

Quick Reference

Pension Protection Act Provisions Effective in 2007(excludes defined benefit provisions)

Provision	Requirement	Effective date	Implications
Vesting	All employer contributions to a defined contribution plan made after 12/31/2006 must vest using either a three year cliff vesting or 6 year graded vesting. Defined benefit plans are not affected.	Generally applies to plan years beginning after 12/31/2006. Plans maintained under collective bargaining agreements may have later effective dates. Doesn't apply unless participant has one hour of service under the plan to which the amendment applies.	<ul style="list-style-type: none"> • Multiple vesting schedules maintained by plans using graded vesting: <ul style="list-style-type: none"> ○ Pre 12/31/06 employer contributions ○ Post 12/31/06 employer contributions ○ Vesting for participants who terminated before 12/31/2006 in plans using 7 year graded vesting will be different than active participants unless plan sponsor changes vesting schedule for all participants. • Increased cost for employers • It might be easier to switch to one vesting schedule for all <p>Amend Plan</p>
Hardship Withdrawals	A hardship event will qualify for a hardship withdrawal if it occurs to a participant's spouse or dependent (as defined in §152).	Effective 8/17/2006. Within 180 days of 8/17/2006, the Secretary of the Treasury must modify the hardship regulations.	<ul style="list-style-type: none"> • Revise hardship forms and procedures
Reservist Distributions	<p>10% Penalty free withdrawals for individuals called to active duty for a period in excess of 179 days</p> <p>Qualified reservist distributions may be repaid within the two year period after the end of active duty but not before 8/17/2008.</p>	Effective for individuals ordered or called to active duty after 9/11/2001 and before 12/31/2007.	<ul style="list-style-type: none"> • May require modifications to recordkeeping systems to accept contributions. • Reservist who has received a distribution may be eligible to receive a refund of any 10% premature distribution tax.
Distribution During Employment	Distributions may be made to participants who have attained age 62 and who have not separated from service.	Effective for distributions during plan years beginning after 12/31/2006.	<ul style="list-style-type: none"> • Modify administrative forms and procedures; amend plan.
Notice and Consent Period	A plan must provide a participant with a notice regarding his/her rights with	Effective for plan years beginning after 12/31/2006.	<ul style="list-style-type: none"> • Modify administrative forms and procedures • Update language to reflect

JPR Advisors P.O. Box 90560 Santa Barbara, CA 93190

Phone: (805) 685-6965

www.JPRAdvisors.com

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	<p>respect to cash-outs, survivor annuities and eligible rollover distributions at least 30 days but not more than 180 days before the distribution date.</p> <p>The notice regarding cash outs must be modified to explain the consequences of failing to defer the distribution.</p>		<p>the consequences of failing to defer a distribution.</p>
Rollover of After tax contributions	<p>After tax contributions from a qualified plan may be rolled over to a defined contribution plan, defined benefit plan, 403(b) or an IRA.</p> <p>A rollover to a defined benefit plan or a 403(b) plan must be a trustee to trustee transfer.</p>	<p>Effective for plan/tax years beginning after 12/31/2006 for plans electing to permit this provision..</p>	<ul style="list-style-type: none"> • Modify administrative forms and procedures • Amend plan
Rollover by Non-spouse Beneficiary	<p>Distributions to a non-spouse beneficiary (e.g., a child) can be rolled to an IRA that has been established as an inherited IRA to accept the rollover in a trustee to trustee transaction. The IRA will be treated as an inherited IRA and subject to the minimum distribution rules for beneficiaries.</p>	<p>Effective for distributions after 12/31/2006</p>	<ul style="list-style-type: none"> • Modify administrative forms and procedures.
Periodic Benefit Statements	<p><i>Defined Benefit plans:</i></p> <ul style="list-style-type: none"> • At least once every three years to each participant with a non-forfeitable accrued benefit who is employed by the employer maintaining the plan at the time the statement is to be furnished. Information furnished is based on reasonable estimates as determined jointly by the DOL and PBGC. • The annual benefit statement requirement will be considered met if at least once a year the plan administrator provides a notice to participants regarding the availability of the benefit statement and how to obtain it. 	<p>Effective for plan years beginning after 12/31/2006.</p> <p>The new provision provides details of the information that must be included in the statements.</p> <p>The DOL must provide one or more model benefit statements no later than 8/17/2007.</p>	<ul style="list-style-type: none"> • May require expansion of information provided to defined contribution plan participants. • Require annual notice to defined benefit plan participants for employers choosing the alternative notice regarding availability of the benefit statement.

