KRAVITZ
LOUIS KRAVITZ & ASSOCIATES INC

Information Release

March 2007

Pension Protection Act Changes
Participant Statement and Vesting Requirements

The Pension Protection Act of 2006 ("PPA") changed the rules regarding the frequency and content of participant benefit statements. PPA also requires many retirement plans to make changes in their vesting schedule. Plan sponsors are required to take steps to assure that their plans remain in compliance with the legal requirements.

Background

Prior to PPA, plan sponsors were only required to provide benefit statements if a participant or beneficiary requested one. Such requests were limited to one statement per year. These benefit statements had to show the total benefits accrued under the plan and either the vested portion of the total benefits or the date on which the benefits will become vested.

Under PPA, the content of participant benefit statements has been expanded and the statements must be provided at specific intervals without regard to requests by participants or beneficiaries.

Prior to PPA, employer contributions to a defined contribution plan and benefits accrued under a defined benefit plan had to become vested in accordance with a schedule that was at least as generous as one of the following:

- √ 100% vesting upon completion of five years of service, or
- √ 20% vesting upon completion of three years of service with the percentage increasing 20% each year until 100% vesting was reached upon completion of seven years of service.

Top heavy plans (plans under which more than 60% of the benefits are attributable to key employees) had more stringent vesting requirements.

Under PPA, vesting schedules for many plans will have to be improved. In many cases a six year graded vesting schedule will satisfy the new requirements. However, in some cases plans will have to 100% vest benefits after only three years.

Requirements for Participant Statements

Defined Contribution Plans

For defined contribution plans, the frequency of benefit statements depend on whether or not participants are permitted to direct the investment of their accounts. If the plan is participant directed, statements must be provided on a quarterly basis. For plans that are not participant directed, statements must be provided annually.

These new rules are effective for the first plan year beginning after December 31, 2006. For a defined contribution plan that operates on a calendar year basis, the first statement will be required for the quarter ending March 31, 2007, if the plan is participant directed and for the year ended December 31, 2007, if it is not participant directed. A Department of Labor Field Assistance Bulletin grants a period of 45 days beyond the statement date for preparation and distribution of the statements. For calendar year plans, this means the due date is May 15, 2007, for participant directed plans and February 14, 2008, for plans that are not participant directed.

The participant statement for a defined contribution plan must include, among other things:

- √ the amount of the participant's accrued benefit, and
- √ the vested benefits, if any, that have accrued or the earliest date on which benefits will become vested.
- √ the value of each investment to which assets in the participant's account have been allocated
- √ in the case of a participant directed plan:
    - o an explanation of any restrictions or limitations on any rights under the plan to direct an investment
    - o an explanation of the importance of a well-balanced and diversified portfolio, and
    - o a notice directing the participant to the internet website of the Department of Labor for sources of information on individual investing and diversification.

The Department of Labor understands that the required information may come from several different sources such as the plan sponsor, the plan administrator and the plan's record keeper or brokerage firm. In such cases, the participant statement requirements can be satisfied using multiple documents or sources, provided that participants and beneficiaries have been furnished advance notification that explains how and when the information will be furnished.

Defined Benefit Plans (Including Cash Balance Plans)

Defined benefit plans (including cash balance plans) are required to provide statements every three years to all vested participants. Alternatively, these vested participants can be provided with an annual notice of the availability of a pension benefit statement along with the ways in which the participant can obtain such a statement. For non-vested participants and beneficiaries, benefit statements must be provided upon request. The first required statement will be for the period ending on the last day of the plan year beginning in 2009 (for a calendar year plan this will be December 31, 2009).

The participant statement for a defined benefit plan must include, among other things:

- √ the amount of the participant's accrued benefit, and
- √ the vested benefits, if any, that have accrued or the earliest date on which benefits will become vested.

Requirements for Faster Vesting

Defined Contribution Plans

Under PPA, employer contributions to a defined contribution plan must become vested in accordance with a schedule that is at least as generous as one of the following:

- √ 100% vesting upon completion of three years of service, or
- √ 20% vesting upon completion of two years of service with the percentage increasing 20% each year until 100% vesting was reached upon completion of six years of service (this matches current top-heavy vesting schedules, so a plan that is top-heavy will already be operating under this improved vesting requirement).

The new rule applies to contributions made for plan years beginning after December 31, 2006. Therefore, there can be two vesting schedules in a plan: one for contributions made prior to January 1, 2007 and another for contributions made after December 31, 2006. However, rather than having two vesting schedules, plan sponsors may elect to apply the new schedule to the entire account balance.

Many plans already have vesting schedules that satisfy the new rule. In these cases, no change is required.

Cash Balance Plans

Under PPA, a participant in a cash balance plan must be 100% vested after completing three years of service. In the case of a plan that was in existence on or before June 29, 2005, the new rule becomes effective for plan years beginning after December 31, 2007. For all other plans the new rule is effective for periods beginning on or after June 29, 2005. That is, the rule is already in effect for these plans.

Final Comments

Kravitz is developing forms and procedures to help clients comply with the new participant statement requirements. We will be discussing the new requirements with our clients and their advisors so that they can timely comply with the new requirements.

We are also helping our clients to understand the new vesting requirements and the options they have for complying with them. Additionally, we can assist our clients by preparing the necessary plan amendments.

If you have immediate questions about how the changes affect your plan(s), please contact your Kravitz consultant.

Kravitz is the largest firm of retirement consultants headquartered in California. We specialize in the design, implementation and administration of virtually every type of retirement plan. Our consultants, actuaries and other specialists have the experience and ability to make certain your retirement plans are properly designed, meet your needs and operate to your satisfaction. We have been dedicated to providing high quality service since our firm was founded in 1977.