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IRS Issues Final Regulations on Defined Benefit Plan Funding Requirements and Benefit Restrictions

Last week the IRS released final regulations covering most aspects of the minimum funding requirements and funding-based benefit restrictions imposed on single-employer defined benefit plans by the Pension Protection Act of 2006. These regulations generally apply for plan years beginning on or after January 1, 2010, but can be relied upon before that date. Some plan sponsors may need to take immediate action in light of the regulations.

The final regulations include several clarifications and new rules on plan asset and liability valuation and on the maintenance and use of funding balances. Of immediate interest, the regulations provide for automatic IRS approval of certain changes in a plan's funding method and liberalize the rules on applying excess contributions to a plan's prefunding balance. The automatic approval for certain funding method changes creates planning opportunities for many plans; this is an issue that should be addressed with the plan's actuary as soon as possible. For calendar-year plans, the deadline for electing to create a prefunding balance for 2009 is October 15, 2009. Also, for plan sponsors who elected to use a plan's funding standard carryover balance to offset its 2008 minimum required contribution, the regulations extend the deadline for revoking any excess election to the Schedule SB filing deadline (for calendar-year plans, Oct. 15, 2009).

The PPA's funding-based benefit restrictions generally must be reflected in the plan document before the end of the current plan year. The final regulations on funding-based benefit restrictions generally track the proposed regulations released in 2007, but add more guidance on the application of those restrictions in practice (e.g., when an amendment increasing benefits is considered to take effect) and the effect when funding-based benefit restrictions cease to apply (e.g., retroactive payment of certain delayed benefits). The IRS is considering whether to offer sample amendments reflecting the final regulations, but has not indicated a time-frame for its decision.

These regulations do not cover several related topics, including the notice required to be provided to participants when funding-based benefit restrictions are in effect and required quarterly contributions for underfunded plans.

If you have any questions regarding the foregoing, please contact one of the attorneys listed below.

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