



## **The Pension Protection Act of 2006**

This piece of recently passed legislation will have a profound impact on Retirement Plans. Most of the changes are effective for 2008, however there are some changes that are effective immediately.

**EGTRRA Permanency** - One of the most significant aspects to the Pension Protection Act of 2006 (PPA) is that the EGTRRA rules will become permanent instead of ending on December 2010. The following are just some of the main provisions in the EGTRRA bill:

- Higher annual salary deferrals to 401(k), 403(b) and 457 plans.
- Catch-up contributions for those over 50
- Increased the Deduction limit to 25% for Profit Sharing Plans, thereby eliminating most employers need for a Money Purchase Plan
- Increased the Compensation Limit to \$200,000 plus indexing
- Allowed for greater portability of retirement benefits when an employee leaves.

**Automatic Enrollment** – One of the biggest complaints of Employers has been the lack of employee participation in their 401(k) plans. Automatic Enrollment was offered as a solution, however many Employers were reluctant to do this due to legal risks. PPA addresses this and provides relief provided that certain requirements are met.

- An employee notice will be required.
- Default funds must be invested according to the Department of Labor Guidelines which will come out within the next six months.
- Employees who were automatically enrolled will have a 90 day opt-out period. Those who wish to opt-out will be entitled to a corrective distribution of the contributions made during the 90 day period plus earnings. This distribution will be subject to income taxes but will be penalty free.
- There will be a safe harbor provision to automatic enrollment that permits passing of the ADP/ACP testings and deems the plan meets top-heavy requirement.

Also note that this provision will preempt any state withholding laws.

**Investment Advice** – Congress also addressed Participant's need for direction and advice regarding their investments. This piece of legislation creates a prohibited transaction exemption for investment advice given by a Fiduciary Adviser provided certain steps are taken. The Adviser must either use a computer based model under an "investment advice program" or supply advice on the condition that the fees received by the fiduciary adviser do not vary according to the investment option selected.

The investment Advice Exemption will relieve plan sponsors of any fiduciary liability provided that the guidelines are strictly followed. This portion of the bill is effective for investment advice given after December 31, 2006.