



**A Follow-up Presentation to the DATAIR 2007
Interim & Discretionary Amendments Webinar**

**Janice LaPorte
Gretchen Osborne**



Today's Agenda


- Welcome & Introduction
- Background
- 2007 Interim & Discretionary Amendments
- Implementation of PPA Provisions
- EGTRRA Restatement Update
- Questions



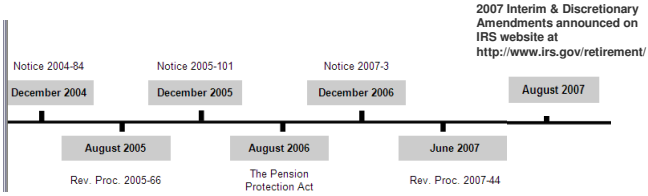
Our presenters are:

Janice LaPorte

Gretchen Osborne



Background



2007 Interim & Discretionary Amendments announced on IRS website at <http://www.irs.gov/retirement/>

Notice 2004-84
December 2004

Notice 2005-101
December 2005


Notice 2007-3
December 2006

August 2007

August 2005
Rev. Proc. 2005-66


August 2006
The Pension Protection Act

June 2007
Rev. Proc. 2007-44



2007 Interim & Discretionary Amendments


See <http://www.irs.gov/retirement/article/0%2C%2Cid=173372%2C00.html>



Retirement Plans Community Topics

- [Newsletters](#)
- [Published Guidance](#)
- [EP Forms/Pubs/Products](#)
- [Correcting Plan Errors](#)

This list of interim and discretionary amendments for 2007 is based on the [2006 Cumulative List](#)¹. Interim amendments are required to keep a written plan document up to date between a plan's submission periods during the applicable remedial amendment cycles.



What is an “Interim” Amendment?

An interim amendment is an amendment to reflect statutory or regulatory changes. Interim amendments must be adopted by the later of:

- the due date, including extensions, for filing the Employer's income tax return for the Employer's taxable year that includes the first day of the plan year in which the amendment is effective; or
- the last day of the plan year in which the amendment is effective.



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What is a “Discretionary” Amendment?

A discretionary amendment is a plan change that implements new or changed rules prior to a required compliance date or adopts optional plan provisions. Under Rev. Proc. 2005-66, the deadline for adopting a discretionary amendment is the last day of the plan year in which the change is implemented.

Note: If there are changes to the default provisions in the DATAIR 2007 interim amendment, then the amendment becomes a discretionary amendment requiring adoption before the last day of the plan year in which the amendment is effective.



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Example

Adoption Section of DATAIR 2007 DC Interim Amendment

f. Compensation shall include post-severance compensation paid to (check one or neither)

i. any Participant who is permanently and totally disabled. (Check this box only if salary continuation applies to all Participants who are permanently and totally disabled for a fixed or determinable period.)

ii. any permanently and totally disabled Participant who, immediately before becoming so disabled, was not a Highly Compensated Employee.



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Highlights of the 2007 DC Interim Amendment

Here are highlights of the 2007 Defined Contribution Interim Amendment.

- A provision to amend the normal retirement age if necessary (Money Purchase and Target Benefit Plans only.)
- A change to 415 compensation.
 - ✓ The amendment includes regular compensation earned but not paid until after severance from employment.
 - ✓ The amendment does not include the following without affirmative election in the amendment:
 - Sick, vacation or other leave pay that is paid after severance from employment
 - Pay while on qualified military service
 - Pay while disabled
 - Certain non qualified deferred compensation



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Highlights of the 2007 DC Interim Amendment (Continued)

- A 411(d)(6) anti cutback provision (protection of accrued benefits)
- High 3-year compensation required to be calculated excluding years not working and receiving no compensation
- Restorative payments not annual additions
- Vesting schedule limit might require a blended schedule after amendment
- Removal of excess annual addition correction methods from plan that followed old 415 regulations. Now must use EPCRS.
- Reversion to employer upon termination of plan for amounts in excess of 415(c)
- Grandfather prior years use of compensation in excess of 401(a)(17)