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	<p><i>Defined Contribution Plans:</i></p> <ul style="list-style-type: none"> • Provided quarterly to participants or beneficiaries who have the right to direct investments • Provided at least once per calendar year to participants who have their own accounts but do not have the right to direct investments. 		
<p>Default Investment Elections</p>	<p>A fiduciary is relieved of fiduciary responsibility with respect to investing employee contributions where the employee fails to make an investment election.</p> <p>The plan sponsor must satisfy a notice requirement and invest employee contributions in accordance with forthcoming regulations.</p> <p>The notice requirements are met if each participant receives, within a reasonable period of time before each plan year, a notice explaining the employee's rights under the plan regarding to direct investments and how such contributions and earnings will be invested if the participant doesn't make an election. The participant must have a reasonable period of time after receiving the notice and before the beginning of the plan year to make an investment direction decision.</p>	<p>Effective for plan years beginning after 12/31/2006.</p> <p>Regulations were issued on September 27, 2006 and can be obtained at http://www.dol.gov/ebsa/</p>	<ul style="list-style-type: none"> • Develop a notice which must be distributed before the 2007 plan year. • Carefully review and apply regulations.
<p>Diversification Requirements for Defined Contribution Plans</p>	<p><i>Employee contributions and elective deferrals:</i></p> <p>A plan meets the requirements if the participant has the right to elect to transfer out of employer securities and into other investment options complying with the regulations.</p> <p><i>Employer contributions:</i></p> <p>A plan meets the requirements if a participant</p>	<p>Generally effective for plan years beginning after 12/31/2006.</p> <p>A plan may limit the time for divestment of employer securities to a periodic, reasonable opportunities occurring no less frequently than quarterly.</p>	<ul style="list-style-type: none"> • Develop a notice which must be distributed before the 2007 plan year. • Increases recordkeeping and communication requirements if plan sponsor avails itself of the transition rule. • Participants with three years of service as of 12/31/2006 can divest employer securities

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	<p>(or beneficiary of a participant) who has completed at least three years of service can elect to transfer out of employer securities into other investment options complying with the regulations</p> <p>There is a transition rule for participants who have not attained age 55 with three years of service at 1/1/2006 (for calendar year plans). The transition rule provides that for securities acquired before 1/1/2007, participants be able to transfer out of employer securities as follows: 1st year – 33% 2nd year – 66% 3rd year – 100%</p> <p>There are exceptions for certain controlled groups.</p>		<p>acquired before that date in accordance with the transition rule and 100% of employer contributions invested in employer securities acquired after 1/1/2007.</p> <ul style="list-style-type: none"> It is important to note that as a result of the Enron scandal, many employers have already lifted trading restrictions on employer securities.
<p>Investment Advice</p>	<p>Fiduciary adviser may provide investment advice pursuant to an eligible investment advice arrangement which provides that fees charged by the investment adviser do not vary by the investments elected or utilizes a computer model which meets extensive requirements. There is nothing to preclude the use of plan assets to pay for reasonable expenses.</p> <p>Before the initial advice is given, the fiduciary adviser must disclose information to the participant including information regarding fees, types of services provided, and affiliations or relationships with respect to the recommended investments.</p> <p>Among the requirements for utilizing a computer model are:</p> <ul style="list-style-type: none"> Applies generally accepted investment theories that take into account historic returns 	<p>Generally effective with respect to investment advice provided after 12/31/2006.</p>	<ul style="list-style-type: none"> The phrase “the devil is in the details” comes to mind with this provision. Plan sponsors should begin to develop a position regarding providing investment advice to plan participants. Review any existing advice arrangements for compliance with the new rules. It might be reasonable to expect that investment providers will assist employers in developing products that comply with these rules, but <u>it is ultimately the plan sponsor who has the fiduciary responsibility for any investment program selected.</u> Care must be taken to understand all the implications of this provision.

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	<p>of different asset classes over different periods of time</p> <ul style="list-style-type: none"> • Utilizes relevant information about the participant • Utilizes prescribed objective criteria • Not biased in favor of investments offered by the fiduciary adviser or a person with a material affiliation • Takes into account all investment options under the plan • An eligible investment expert must certify that the computer model satisfies rules prescribed by the DOL. The certification must be renewed if there are material modifications to the computer model. • The only advice provided is advice generated by the computer model unless the participant asks for other unsolicited advice. • An independent auditor who has the technical proficiency conducts an annual audit and submits a written report to the fiduciary who authorized the arrangement regarding the compliance of the arrangement. • The person who develops the computer model or markets it is treated as a fiduciary. 		

Note: This material is for the sole purpose of providing general information and does not under any circumstances constitute legal advice and should not be used as a substitute for legal advice. You should seek the advice of counsel when applying the requirements to your plans.

For more information contact us by phone at 805-685-6965 and ask for Joe Rajkovich.

**JPR Advisors P.O. Box 90560 Santa Barbara, CA 93190
Phone: (805) 685-6965
www.JPRAdvisors.com**