

# eBenefits Alert: Pension Protection Act Amendments

October 21, 2009

The deadline for nongovernmental calendar year plans to adopt required amendments under the Pension Protection Act of 2006 (PPA) is December 31, 2009. (For non-calendar year plans, the amendment is required by the last day of the first plan year beginning on or after January 1, 2009.) Although there were several changes under the PPA that were optional, there are certain plan changes that were required and must now be properly included in the plan document. For example, defined contribution plans must now include language that permits rollovers by nonspouse beneficiaries, accelerates vesting for nonelective employer contributions, and permits rollovers to Roth IRAs. Defined benefit plans must be updated to reflect the qualified optional survivor annuity and the new funding-based limits on benefits. There are also several provisions permitted by the PPA that, if implemented, must be included in the plan document by the amendment deadline.

In addition to plan amendments, changes are required to plans' Qualified Domestic Relations Order Procedures and Special Tax Notice in light of the PPA and other law changes. The IRS has recently released new model Special Tax Notices which can be found at [http://www.irs.gov/irb/2009-39\\_IRB/ar14.html](http://www.irs.gov/irb/2009-39_IRB/ar14.html). There is one notice for distributions from regular plan accounts and a separate notice for distributions from designated Roth accounts.

Plan sponsors may also wish to amend their plans to reflect the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act). The HEART Act requires certain plan changes relating to the treatment of differential wage payments and death benefits for participants that die while performing qualified military service. HEART Act amendments may be made at the same time as PPA amendments, however, nongovernmental plans are not required to be amended for the HEART Act until the last day of the first plan year beginning on or after January 1, 2010 (December 31, 2010 for calendar year plans).

If you would like our assistance with drafting or reviewing these required amendments, please contact a member of the Gray Plant Mooty Employee Benefits & Executive Compensation practice group.

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