

August 2006

CBS Update

We are very pleased to provide you with our bi-monthly newsletter, **Benefits Insights**. Each one features an article relating to a topic specific to qualified retirement plan legislative and administrative issues. We hope you find these articles informative and we welcome your feedback. Past issues of the newsletter have been posted on our website. We invite you to visit our website at www.creben.com.

PENSION PROTECTION ACT OF 2006 PASSES!

On August 3rd, by a vote of 93 to 5, the Senate passed HR4, the long awaited Pension Protection Act of 2006. This is the most comprehensive pension reform legislation in decades and comes on the heels of House passage on July 28th. President Bush signed the bill on August 17th.

Most importantly, the legislation includes the permanent extension of EGTRRA, which is a huge victory. EGTRRA is the 2001 pension reform act that included such provisions as increase in 401(k) and IRA deferral limits, catch-up deferrals for those at least age 50, increase in the individual annual limit in Defined Contribution plans from 25% to 100% of wages, etc. For a complete summary of EGTRRA, please refer to our website www.creben.com under "News and Updates."

Another major item in the bill is that for combined Defined Benefit (including Cash Balance) / Defined Contribution plans, the 25% maximum deduction limit is waived as long as the employer contribution in the Defined Contribution plan does not exceed 6% of participant compensation. This will have a positive impact on a number of our clients' plans as we will now be able to provide the owners with a larger contribution in the Defined Benefit (Cash Balance) plan. Currently, we've had to limit the contribution to the owners in some cases because we hit the 25% maximum deduction limit. The effective date of this provision is for plan years beginning after 12/31/05.

The legislation also overhauls pension funding rules, and includes reforms affecting defined contribution plans, defined benefit plans (including cash balance plans), and nonqualified deferred compensation plans. Following is a listing of some of the key provisions contained in this bill. Unless otherwise noted, these provisions are effective for the 2008 plan year. [\(continued on bottom of next column.\)](#)

GET TO KNOW CBS MARILYN RYAN

Marilyn joined CBS a little over a year ago and brought with her many years of experience and a broad knowledge of the retirement benefits field. Although her expertise is with Defined Benefit plans, she also is knowledgeable about Defined Contribution plans including 401(k), Profit Sharing, and ESOP. "The main reason I have continued in this field for many years is that I enjoy variety, challenge and change --- and let us not forget a lot of working hours!"

Marilyn is an administrator in our Defined Benefit department and her caseload consists of a variety of plan designs and sizes ranging from large government and Union Negotiated plans to small corporate and sole proprietor plans. Her responsibilities focus around actuarial valuations, benefit calculations, plan amendments, government forms, and significant client contact. "I am always open to learn more and am currently pursuing the ASPPA exams to become more knowledgeable and more useful in the Defined Contribution field."

Marilyn is a native of Ohio and like other Ohioans is a loyal fan of all Cleveland sports teams and is eagerly waiting for a winner. She enjoys sports, the outdoors (especially in summer), the theater, and good restaurants. Last but certainly not least --- "I enjoy my eight year old granddaughter Kelsey, who is a precious joy and my best friend, and Smokey, my pet long-haired gray cat."

PPA of 2006 Passes, continued

1. **Age Discrimination:** The law clarifies that all defined benefit plans (including cash balance plans) are not inherently age discriminatory, as long as they meet certain new requirements contained in the bill.
2. **Accelerated Vesting for Cash Balance Plans:** Cash Balance plans will be required to provide full vesting upon three years of service.
3. **Excess Contributions:** A plan with an eligible automatic enrollment arrangement will be allowed to make ADP/ACP refunds (deferrals/match due to the ADP or ACP test failing) up to six months after the close of the plan year without a 10% excise tax on the employer. [\(continued on next page\)](#)

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Referring a friend or business associate to our Firm is a compliment at the highest level. We sincerely appreciate your referrals.

If you know someone who might benefit from receiving our newsletter, please provide us with their name and address so we can add them to our list.

PPA of 2006 Passes, continued

4. **Direct Rollovers into Roth IRAs:** Plan distributions may be rolled over directly to Roth IRAs, with the taxable portion of the rollover amount taxed at the time of the rollover. They will still be subject to the Roth IRA conversion rules (i.e. no more than \$100,000 adjusted gross income.)
5. **Non-Spouse Rollovers:** A non-spouse beneficiary will be permitted to roll over benefits to an IRA so that the IRA could satisfy the minimum distribution requirements rather than the existing plan. Effective for distributions made after 2006.
6. **Accelerated Vesting Under Defined Contribution Plans:** All DC plan employer contributions must have a vesting schedule equal to or more liberal than either a 3-year cliff (0% vested in first two years and 100% after third year of service) or 6-year graded (0% in year one, 20% in year two and in each subsequent year.) Effective for plan years beginning in 2007.
7. **Form 5500-EZ:** Exempts filing for one-participant plans with assets not in excess of \$250,000 (present law is \$100,000.) Effective for plan years beginning in 2007.
8. **Investment Safe Harbor:** The Department of Labor is to issue a fiduciary safe harbor under ERISA 404(c) for the assets in an individual account plan, under which the participant would be deemed to be exercising investment control. The default applies when the participant has failed to make an investment election. Effective for plan years beginning in 2007.
9. **Transfers to Fund Retiree Health Benefits:** Surplus assets under a Defined Benefit plan may be transferred to fund retiree health benefits. Effective for transfers made after date of enactment.
10. **Tax Refunds:** A taxpayer can direct a tax refund to be paid directly into an IRA. Effective for taxable years beginning in 2007.
11. **IRA Limits:** The gross income levels for IRA deductions and for Roth IRA contribution limits are subject to indexing.
12. **Tax-Free IRA Distributions for Charitable Giving:** Up to \$100,000 may be distributed tax-free from an IRA if it is made to a charitable organization and the IRA owner is at least 70 ½ years old. Applies only to distributions made in 2006 and 2007.

We are excited about this Act as many of the provisions are the direct result of the American Society of Pension Professionals and Actuaries (ASPPA's) Government Affairs Committee working with Congress on this. We are active participating members of ASPPA and our main objective is to continually enhance the benefits of retirement plans.

The Act is 907 pages and as your retirement benefits professionals, we are in the process of absorbing it. We will be contacting all clients whose plans will be impacted by any of the provisions contained in the Act. Our hierarchy of client contact will be in order of the effective dates of the various provisions. In this regard, provisions with effective dates of this year will take top priority, after which those with effective dates beginning in 2007 will be next, and so on. Amendments will be necessary to incorporate the provisions into the plan documents and we will advise you of this as well.

A LESSON TO BE LEARNED

"The superior man acts before he speaks, and afterwards speaks according to his actions."

Confucius

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