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(COVERS ISSUES #1 THROUGH #30 OF eRISA UPDATE)**

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¶2.165 - Safe Harbor 401(k) Plans
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¶2.170(3) - Minimum Funding Requirements: Mortality Assumptions
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¶2.170(4) - Minimum Funding Requirements: General Requirements
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¶2.170(6) - Minimum Funding Requirements: Funding Balances
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¶2.172 - Benefit Restrictions For Underfunded Pension Plans
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¶2.195(3) - Anti-cutback Rules: Protecting Optional Forms of Benefit
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¶2.240(1) - Elective Deferrals: Limits on Deferrals
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¶2.240(3) - Elective Deferrals: Designated Roth contributions
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Final regulations explain application of tax code requirements to deemed IRAs and to other contributions made to the underlying employer plan, and the consequences of failing to satisfy applicable requirements; non-bank trustee rules modified for governmental plans [Citation: <i>Treas. Reg. §§1.408(q)-1, 1.408-2(e)(5)(v)(A), 1.408-2T</i> , 69 F.R. 43735 (July 22, 2004)].	448
Note: Replaces the proposed regulations summarized at page 169.	
Final regulations modify nonbank trustee rules for governmental plans [Citation: <i>Treas. Reg. §1.408-2(e)(8)</i> , 72 F.R. 33387 (June 18, 2007)].	1383
¶2.500 - Section 403(b) Arrangements: General Requirements	
Proposed regulations explain the rules for section 403(b) plans, reflecting all law changes through EGTRRA; clarifications made to controlled group rules and to FICA rules as well [Citation: <i>Prop. Treas. Reg. §§1.403(b)-1 through 1.403(b)-11, 1.402(g)(3)-1, 1.414(c)-5</i> , 69 F.R. 67075 (November 16, 2004), and <i>Treas. Reg. §31.3121(a)(5)-2T</i> , 69 F.R. 67100 (November 16, 2004)].	556
¶2.503 - Section 403(b) Plans: Taxation	
Application of FICA to salary reduction contributions under a section 403(b) plan [Citation: <i>Treas. Reg. §31.3121(a)(5)-2</i> , 72 F.R. 64939 (November 19, 2007)].	1652

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¶2.508 - Section 403(b) Arrangements: Roth 403(b) Contributions
 Final regulations explain the rules for section 403(b) plans, reflecting all law changes through PPA 2006; clarifications made to controlled group rules and to FICA rules as well [Citation: *Treas. Reg. §§1.403(b)-1 through 1.403(b)-11, 1.402(b)-1, 1.402(g)(3)-1, 1.402A-1, Q&A-1, 1.414(c)-5, 72 F.R. 41128 (July 26, 2007)*]. 1549
Note: These regulations replace the proposed regulations that were issued on January 26, 2006, and summarized on p. 876.

¶2.510 - Taxation Issues For Nonqualified Plans
 Final regulations on IRC §409A requirements for nonqualified plans provide for more flexibility for stock rights, expand the categories of plans for purposes of the aggregation rules, and adopt other important clarifications to the proposed regulations [Citation: *Treas. Reg. §§1.409A-1 through 1.409A-6, 72 F.R. 19234 (April 17, 2007)*]. 1384
Note: These regulations finalize the proposed regulations summarized at page 878.
 Proposed regulations provide guidance on calculating the amounts includible in income under IRC §409A(a) and the additional taxes imposed by that tax code section [Citation: *Prop. Treas. Reg. §1.409A-4, 73 F.R. 74380 (December 8, 2008)*]. 1983

¶2.514 - Section 457 Plans
 Final regulations provide comprehensive guidance for section 457 plans; recent legislation and other guidance incorporated [Citation: *Treas. Reg. §§1.457-1 through 1.457-12, 68 F.R. 41230 (July 11, 2003)*]. 173

¶2.520 - Health Savings Accounts (HSAs)
 Regulations provides guidance on the comparability requirement of IRC §4980G where an employee does not establish an HSA by December 31 [Citation: *Treas. Reg. §54.4980G-4, Q&A-14 through Q&A-16, 73 F.R. 20794 (April 17, 2008)*]. 1845
 Additional guidance on comparability requirement for HSA contributions; special rule for testing contributions made for nonhighly compensated employees; guidance on paying excise tax [Citation: *Treas. Reg. §§54.4980G-1, 54.4980G-3, 54.4980G-4, 54.4980G-6, 54.5980G-7, 54.6011-2, 54.6061-1, 54.6071-1, 54.6091-1, 54.6151-1, 74 F.R. 45994 (September 8, 2009)*]. 2200
Note: These regulations replace proposed regulations that were summarized at page 1901.

