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

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

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.
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.

Example

Adoption Section of DATAIR 2007 DC Interim Amendment

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

[X] 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.
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

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)
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

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
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

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
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

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.
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.

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.
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.

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.
So where do I find the DATAIR 2007 Interim Amendments?

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

2. Click on “RD - Retirement Plan Document System”
So where do I find the DATAIR 2007 Interim Amendments?
(Continued)

3. Select the desired 2007 Interim Amendment

Other DS Downloads

<table>
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<td>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.</td>
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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.
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](http://www.datair.com) and click on “Software Updates”

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.
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

<table>
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Pension Protection Act of 2006
Sorted by Topic
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<td>360</td>
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<td>Revenue Ruling 2002-58</td>
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<td>415 limits</td>
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<td>852</td>
<td>Determination of average compensation for section 415 limits</td>
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<td>1107</td>
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<td>Explains how the provisions of PPA relating to the 401(k)/403(b) must be</td>
<td>Revenue Ruling 2007</td>
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<td>treated for purposes of determining the test of section 415.</td>
<td>R-1, Use of Corporate</td>
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Update: EGTRRA Restatements of Pre-approved DC Plans

*This date is an approximation. The IRS has not announced the actual compliance date.

Update: EGTRRA Restatements of Pre-approved DB Plans

*This date is an approximation. The IRS has not announced the actual compliance date.
Questions

For more information contact

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