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Highlights of the 2007 DC Termination Amendment (Continued)

In addition, the DC termination amendment contains:

- Right to divest employer securities
- Adds hardship for beneficiary to safe harbor 401(k) hardship rules
- Adds qualified reservist distribution option
- Adds direct rollover of after-tax contributions
- Adds direct rollover to inherited IRA for non-spouse beneficiary
- Adds accelerated vesting schedule for employer non-elective contributions
- Adds extension of notice period for distributions to 180 days



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Highlights of the 2007 DB Interim Amendment

Here are highlights of the 2007 Defined Benefit Interim Amendment.

- Grandfathers pre-existing benefits
- A provision to amend the normal retirement age if necessary
- Protection of accrued benefit when plan is amended
- High 3-year compensation required to be calculated excluding years not working and receiving no compensation
- Straight life annuity value when not subject to reg. 1.417(e)-1
- Dollar limit for commencement of benefit before age 62
- Dollar limit for commencement of benefit after age 65



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Highlights of the 2007 DB Interim Amendment (Continued)

- Multiple annuity starting dates
- Rehired employees compensation limit
- Automatic benefit increase features
- Safe Harbor for annual adjustments to distributions
- Plan aggregation (predecessor employers)
- Severance from employment and defined benefit compensation limits
- Vesting schedule anti-cutback provisions



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Highlights of the 2007 DB Interim Amendment (Continued)

- Prior years use of compensation greater than 401(a)(17) limit protected
- A change to 415 compensation.
 - ✓ The amendment includes regular compensation earned but not paid until after severance from employment.
 - ✓ The amendment does not include the following without affirmative election in the amendment:
 - Sick, vacation or other leave pay that is paid after severance from employment
 - Pay while on qualified military service
 - Pay while disabled
 - Certain non qualified deferred compensation



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Highlights of the 2007 DB Termination Amendment (Continued)

In addition, the DB termination amendment contains:

- Adds direct rollover of after-tax contributions
- Adds direct rollover to inherited IRA for non-spouse beneficiary
- Adds extension of notice period for distributions to 180 days



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Are these amendments necessary?

Yes. The plan must

- Operate in accordance with written plan document(s); and
- Operate in accordance with changes in the law, regulations and other guidance.



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Prototype vs. Volume Submitter

Question: The 2007 interim amendments provided on the DATAIR website may be used for both prototype and volume submitter plans. The only difference in the amendments appears to be between DC, DB, and terminating plans. Is this correct? Why?

Answer: Yes, to be consistent between the prototype and volume submitter amendments.



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Next Step: DATAIR Prototype Plans

- For prototype plans, DATAIR is adopting the amendments on behalf of all adopting Employers.
 - ✓ **If the default provisions of the amendment are accepted**, then the Employer will not have to sign the amendment. DATAIR will add the amendment to the end of the Basic Plan Document.
 - ✓ **If different options are selected**, (that is, by placing an “X” in a box in the Adoption Section located at the end the Interim Amendment), then the Employer must sign the amendment by the last day of the 2007 plan year.



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Next Step: DATAIR Volume Submitter Plans

- For volume submitter plans, all Employers must sign the amendment because DATAIR is not able to adopt the amendment on behalf of all adopting Employers.
 - ✓ **If the default provisions of the amendment are accepted**, then the amendment must be signed by the due date, including extensions, for filing the Employer's income tax return for the Employer's taxable year that includes the first day of the plan year in which the amendment is effective.
 - ✓ **If different options are selected**, (that is, by placing an "X" in a box in the Adoption Section located at the end of the Interim Amendment), then the Employer must sign the amendment by the last day of the 2007 plan year.



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Next Step: DATAIR Volume Submitter and Prototype Terminating Plans

- Terminating plans must include all law changes in effect at the time of termination. This would include PPA provisions that are in effect as of the date of Plan termination.
- All terminating amendments must be signed and dated before the plan is terminated or the date of termination.

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So where do I find the DATAIR 2007 Interim Amendments?