¶2.605(1) - Practice Before the IRS
 Regulations set forth best practices for tax advisors providing advice to taxpayers relating to Federal tax issues or submissions to the IRS [Citation: *Treas. Reg. §§10.33, 10.35-10.38, 10.52, 10.93, 31 C.F.R. Part 10 (Practice Before the IRS), 69 F.R. 75839 (December 20, 2004)*]. 570
 Amendments to Circular 230 regulations adds exceptions for certain written advice and clarifies tax avoidance [Citation: *Treas. Reg. §§10.35(b)(2)(ii), (b)(8), (b)(10), 31 C.F.R. Part 10 (Practice Before the IRS), 70 F.R. 28824 (May 19, 2005)*]. 756
 Preamble to proposed regulations formally announce plans to create enrolled agent classification for retirement plan professionals [Citation: *Preamble to Proposed Regulations Governing Practice Before the IRS (Circular 230), 71 F.R. 6421 (February 8, 2006)*]. 980
 Amendments adopted Circular 230 that formally adopts a new enrolled category (ERPA) for retirement plan professionals and adopts amendments in response to the American Jobs Creation Act of 2004; proposed amendments to tax return standards [Citation: *31 CFR Part 10 (Circular 230), §10.1-10.7, 10.22, 10.25, 10.27, 10.29-10.30, 10.34, 10.50-10.53, 10.60-10.63, 10.65, 10.68, 10.70-10.73, 10.76-*

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¶2.605(2) - Joint Board for the Enrollment of Actuaries Proposed regulations would update standards for enrolled actuaries to reflect changes in the law and industry practice [Citation: <i>20 C.F.R. Part 201, Prop. Reg. §§901.0, 901.1, 901.10-901.12, 901.20, 901.31, 901.32, 901.47 and 901.72</i> , 74 F.R. 48030 (September 21, 2009)].	2203
¶2.607 - Tax Shelters: Listed Transactions Involving Retirement Vehicles Temporary and proposed regulations regarding disclosure requirements for prohibited tax shelter transactions and excise taxes on such transactions [Citation: <i>Treas Reg. §§1.6033-5T, 53.4965-1 through 53.4965-9, 53.6071-1T, 54.6011-1T, 301.6011(g)-1</i> , 72 F.R. 36869, 36871, 36927 (July 6, 2007)].	1576
¶2.700 - Age Discrimination Issues Proposed regulations would modify current proposed regulations relating to application of age discrimination rules to qualified plans; special rules for cash balance plans proposed [Citation: <i>Prop. Treas. Reg. §1.401(a)(4)-3(g), §1.401(a)(4)-9(b)(2)(vi), and §1.411(b)-2</i> (December 11, 2002)].	3

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DOL REGULATIONS

¶3.192 - QDROs

Interim regulations implement PPA 2006 directive to clarify status of QDROs without regard to timing or that a prior QDRO already exists [Citation: *DOL Reg. §2530.206*, 72 F.R. 10073 (March 7, 2007)] 1302

¶3.220(3) - Automatic Rollovers

Final regulations provide fiduciary relief for automatic rollovers and implement a March 28, 2005, effective date for IRC §401(a)(31)(B) [Citation: *DOL Reg. §2550.404a-2*, 69 F.R. 58018 (September 29, 2004)] (*replaces proposed regulations summarized on page 349*). 456

Fiduciary safe harbor provided for automatic rollovers made with respect to terminated defined contribution plans (including abandoned plans) [Citation: *DOL Reg. §2550.404a-3*, 71 F.R. 20820, 20828-20830, 20850-20853 (April 21, 2006)]. 981

Note: These regulations replace the regulations that were proposed on March 10, 2005, which were summarized at page 628.

