

# Chronological Summary of Major Post-ERISA Benefit Legislation

October 2008

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## **Michelle's Law—2008**

- Ensures that college students covered as dependents under a parent's group health plan do not lose their coverage when they take a medically necessary leave of absence or switch to part-time student status due to a serious illness or injury.
- Amends ERISA, the Public Health Service Act, and the Internal Revenue Code to prohibit group health plans from terminating coverage of a qualifying dependent child before the earlier of one year after the first day of a medically necessary leave of absence or the date on which such coverage would otherwise terminate under the terms of the plan.

## **Emergency Economic Stabilization Act of 2008 (EESA)**

- Authorizes the Secretary of the Treasury to establish a Troubled Asset Relief Program (TARP) to purchase troubled assets from financial institutions; and includes significant changes in executive compensation for financial institutions that participate in the TARP, whether by selling assets directly to the Treasury or through the auction process.
- Increases the alternative minimum tax (AMT) exemption to \$46,200 for individuals and \$69,950 for married couples filing jointly; revises the refundable AMT credit; and offers assistance for AMT taxpayers who exercise incentive stock options.
- Provides that nonqualified deferred compensation paid to U.S. taxpayers by a tax indifferent party (such as an offshore corporation in a low- or no-tax jurisdiction) will become taxable as soon as the amounts are no longer subject to substantial risk of forfeiture.
- For all counties in the Midwest that are federally declared disaster areas, EESA waives the 10% penalty tax if a distribution is from an individual retirement account (IRA) or other tax-favored retirement plan; allows distributions for home purchases that were made from a 401(k) plan, 403(b) plan, or IRA to be recontributed tax-free; and increases the amount that can be borrowed from 401(k), 403(b), and 457(b) plans to the lesser of \$100,000 or 100% of the vested accrued benefit for loans made after the date of enactment and before January 1, 2010.
- Includes mental health parity provisions, entitled the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008. The parity provisions amend ERISA, the Public Health Service Act, and the Internal Revenue Code to prohibit group health plans from imposing more restrictive treatment limits and financial requirements (including copays, deductibles, coinsurance, and out-of-pocket expenses) for mental health and substance abuse benefits than for medical and surgical benefits. EESA also makes permanent the original 1996 mental health parity law providing that a health care plan or policy may not provide a separate lower annual or lifetime dollar maximum on mental health benefits compared to medical benefits. In addition, out-of-network mental health services must be covered at the same level as out-of-network medical and surgical benefits.

## **ADA Amendments Act of 2008 (ADAAA)**

- Clarifies that the definition of disability should be broadly construed to cover individuals to the maximum extent permitted by the ADAAA and the Americans with Disabilities Act (ADA).
- Contains a non-exhaustive list of major life activities that includes caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, speaking, breathing, and working.
- Contains a non-exhaustive list of major bodily functions (including digestive, bowel, bladder, neurological, respiratory, and circulatory), the operations of which are major life activities.
- Overturns *Sutton v. United Airlines* by prohibiting the consideration of mitigating measures in the determination of whether an individual is disabled, with the exception of ordinary eyeglasses or contact lenses.
- Expands the regarded as prong of the definition of disability, by allowing individuals to establish they were subject to adverse actions based on the employer's perception of an impairment, even one not perceived to limit a major life activity.
- Excludes individuals with minor and transitory impairments lasting less than six months from being regarded as disabled.
- Provides the Equal Employment Opportunity Commission (EEOC), Attorney General, and Secretary of Transportation the authority to issue regulations implementing the definitions created by the ADAAA.
- Directs the EEOC to revise the definition of "substantially limits" in its current regulations.
- Clarifies that an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

## **Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act)**

- Makes permanent the Internal Revenue Code provision that permits active duty reservists to make penalty-free withdrawals from retirement plans.
- Allows any differential military pay to be included in the calculation of wages for retirement plan purposes and allows employers to report the differential military pay on the W-2.
- Modifies the Uniformed Services Employment and Reemployment Rights Act (USERRA) for the purposes of triggering the payment of qualified plan benefits and allows recipients of military death benefit gratuities to roll over the amounts received, tax-free, to a Roth IRA or a Coverdell education savings account.
- Permits reservists who are called to active duty for at least 180 days to withdraw any remaining balances in their health care flexible spending arrangements.