1. Go to <http://www.datair.com> and click on “Software Updates”

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Welcome to DATAIR!
Saturday November 24, 2007

Software Solutions for Benefit Professionals
Proposal - Administration - Discrimination Testing - Documents - Reporting - Client Management

Web+ Code

- What's New at DATAIR?
 - 2007 5500 Forms EFAST Approved
 - User Group Meeting Announced
 - Free Webinars Announced!
- About Us
- Request Literature & Demos
- Employment Opportunities
- Other Web Sites of Interest
- System Training & Seminars
- Newsletters
- Software Updates
- Frequently Asked Questions

DATAIR Employee Benefit Systems, Inc. has been a leading provider of software for employee benefit professionals since 1967. Our PC-based solutions include...

- Defined Contribution / 401(k) Plan Administration**
Proposal, Administration, Recordkeeping, and Discrimination Testing for 401(k), Money Purchase, Profit Sharing, 403(b), 457 and ESOP plans.
- Defined Benefit Pension Administration**
Proposal, Administration, Recordkeeping, and Discrimination Testing for Defined Benefit and Target Benefit plans.
- Prototype & Volume Submitter Qualified Plan Documents**
IRS-Approved GUST Prototype and Volume Submitter Plan Documents for 401(k), PS, MP, TB and DB Plans. SPDs, Employee Communications, and Filing Forms too.

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So where do I find the DATAIR 2007 Interim Amendments? (Continued)

2. Click on “RD - Retirement Plan Document System”

Updates By System

Click on any of the links below to go directly to updates for that system

- [CA - FlexPlus Cafeteria Administration](#)
- [CD - Cafeteria Documents](#)
- [CM - Client & Task Manager](#)
- [DE - Data Entry & Review Module](#)
- [DS - DATAIR Document System](#)
- [DV - DATAIR Voice](#)
- [FA - FAS 132 Reporting](#)
- [PA - Plan Accountant](#)
- [PE - DB/DC Pension Administration System](#)
- [PR - Pension Reporter](#)
- [PT - Participant Termination Calculation System](#)
- [QP - Qualified Plan Distribution Calculation System](#)
- [RD - Retirement Plan Document System](#)
- [RW - Pension System Report Writer](#)



So where do I find the DATAIR 2007 Interim Amendments? (Continued)

3. Select the desired 2007 Interim Amendment

Other DS Downloads

2007 Interim and Discretionary Amendments

DC and DB 2007 Interim Amendment- DATAIR has adopted the amendment at our level for Prototype Plans. Plans only need to adopt the amendment if a change has been made to the pre-selected option made by DATAIR. If a change is made the amendment will need to be adopted by the end of the 2007 plan year.

➔ **DC and DB 2007 Interim Amendment for terminating plans (w/ PPA)-** This amendment will need to be adopted for all terminating plans on or before the date of the Plan termination date.

[2007 DB Interim Amendment](#) - Word Document Version - Posted November 9, 2007


[2007 DC Interim Amendment](#) - Word Document Version - Posted November 9, 2007

[Qualified Default Investment Alternative \(QDIA\) Notice](#) - Word Document Version - Posted November 9, 2007


[2007 DB Termination Amendment Part 2](#) - Word Document Version - Posted November 9, 2007

[2007 DC Termination Amendment](#) - Word Document Version - Posted November 9, 2007

We are currently in the process of adding these amendments to the DATAIR Documents System. They will be available in a later update.



For quick reference, here is a sample of one of the DATAIR amendments on our website.



➔ THIS AMENDMENT IS FOR TERMINATING DEFINED CONTRIBUTION PLANS ADOPTING AN INTERIM AMENDMENT FOR THE 2006 CUMULATIVE CHANGES.

[PLAN NAME]

[AMENDMENT #]

Section I. General Rules

1.1. Adoption and Effective Date. The purpose of adopting this Amendment is to incorporate required changes from the 2006 Cumulative List of Changes in Plan Qualification Requirements described in section 4 of Revenue Procedure 2005-66 as modified by Revenue Procedure 2007-44. **[EMPLOYER NAME]** adopts the following Amendment to its **[PLAN NAME]** (the "Plan") effective for Plan Years beginning on or after **[EFFECTIVE DATE]**. The provisions of this Amendment shall apply as of this date, including any options elected below.