Fiduciary safe harbor for automatic rollovers made by terminated defined contribution plans (including abandoned plans) is amended to require benefits of missing nonspouse beneficiaries to be rolled over to inherited IRAs [Citation: *DOL Reg. §2550.404a-3(d) and (e)*, *DOL Reg. §2578.1(d)(2)(vi)(A)*, 73 F.R. 58459 (October 7, 2008)]. 2003

¶3.273 - Plan Termination: Orphan Plans

Regulations permit “qualified termination administrator” to terminate and liquidate abandoned or orphan plans; simplified final report filed [Citation: *DOL Reg. §2578.1, Appendixes A through D to §2578.1, §2520.103-13*, 71 F.R. 20820, 20828-20830, 20850-20853 (April 21, 2006)]. 985

Note: These regulations replace the regulations that were proposed on March 10, 2005, which were summarized at page 631.

¶3.300 - Form 5500 Reporting Requirements

DOL supplements proposed revisions to Form 5500 series, in light of the PPA 2006 [Citation: Proposed Revision of Annual Information Return/Reports, 71 F.R. 71562 (December 11, 2006)]. 1169

DOL requires mandatory electronic filing of Form 5500 for plan years or reporting years that begin on or after January 1, 2009; adopts significant revisions to forms; 2008 effective date for certain changes relating to the PPA 2006 [Citation: *DOL Reg. §§2520.103-1, 2520.104-44, 2520.104-46, 2520.104a-2*, 72 F.R. 64710 (November 16, 2007), and *Revision of Annual Information Return/Reports*, 72 F.R. 64731 (November 16, 2007)]. 1653

Note: Replaces proposed regulations that were summarized at p. 816 and final regulations that were summarized at p. 1071. The DOL has announced that, due to the PPA, the effective date for mandatory electronic filing has been pushed back to 2009.

¶3.318 - Miscellaneous Disclosure Requirements under Title I of ERISA

Final regulations provide guidance on annual funding notice required of multiemployer plans under ERISA §101(f) [Citation: *DOL Reg. §2520.101-4*, 71 F.R. 1904 (January 11, 2006)]. 997

¶3.320(3) - Definitions: Investment Manager

Electronic registration requirements for investment advisers to be investment managers under Title I of ERISA [Citation: *DOL Reg. §2510.3-38*, 69 F.R. 52120 (August 24, 2004)]. 457

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¶3.321(1) - Fiduciary Duties and Liability: Prudence and Diversification
 Economically targeted investments - DOL updates its position [Citation: *DOL Reg. §2509.08-1 (Interpretive Bulletin 08-1)*, 73 F.R. 61735 (October 17, 2008)]. 2004
 Interpretive bulletin outlines DOL positions on proxy voting, investment policies, and shareholder activism [Citation: *DOL Reg. §2509.08-2 (Interpretive Bulletin 08-2)*, 73 FR 61731 (October 17, 2008)]. 2006

¶3.321(6) - Fiduciary Duties and Liability: Selection of Annuity Providers
 Proposed regulations prescribe fiduciary standards for selection of annuity providers for defined contribution plans; “safest annuity standard” in Interpretive Bulletin 95-1 amended to restrict its application to defined benefit plans [Citation: *DOL Reg. §2509.95-1*, 72 F.R. 52004 (September 12, 2007); *Prop. DOL Reg. §2550.404a-4*, 72 F.R. 52021 (September 12, 2007)]. 1583
 Regulations prescribe fiduciary standards for selection of annuity providers for defined contribution plans; “safest annuity standard” in Interpretive Bulletin 95-1 amended to restrict its application to defined benefit plans [Citation: *DOL Reg. §2509.95-1*, 73 F.R. 58445 (October 7, 2008); *DOL Reg. §2550.404a-4*, 73 F.R. 58447 (October 7, 2008)]. 2010
Note: The regulations finalize the proposed regulations summarized at page 1583.