## **Genetic Information Nondiscrimination Act of 2008 (GINA)**

- Employer sponsored group health plans are prohibited from using genetic information to discriminate in health benefits and other terms of employment.
- Title I of GINA prohibits the use of genetic information to discriminate in health benefits. Employer-sponsored group health plans and health insurers are prohibited from restricting enrollment or adjusting premiums based on genetic information; and requiring or requesting genetic information or genetic testing, or purchasing genetic information, prior to or after enrollment.

- Title II prohibits the use of genetic information to discriminate in employment. New provisions concerning the confidentiality of genetic information are also included. Generally, any genetic information in the possession of an employer (or labor organization or Taft-Hartley organization committee) must be kept on separate forms and in separate medical files and treated as a confidential medical record.
- GINA's enforcement provisions and remedies are consistent with the enforcement provisions of and remedies under Title VII. GINA does not preempt other federal or state laws that are equally or more protective or grant additional rights to individuals, including the ADA and the Rehabilitation Act of 1973.

### **National Defense Authorization Act for Fiscal Year 2008**

- Amends the Family Medical Leave Act (FMLA) to create two new FMLA leave entitlements aimed at family members of military personnel.
- The first new leave entitlement, the Call to Duty Leave provision, permits eligible employees to take up to 12 weeks of unpaid leave for a "qualifying exigency" related to the active duty status of the employee's spouse, son, daughter, or parent.
- The second new leave entitlement, the Service Member Family Leave provision, permits eligible employees to take up to 26 weeks of unpaid leave to care for a family member who is wounded while on active military duty.
- With respect to the Department of Defense federal contracting requirements, modifies the competitive sourcing provision applicable to federal defense contractors by excluding health care and retirement costs from the public-private cost comparison competition selection process under OMB Circular A-76.
- Further modifies the DOD contracting requirements to eliminate the automatic rebidding of work won by federal employees and to require the DOD to issue guidance on allowing federal employees to bid on new work or work currently performed by contractors.

### **Pension Protection Act of 2006 (PPA)**

- Replaces the funding requirements for defined benefit pension plans by subjecting defined benefit plans to a 100% of current liability funding target, requiring more funding of "at-risk" defined benefit plans, and imposing new benefit limits on underfunded defined benefit plans.
- Changes the premiums that the sponsors of underfunded defined benefit plans must pay to the Pension Benefit Guaranty Corporation.
- Clarifies the legal standing of cash balance and hybrid pension plans by making it clear that, at least prospectively, plans complying with the PPA rules do not discriminate on the basis of age.
- Extends certain tax incentives for retirement savings, modifies tax provisions relating to spending for health care, establishes a safe harbor for employers to provide investment advice to help employees manage their 401(k) plan accounts, and provides a safe harbor for automatic enrollment of employees in 401(k) plans.
- Provides for modifications to the plan asset rules that determine when participant contributions become assets of a plan, and to the prohibited transaction rules, which prohibit a wide range of transactions between a plan and a party in interest unless an exemption applies.
- Requires more disclosure to participants about how their retirement plans are performing.

## **Bankruptcy Abuse Prevention and Consumer Protection Act of 2005**

- Protects retirement funds in qualified plan accounts under the Internal Revenue Code.
- Excludes from an individual's estate any amounts withheld by an employer from an employee's wages that are contributions to qualified ERISA plans regulated by state law.
- Requires that a debtor or trustee continue to perform the obligations required of a plan administrator under ERISA if the debtor had served as an administrator prior to its filing a bankruptcy petition.
- Clarifies that bankruptcy will not interfere with plan loan repayment under employer-sponsored pension plans, profit-sharing plans, stock bonus plans, or other plans under Code section 401, 403, 408, 408A, 414, 457, or 501(c).
- Imposes a \$1 million cap (periodically adjusted) on the amount of a debtor's interest in an IRA (traditional or Roth) that may be claimed exempt.

## **Veterans Benefits Improvement Act of 2004**

- Amends the Uniformed Services Employment and Reemployments Rights Act (USERRA) to require employers to provide 24 months of COBRA coverage instead of 18 months to an individual called to active duty.
- Requires employers to post a notice of employee rights under USERRA. This requirement can be met by posting the notice in a place where employers customarily provide notices to employees. The Department of Labor (DOL) must provide the required notice within 90 days after enactment.
- Effective on the date of enactment.

