



R O B E R T B . S T E V E N S O N¹
N A N C Y K E P P E L M A N¹
N A N C Y J . S P E Z I A
T I M O T H Y J . M C G R A W
A N D R E W W . S T U M P F F²
D E B O R A H W . T H O M P S O N¹

O F C O U N S E L

N A N C Y H . W E L B E R , P . C .
A N T H O N Y S . H A R T I I I
R I C H A R D L . S A N D E R S O N , J R .
M I C K E Y B A R T L E T T

February 19, 2009

Pension Protection Act Amendments that are Required in 2009

The most relevant PPA changes that need to be adopted this year are:

1. Hardship distributions can be made on account of a hardship for a participant's beneficiary as well as the participant's spouse or dependent. This is in addition to the expanded list of events permitting hardship distributions. Both are discretionary.
2. Gap period income for excess contributions and excess aggregate contributions is eliminated.
3. New rules for qualified automatic contribution arrangements.
4. New rules for eligible automatic contribution arrangements.
5. New rollovers permitted to 403(b) annuities, and for nonspouse beneficiaries (this is now mandatory under the 2008 act), and rollovers to Roth IRAs.
6. The QJSA notice/explanation can be provided 180 days before the annuity starting date (up from 90 days).
7. All employer DC contributions (not just matching) must be vested using the top heavy vesting schedules.
8. Plans must notify participants of the consequences of taking an immediate distribution instead of deferring to a later date

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9. Cash balance plans must be fully vested in 3 years and there a lots of other cash balance rules that are not covered here.
10. There are some special provisions for Indian Tribal government plans.
11. There are several picky 415 changes which apparently were all reflected in the final 415 regulations.
12. The factors used to calculate lump sum present values of annuity benefits in DB plans changed from GATT to PPA factors. Some plans are using “better of” Gatt or PPA, some are just going to PPA. This amendment must be carefully reviewed before it is adopted because whatever amendment is adopted now is the one that has 411(d)(6) anticutback protection.
13. There is a new joint and 75% optional QJSA for plans subject to 417 rules.
14. There are some horrible bifurcated distribution rules for DB plans which are less than 80% funded in 2009.
15. There are rules for employees in the military. Most are discretionary.