heavy plans, 3 year cliff or 6 year graded at 20% per year starting at year 2.
4. Allows for rollover of after-tax amounts under the same rules as employer or 401(k) rollovers.
5. Quarterly statements will be required for participant directed defined contribution plans, annual for other defined contribution plans and once every three years for all defined benefit plans.
6. The current 90 day window for the 402(f) special tax notice will be extended to 180 days.
7. ADP and ACP refunds within 2_ months after the end of the plan year would be taxed in the year of distribution and not in the prior year.
8. Requires plans holding publicly traded employer securities to permit diversification in to no less than three materially different investment options. All employees would be permitted to diversify stock acquired with 401(k) or after-tax contributions. Those with three years or more of service would be able to diversify stock acquired for their account with other employer contributions. This second rules is phased in ratably over three years for employer securities acquired before 2007, except for participants who are at least age 50 and have three or more years of service. These employees will be able to diversify employer securities in 2007. These rules do not apply to ESOPs.
9. A fiduciary that is a registered investment company (mutual fund companies like Fidelity, Vanguard) banks, insurance companies and registered broker-dealers (Smith Barney, Dean Witter) can render investment advice to plan participants for a fee without violating the prohibited transaction rules if :
    a. The fee received by the advisor does not vary by the choice made by the participant, or
    b. The advice is based on a computer model certified by an independent third party.
    c. The arrangement is audited annually.

PENSION PROTECTION ACT OF 2006
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Effective for Plan Years Beginning January 1, 2008

1. A new 401(k) safe harbor plan featuring automatic enrollment:
    a. All new (current employees may be excluded) must be automatically enrolled in the 401(k) plan for at least 3% of pay, and the percentage must increase 1% of each year thereafter to a maximum contribution of 6% of pay.
    b. The employer must match the contributions 100% of the first 1% of pay contributed and 50% of the next 5% of pay contributed**,** ***or,*** as with current safe harbor plans, contribute 3% of pay for all eligible employees.
    c. The employer may use a 2 year cliff vesting schedule for matching or employer contributions.
    d. The employee must be able to opt out at any time. If the employee opts out within 90 days of the date of their first contribution (and the plan allows for it), a distribution of the contribution(s) can be made to the employee with no premature distribution penalty tax or no tax withholding. Any matching contributions made for such an employee may be forfeited.
    e. A Safe Harbor Notice must be handed out annually.
    f. The top heavy rules do not apply to these plans.
    g. State wage garnishment laws are specifically preempted by the Act.

2. No gap period income will have to be allocated to refunds for ADP or ACP failures. Gap period income will have to be calculated for 2006 and 2007 plan years.

3. ERISA §404(c) will continue to provide fiduciaries protection in the case of a change of investments when old investments are mapped over to one or more new investments. A 30 day notice to participants is required.

4. Plans holding employer securities will be required to have a fidelity bond for at least 10% of plan assets up to a maximum bond of $1,000,000.

5. Requires defined benefit pension plans and money purchase pension plans to offer a joint and 75% survivor annuity in addition to the current joint and 50% annuity.

Effective for Plan Years Beginning January 1, 2010

1. Employers with 500 or fewer employees may establish a defined benefit pension plan with a 401(k) feature as part of the same plan. Only one audit would be required and only one Form 5500. Each part of the plan would have to meet the rules for that type of plan.
    a. The pension would have to offer a benefit of at least 1% of final average pay for up to 20 years of service and no more than a 3 year vesting schedule or be a cash balance plan with annual credits that increase with age (regulations to clarify).
    b. The 401(k) plan would have to be automatic enrollment at a minimum of 4% of pay with a fully vested match of 50% of the first 4% contributed.
    c. The 401(k) plan would be a safe harbor, no ADP or ACP testing.

d. Top heavy rules would not apply.