¶3.322 - Participant-Directed Investments
 Blackout notices: final regulations implement provisions of Sarbanes-Oxley Act of 2002 relating to advance notice of blackout periods on investment direction, loans or distribution rights, and to civil penalties under ERISA §502(c)(7) for noncompliance; model notice provided [Citation: *DOL Reg. §2520.101-3*, 68 F.R. 3716 (January 24, 2003) (notice requirements and model notice), and *DOL Reg. §§2560.502c-2, 2560.502c-5, 2560.502c-6, 2560.502c-7, 2570.61, 25701.64, 2570.94, 2570.114, and 2570.130 through 2570.141 (new Subpart G of Part 2570)*, 68 F.R. 3729 (January 24, 2003) (civil penalties for noncompliance)]. 24
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¶3.322(3) - Participant-Directed Plans: Fiduciary Liability/Scope of Relief under ERISA §404(c)
 Proposed regulations would impose fiduciary requirements for disclosure in participant-directed plans [Citation: *Prop. DOL Reg. §§2550.404a-5, 2550.404c-1*, 73 F.R. 43014 (July 23, 2008)]. . . . 1904

¶3.322(4) - Participant-Directed Investments: Default Investments
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Note: Supersedes proposed regulations summarized at p. 1220.
 Clarifying amendments adopted to final QDIA regulations [Citation: *DOL Reg. §2550.404c-5*, 73 F.R. 23349 (April 30, 2008)]. 1847

¶3.326 - Definition of Plan Assets: Participant Contributions
 Safe harbor deadline for depositing participant contributions to plans with fewer than 100 participants [Citation: *DOL Reg. §2510.3-102*, 75 F.R. 2068 (January 14, 2010)]. 2373
Note: These regulations finalize the proposed regulations summarized at p. 1759.

¶3.332 - ERISA Enforcement: Civil and Criminal Penalties
 Assessment procedures for the ERISA §502(c)(4) penalty [Citation: *DOL Reg. §2550.502c-4*, 74 F.R. 17 (January 2, 2009)]. 2012
Note: These regulations finalize the proposed regulations summarized at p. 1675.

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¶3.362 - Prohibited Transaction Exemptions Relating to Investment Transactions
 Final regulations prescribe requirements for statutory exemption under ERISA §408(b)(14) and IRC §4975(d)(17) with respect to investment advice rendered by a fiduciary adviser and incorporate class exemption into text of regulations; effective date postponed [Citation: *DOL Reg. §§2550.408g-1 and 2550.408g-2*, 74 F.R. 3822 (January 21, 2009), 74 F.R. 11847 (March 20, 2009) (delay of effective date)]. 2117
Note: These replace the proposed regulations that were summarized at page 1913. They were later withdrawn in November 2009 before ever becoming effective. See page 2117.
 Effective date of final regulations under ERISA §408(b)(14) and IRC §4975(d)(17) further postponed to November 18, 2009 [Citation: *DOL Reg. §§2550.408g-1 and 2550.408g-2*, 74 F.R. 23951 (May 22, 2009)]. 2174
 DOL withdraws final regulations prescribing requirements for statutory exemption under ERISA §408(b)(14) and IRC §4975(d)(17) with respect to investment advice rendered by a fiduciary adviser and incorporating class exemption that would have expanded scope of relief [Citation: *Withdrawal of DOL Reg. §§2550.408g-1 and 2550.408g-2*, 74 F.R. 60156 (November 20, 2009)]. 2294
Note: The regulations that were withdrawn had been summarized at page 2117. See next entry for re-proposed regulations.
 Proposed regulations prescribe requirements for statutory exemption under ERISA §408(b)(14) and IRC §4975(d)(17) with respect to investment advice rendered by a fiduciary adviser, replacing withdrawn regulations issued by the prior Administration [Citation: *Prop. DOL Reg. §§2550.408g-1 and 2550.408g-2*, 75 F.R. 9360 (March 2, 2010)]. 2375

¶3.364 - Prohibited Transaction Exemptions: Exemptions Relating To Services
 Proposed regulations would impose new disclosure requirements on service providers in order to qualify for the statutory exemption under ERISA §408(b)(2) [Citation: *Prop. DOL Reg. §2550.408b-2(c)(1)*, 72 F.R. 70988 (December 13, 2007)]. 1677

