

Special supplement - significant legislative and regulatory developments from 2007

1) Benefit statements

In 2006, the Pension Protection Act of 2006 (PPA 06) was passed, which in part added new requirements for the content and timing of benefit statements. The Department of Labor issued preliminary guidance early in 2007, and we have contacted our clients and provided supplemental statements where we felt it was necessary to add missing information. The DOL released additional guidance recently; most significant was relief from a rule that would have required us to provide statements for "trustee directed" accounts (a.k.a. "pooled" accounts, i.e. those that are *not* self-directed) *within 45 days of the end of the year*. We are lobbying hard for additional relief from other burdensome rules, such as the need to provide information on "permitted disparity" (that should have **nothing** to do with benefit statements) and details on underlying investments in pooled accounts. *It's worth noting that the law required the DOL to issue model benefit statements by August 17, 2007 and they have not done so.*

2) Qualified Default Investment Alternative (QDIA)

The DOL issued proposed regulations on QDIAs in 2006, and we mailed letters to clients as needed reviewing each plan's status (default investments come into play when a participant has money to be invested in a self-directed plan but has not made an investment election). Generally, the DOL has approved balanced and **target-retirement date funds**, and said that a money market fund or stable value fund is **not** approved. Very recently, they issued final regulations which mostly mirrored the proposed regs, but noted that it would be permissible to use a money market or similar fund for a short period while waiting for direction, but then, to meet the regs, the money would have to be moved if no direction were given. *Frankly, this approach is too high-maintenance for us to attempt to monitor.* Our letters noted that compliance is **not** mandatory, it "merely" provides protection in the event a participant sues the trustee for imprudently investing their account. If you feel this needs closer attention, please contact us.

3) Non-spouse rollovers

PPA 06 allows a non-spouse beneficiary to roll over plan accounts to an inherited IRA. This is a significant expansion of the IRA rollover rules and gives beneficiaries much greater flexibility in receiving plan benefits. We've acted on this where appropriate.

4) Form 5500 changes

PPA 06 calls for simplified reporting for plans with fewer than 25 participants, starting with years beginning in 2007. When all is said and done, it is probably easier for us to prepare the form as we've always done rather than take the time to figure out whether the plan meets other requirements for the very modest "simplification." PPA 06 also calls for required electronic filing starting in 2008, but that's already been delayed to at least 2009.

5) Document restatements

You may find this hard to believe, but all plans will have to be restated for "EGTRRA" - that's the **2001** tax act - in the next two years or so. Yes folks, these are changes effective in 2002 and we'll be restating your plans in 2008 and 2009, *after* the passage of yet

another major pension act (PPA 06) and then I guess we'll be allowed to tend to that in oh, 2012 or thereabouts. You can't make this stuff up.

6) Automatic enrollment

(Sigh) PPA 06 offers you yet another wrinkle, automatic enrollment - i.e. participants are automatically enrolled to make 401(k) contributions unless they say "no." (I can tell you that Congress, or at least Congressional staff, is enthralled with this idea because they think it will result in greater participation and retirement savings. Yeah, right. As soon as those participants switch jobs and are offered the money, it'll be gone. Pardon my cynicism.) The carrot that is offered to plan sponsors for doing this is a testing "safe harbor," meaning that 401(k) contributions are not subject to the testing that we would otherwise have to do. Unfortunately, there are requirements for automatic increases over several years as well as matching contributions, and in my opinion it's a compliance nightmare - there is certainly no way for **us** to monitor it, but if you want to explore ways that you can try to do this on your own please contact us. (Note that we have been using a different and more reasonable safe harbor for many if not most of our plans, so try not to be confused by all this nonsense.)

7) Deficit spending (optional reading! I'm on a roll here...)

This is related to retirement, but not directly to our plans. For the year ended 9/30/07, the government reported a deficit of \$162.8 billion. I'm making it my job to explain that this is a misleading number, to be polite. The reality is that our "on-budget" deficit was **\$344.3 billion**. That's the difference between money we're spending on regular government operating "stuff," like education, transportation, defense, etc., and income and estate taxes collected. **But**, we are **overcollecting** on Social Security and similar taxes in anticipation of paying the excess later (in other words it should be set aside - remember the "lockbox"?). This surplus was \$181.5 billion, and the government sees fit to combine this "off-budget" surplus ("off-budget" because it has **nothing** to do with running the government) with the on-budget deficit to give us a "unified" deficit. Unfortunately, this practice has allowed our politicians to say "see, it's not so bad," while our Social Security surplus has been spent with no heed to the fact that it will be needed in a few years. What's troubling is how hard it was to find those numbers - it's not in any of the press releases, the media makes no effort to report it, and it's quite literally buried in a supplement to the main budget report. I'm trying to shed some light on my little corner of the world. Thanks for listening.

Ed Snyder

MRP Plans, Inc.
1670 Whitehorse-Hamilton Square Road, Second Floor
Hamilton, NJ 08690 • Phone (609) 689-9400 • Fax (609) 689-0140
mrplansinc.com
e-mail: Ed: mrp.ed@verizon.net Dave: mrp.dave@verizon.net