1.2. Precedence. The requirements of this Article will take precedence over any inconsistent provisions of the Plan, including any previous amendments adopted by the Employer. Where appropriate, the term "Plan" shall mean the Plan and Trust.

1.3. Requirements of Treasury Regulations Incorporated. All matters addressed under this Article will be determined and made in accordance with the Treasury Regulations sections 1.401(a)-2, 1.401(a)(9)-5, 1.401(k)-1, 1.402(c)-2, 1.415(a)-1, through 1.415(j)-1, 1.457-4, 1.457-6 and 1.457-10.



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How do I implement PPA provisions?

- Revenue Procedure 2007-44 clarified that interim amendments for PPA are not needed prior to 2009.
- The DATAIR Document System offers a checklist to track PPA options until an amendment is available.
- Notices will be available on our website.

Go to <http://www.datair.com>
and click on "Software Updates"



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How do I implement PPA provisions? (Continued)

- The IRS has published two helpful PPA charts.
 - ✓ The first chart, sorted by Code section, lists the Code section, PPA section, and the guidance published so far about that PPA section.
 - ✓ The second chart, sorted by topic, provides the topic, Code section, PPA section number, and the guidance published so far.
 - ✓ The charts are current through September 30, 2007.



http://www.irs.gov/pub/irs-tege/ppa_chart_code.pdf

Pension Protection Act of 2006
 Sorted by IRC/ERISA Section
 PL 109-280, enacted 8-17-2006
 Guidance/Other Information available as of 9/30/07

KEY:	IRS Guidance
	DOL Guidance
	PBGC Guidance

IRC/ERISA § Added, Changed or Impacted	Topic	PPA § No.	Description	Published Guidance	Other Information Available
	EGTRRA	811	Pensions and individual retirement arrangement provisions of Economic Growth and Tax Relief Reconciliation Act of 2001 made permanent		Publication 571 updated
25B	Indexing	833	Inflation indexing of gross income limitations on certain retirement savings incentives	Rev. Proc. 2006-53	Publication 590 updated Publication 571 updated Form 8806 Instructions modified
		828	Waiver of 10 percent early withdrawal penalty tax on certain distributions of		

