

PENSION PROTECTION ACT OF 2006: WHAT EMPLOYERS SHOULD CONSIDER NOW FOR 2007

The Pension Protection Act of 2006 (the “PPA”) significantly altered the employer-sponsored retirement plan landscape by amending dozens of provisions of the Internal Revenue Code and ERISA. We previously published an *Employee Benefits Alert* in September 2006 describing the provisions of the PPA that apply to tax-qualified defined contribution plans. **This Alert discusses certain provisions of the PPA that are effective beginning in 2007. Immediate action may be necessary on the part of plan sponsors to comply with these provisions.**

Vesting: Under old law, contributions, other than matching contributions, could be made subject to either 5-year cliff or 7-year graded vesting. Under the PPA, minimum vesting must be on a 3-year cliff or 6-year graded vesting schedule for all employer contributions. This change is generally effective in 2007. If your plan contains 3-year cliff or 6-year graded vesting schedule or one that is more generous, these changes do not apply to your plan.

Diversification of employer securities: Plans that hold publicly traded employer securities, such as stock, are subject to new requirements related to a participant’s right to sell the stock. Specifically, beginning in 2007, a participant must always be permitted to sell the

stock held in his or her account which was purchased with his own contributions and reinvest in one or more other investment options available under the plan. This sale and reinvestment process is referred to as “Diversification” or “Diversifying.” In addition, stock either contributed by the employer or purchased with employer contributions must be subject to diversification by the participant once he has completed three years of employment service. A plan sponsor must also provide participants with a notice describing their diversification rights at least 30 days before they are eligible to diversify out of employer securities. These provisions are effective for plan years beginning in 2007. Affected plan sponsors must act immediately to plan for the diversification and notice requirements.

The issues discussed in this Alert require immediate attention by plan sponsors. Plan sponsors should immediately review plans to determine whether action is required. Please contact any member of the McAfee & Taft employee benefit practice group if you have questions about the PPA.

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