¶3.707 - Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA)
 Final regulations provide guidance to clarify the rights and obligations of employers and employees with respect to USERRA, including make-up benefits under employee pension benefit plans [Citation: *20 CFR Part 1002, Subparts A through F, §§1002.1 - 1002.314*, 70 F.R. 75246 (December 19, 2005)] 915
Note: These regulations finalized regulations that were proposed on September 20, 2004, and were summarized at page 459.
 Model notice issued regarding USERRA rights, as required by Veterans Benefits Improvement Act of 2004 [Citation: *20 CFR Part 1002, Appendix A* (Veterans’ Employment and Training Service, Department of Labor), 70 F.R. 12106 (March 10, 2005)]. 637

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¶4.303(2) - Annual Financial and Actuarial Information (ERISA §4010)
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 PBGC modifies regulations under ERISA §4010 to implement PPA 2006 changes [Citation: *PBGC Reg. §§4010.1-4010.14*, 74 F.R. 11022 (March 16, 2009); *PBGC Technical Update 09-2* (March 25, 2009)] 2130
Note: These replace the proposed regulations that were summarized at page 1761.

¶4.303(3) - PBGC Reporting Rules: Reportable Events (ERISA §4043)
 Proposed regulations would update reportable event rules to reflect PPA 2006 funding rules and eliminate most automatic waivers and filing extensions [Citation: *Prop. PBGC Reg. §§4043.1-4043.6, 4043.23, 4043.25-4043.27, 4043.29-4043.37, 4043.61-4043.70, 4043.81*, 74 F.R. 61248 (November 23, 2009)] 2296

¶4.371 - Title IV of ERISA - Coverage/Premiums
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Note: Replaces proposed regulations that were summarized at p. 642.
 Regulations reflect changes made by the Deficit Reduction Act of 2005 and the Pension Protection Act of 2006 with respect to PBGC premium obligations [Citation: *PBGC Reg. §§4006.3, 4006.7, 4007.8, 4007.10, 4007.13*, 72 F.R. 71222 (December 17, 2007)]. 1681
Note: Replaces proposed regulations that were summarized at p. 1306.
 Final regulations prescribe methodology and due dates for paying variable rate premiums (VRPs) for post-2007 plan years [Citation: *PBGC Reg §§4006.2, 4006.4, 4006.5, 4007.3, 4007.7, 4007.8, 4007.10, 4007.11*, 73 F.R. 15065 (March 21, 2008)]. 1768
Note: Replaces proposed regulations that were summarized at p. 1467.

¶4.372 - Title IV: Plan Termination Procedures
 Proposed regulation would implement section 404 of the PPA 2006 regarding substitution of an employer’s bankruptcy filing date for the plan’s termination date to make certain determinations [Citation: *Prop. PBGC Reg. §§4001.2, 4022.2, 4022.3, 4022.4, 4022.6, 4022.21, 4022.22, 4022.23, 4022.24, 4022.25, 4022.51, 4022.62, 4022.63, 4022.82, 4044.2, 4044.13*, 73 F.R. 37390 (July 1, 2008)] 1848
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Note: These regulations finalize the proposed regulations summarized at p. 1685.

¶4.373 - Title IV of ERISA: PBGC Enforcement
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¶5.104 - Establishment of Plan/Coverage Under ERISA
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¶5.130(1) - Vesting: General Requirements - Amendment to the Vesting Schedule
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¶5.147 - Life Insurance
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¶5.173 - Benefit Restrictions to HCEs for Underfunded Pension Plans (Treas. Reg. §1.401(a)(4)-5)
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¶5.179 - ERISA §204(h) and IRC §4980F Notice Requirements
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ERISA §502(a)(3) action may be brought to seek rescission of lump sum distribution due to incorrect information about tax consequences of lump sum payment from nonqualified plan [Citation: *Griggs v. E.I. Dupont de Nemours & Co.*, 33 EBC 2089 (4th Cir. September 29, 2004)]. 581

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Participant may recover losses incurred by his account due to fiduciary’s failure to implement the investment strategy he had selected for the account [Citation: *LaRue v. DeWolff, Boberg & Associates*, 128 S.Ct. 1020 (2008)]. 1777

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Note: These regulations replace the interim regulations summarized at page 1058.