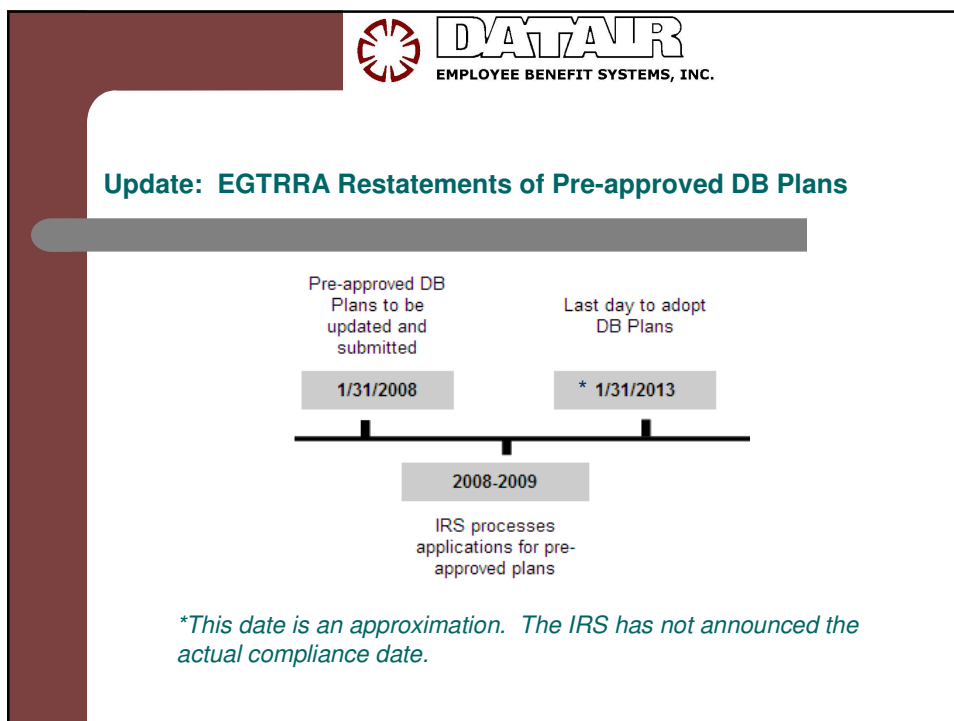
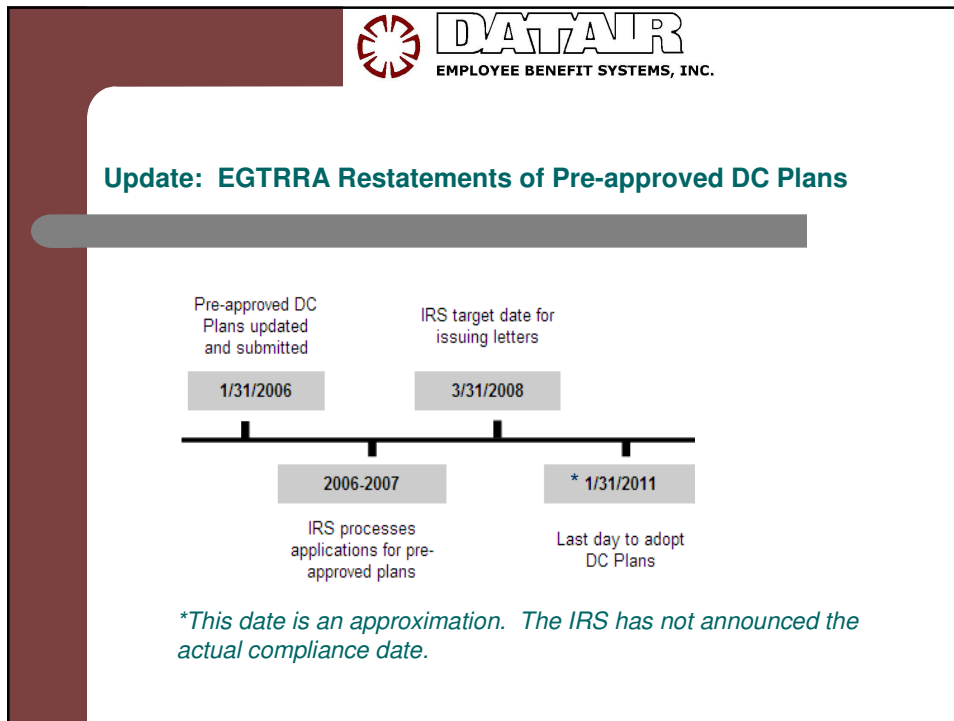



http://www.irs.gov/pub/irs-tege/ppa_chart_topic.pdf

Pension Protection Act of 2006
 Sorted by Topic
 PL 109-280, enacted 8-17-2006
 Guidance/Other Information available as of 11/16/07

KEY:	IRS Guidance
	DOL Guidance
	PBGC Guidance


Topic	IRC/ERISA § Added, Changed or Impacted	PPA § No.	Description	Published Guidance	Other Information Available
30-year Treasury rates	412	301	Extension of replacement of 30-year Treasury rates	Notice 2006-75, 2006-30 IRB 6-300	
415 limits	415	832	Determination of average compensation for section 415 limits	IRC Section 415 Final Regs	
Amendments	401	1107	Amendment Period	Rev. Proc. 2007-44, 2007-28 IRB 5-4	
Annual financial			Explains how the provisions of PPA relating to PBGC's required interest rate for	Technical Update 06-4 Use of Corporate	





Questions





For more information contact

DATAIR Customer Support
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or
E-mail: rd.support@datair.com
web: <http://www.datair.com>