



Pension Protection Act of 2006 Review of Key Provisions and Opportunities

With the enactment of the Pension Protection Act of 2006 on August 17, 2006, the most sweeping overhaul to U.S. pension laws in more than 30 years was put into motion. The following bullet points highlight the key retirement plan provisions of the new law, effective dates, and the resulting market opportunities.

401(k) Plans

New Provisions

- Nonspouse beneficiaries may roll over benefits to a beneficiary or inherited IRA (effective 2007).
- New automatic enrollment safe-harbors are available that provide for immediate eligibility and automatic increases in employee deferrals (effective 2008).
- "Fiduciary advisors" may provide investment advice to participants, and plan sponsors may reduce their fiduciary liability if certain monitoring and disclosure rules are followed (effective 2007).
- Faster vesting for employer contributions is required (effective 2007).
- Participants with company stock investments must be given expedited diversification opportunities (effective 2007).
- Participants can directly roll over plan assets to Roth IRAs if conversion rules are satisfied (effective 2008).
- Mapping participant investment elections from one vendor to another will not be a fiduciary liability issue for plan sponsors if certain guidelines are followed (effective 2008).
- ERISA 404(c) protection is expanded to include "default" investment elections if certain notice and disclosure requirements are satisfied (effective 2007).
- A new hybrid defined benefit/401(k) plan, referred to as the "DB(k)," becomes available to small employers in 2010. The plan will automatically satisfy the 401(k) nondiscrimination requirements and top-heavy requirements.

Opportunities

- Increased participation through the automatic enrollment features, which also offers some 401(k) nondiscrimination testing benefits
- Greater ability to work with clients and their beneficiaries regarding new beneficiary options
- Roth rollover and conversion opportunities
- Expanded client base through fiduciary advisor status
- Portability of 401(k) cases between vendors with new mapping/blackout safe-harbors

SEP/IRA

New Provisions

- Taxpayers can instruct the Treasury Department to direct-deposit tax refunds to IRAs (effective 2007).
- Taxpayers age 70 ½ and older may make a "qualified charitable distribution" from an IRA and exclude up to \$100,000 dollars of the amount from taxable income if it is paid directly to a charitable organization (effective 2006-2007).

- 401(k) plan participants who received plan contributions of company stock from employers involved in bankruptcy proceedings may make additional IRA contributions of up to \$3,000 for years 2006-2009.

Opportunities

- Greater IRA contribution opportunities with the income tax refund deposit option
- Increased charitable giving options and choices with IRA assets
- Education for employees of distressed corporations and increased IRA contributions

403(b) Plans

New Provisions

- 403(b) plan participants can directly roll over assets to Roth IRAs if conversion rules are satisfied (effective 2008).
- New automatic enrollment safe-harbors are available that provide for immediate eligibility and automatic increases in employee deferrals (effective 2008).

Opportunities

- Increased Roth rollover and conversion opportunities
- Increased participation rates with the automatic enrollment features

457 Plans

New Provisions

- 457 plan participants can directly roll over assets to Roth IRAs if conversion rules are satisfied (effective 2008).

Opportunities

- Roth rollover and conversion opportunities

Money Purchase Pension/Target Benefit Plans

New Provisions

- Plans must make additional optional survivor annuities available (effective 2008).

Opportunities

- Revisiting plan design and annuity offerings, which may open doors with new clients and allow modifications to existing plans that better suit clients' needs

Defined Benefit Plans

New Provisions

- Plans may allow participants to take in-service distributions at age 62 (effective 2007).
- A new hybrid defined benefit/401(k) plan, referred to as the "DB/k," available in 2010, will automatically satisfy the defined benefit nondiscrimination requirements.
- Plan funding requirements will be accelerated (generally effective 2008).
- Changes in the interest rates used for many plan purposes (result is less volatility in calculations such as value of lump sums in changing interest rate environments) (generally effective 2008).
- New limitations on benefit increases if plan funding levels are below certain levels (generally effective 2008).

Opportunities

- In-service and lump sum distribution options

- Increased rollovers from defined benefit plans

Individuals

New Provisions

- The Saver's Credit for plan contributions is made permanent (effective August 17, 2006).
- The 10 percent early distribution penalty tax is waived for reservists who have more than 179 days of active duty (effective for distributions after September 11, 2001).
- Retired public safety employees may take tax-free distributions of up to \$3,000 from qualified plans, 403(b) or 457 plans to purchase health or long-term care insurance (effective 2007).
- The 10 percent early distribution penalty tax does not apply to public safety employees who separate from service after attaining age 50 and are receiving distributions from governmental defined benefit plans (effective for distributions after August 17, 2006).

Opportunities

- Huge need for education and support as taxpayers need to understand their choices and make important retirement decisions

Brokers/Advisors

New Provisions

- Financial advisors can elect to become "fiduciary advisors" and provide investment advice to plan participants. Procedures must be established and fulfilled, and annual audit requirements apply (effective 2007).

Opportunities

- Education to give advisors the opportunity to differentiate themselves beyond investments

Indian Tribal Governments

New Provisions

- For certain purposes, a governmental plan is defined as a defined benefit plan maintained by an Indian Tribal government that covers employees who perform essential governmental functions and are not engaged in commercial activities (effective for plan years beginning after August 17, 2006.)

Opportunities

- Many tribal governmental plans will need to be reviewed and modified. New service providers will have the opportunity to bid on cases.

Timing

- Plans must be amended by the end of the 2009 plan year (e.g., December 31, 2009, for a calendar-year plan).
- Governmental plans must be amended by the end of the 2011 plan year (e.g., December 31, 2011, for a calendar-year plan).