



New Law Provides Some Relief for Retirement Plans

Background

On December 23, 2008, the Worker, Retiree and Employer Recovery Act of 2008 was signed into law. In addition to making technical corrections to the Pension Protection Act of 2006, the new law includes critical short term relief provisions to help individuals and plan sponsors deal with the market downturn.

This information release describes two of the law's provisions for providing funding relief to sponsors of cash balance and defined benefit plans as well as a provision providing relief from the required minimum distribution requirements for participants over age 70 ½ in IRAs and defined contribution plans.

Funding Relief for Cash Balance and Defined Benefit Plans

Amortization of Investment Losses

If a plan's assets drop below 94% of its funding target (a likely event given the recent downturn in the market), it will need to set up a shortfall amortization base. That is, the minimum required contribution will need to be increased to spread the funding shortfall over a seven year period. This has always been the case and is not caused by the new law.

Under old law, the amount to be amortized was the difference between the funding target and the plan's assets (reduced by the plan's credit balance). Under the new law, the amount to be amortized is smaller--it's the difference between 94% of the funding target and the plan's assets (reduced by the plan's credit balance.) This will result in a smaller required contribution since, in effect, it allows the funding shortfall to be spread over a period longer than seven years.

It is hoped that the amount **not** required to be amortized will be made up by increases in asset values if the market turns around. If this does not occur, it will have to be included in new amortization bases established in 2010 or later.

Postponement of Benefit Accrual Freeze

If the plan's funding status, as measured by its Adjusted Funding Target Attainment Percentage (AFTAP) falls below 60%, old law required that the plan freeze benefit accruals until the AFTAP rises above 60%. The funded status is determined by taking the ratio of assets to liabilities as determined by IRS guidelines.

The new law allows the plan to use the 2008 AFTAP (rather than the 2009 AFTAP which will be much lower due to the market downturn) to determine whether or not benefit accruals must be frozen for 2009. This, in effect, defers the freeze in benefit accruals for one year to allow for the possibility that the current market situation will adjust itself.

Alternatively, the firm could make additional contributions to increase the AFTAP above 60% to avoid freezing benefit accruals.

Note that plans that have been in effect five years or less are not subject to this freeze.

In addition, lump-sum amounts under \$5,000 are no longer restricted if an AFTAP is below 80%.

For further information about measuring the funded status using AFTAPs, please see our information release from August 2008 on our website at:

<http://www.lkravitz.com/pubsarticles/documents/NewAcceleratedFundingGuidelinesforDB-CBPlans-Final.pdf>

Relief for Participants over Age 70 ½ in IRAs or Defined Contribution Plans

Many plan participants who are over age 70 ½ are required to take minimum distributions from their retirement plans each year.

Under the new law, the required minimum distributions for 2009 otherwise due under an IRA or a defined contribution plan (which includes 401(k) plans and profit sharing plans) are waived. This provides such participants with an additional year of deferral of the taxes that would be due on the waived distribution.

This waiver of the required minimum distribution does **not** apply to defined benefit or cash balance plans.

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In addition to the above, the new law provides additional relief to multiemployer defined benefit plans (plans sponsored under a collective bargaining agreement.) A description of these provisions of the new law is beyond the scope of this Information Release.

If you have any questions about the new law, please contact your Kravitz Consultant.

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