## **American Jobs Creation Act of 2004**

- Repeals extraterritorial income exclusion in current tax law, but the law also contains significant new rules for nonqualified deferred compensation plans. These provisions will be effective for compensation deferred after December 31, 2004, unless the existing plan is "materially modified."
- The definition of "nonqualified deferred compensation plan" is broad enough to include some equity-based compensation, such as restricted stock, restricted stock units, and stock appreciation rights. Deferral elections for "performance-based compensation" covering at least a 12-month service period may be made not later than six months before the end of the period. If a plan does not comply with the new rules, the individuals affected by the noncompliance are subject to immediate income taxation, a 20 percent penalty, and underpayment interest.
- Congress intends to address technical corrections in 2005, but in the meantime, to provide the IRS and taxpayers with some guidance regarding congressional intent, a technical corrections bill was introduced on November 19, 2004. The legislation would clarify that Treasury guidance providing transition rules would apply to plans adopted before January 1, 2005, and that the effective date of the funding provisions relating to offshore trusts and financial triggers is January 1, 2005.
- On December 20, 2004, Treasury and IRS issued Notice 2005-1 providing transition rules and other guidance related to Code section 409A that was enacted as part of the AJCA. Notice 2005-1, issued in question-and-answer format, includes transition rules, definitions, some information on the scope of coverage, employers' new reporting and employment tax obligations, and effective dates. Significantly, the notice states that some types of stock appreciation rights will not fall under Section 409A. The notice can be relied on immediately subject to a good faith, reasonable interpretation of the law. Treasury and IRS requested comments on a number of issues, and additional guidance is expected by mid-year 2005.

## **Working Families Tax Relief Act of 2004**

- Extends several expiring tax provisions. The law extends through 2010, marriage penalty relief, the 10 percent income tax bracket, and the \$1,000 per child tax credit. The law also extends through 2005 the current mental health parity law and Archer Medical Savings Accounts.

## **Extension of Current Mental Health Parity—2004**

- As part of the Working Families Tax Relief Act (as described above), the current law mental health parity provisions under ERISA, the Internal Revenue Code (IRC), and the Public Health Service Act (PHSA) have been extended for one year through December 31, 2005.

## **Pension Funding Equity Act of 2004 (PFEA)**

- Temporarily replaces the 30-year Treasury rate for some key pension plan calculations. PFEA replaces the 30-year Treasury rate with a composite corporate bond rate based on publicly available indices of corporate bonds in the top three bond quality levels. Current liability for minimum funding purposes will be calculated using an interest rate of between 90 percent and 100 percent of the four-year weighted average of corporate bond rates. PFEA also includes other relief provisions that apply to the calculation of quarterly contributions for 2004 plan years, determinations of whether a plan is subject to the deficit reduction contribution (DRC), the ability to make large deductible contributions by having the option to calculate deduction limits using the 30-year Treasury rate, and the use of 85 percent of the corporate bond rate for purposes of calculating the Pension Benefit Guaranty Corporation (PBGC) variable rate premiums. The new law also provides DRC relief for pension plans in the airline and steel industries, as well as funding relief for some multiemployer plans that meet specific criteria. The provisions of the legislation generally apply to 2004 and 2005 plan years only.

## **Mental Health Parity Reauthorization Act of 2003**

- The current law mental health parity provisions under ERISA, the Internal Revenue Code (IRC), and the Public Health Service Act (PHSA) were extended for one year through December 31, 2004.

## **Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA)**

- Represents the largest expansion of the Medicare program since its enactment in 1965. Among its key features, the law adds a temporary prescription drug discount program in 2004 and in 2005, and it adds prescription drug coverage for post-65 and disabled Medicare beneficiaries beginning in 2006 under a new Part D. It also implements a new reimbursement structure for Medicare+Choice plans (now renamed Medicare Advantage) and expands the types of plans available, revises payments to providers, expands Medicare coverage of preventive benefits, and establishes new Health Savings Accounts for individuals who are not Medicare eligible.
- For employers providing retiree health coverage that is at least actuarially equivalent to the standard Medicare drug benefit, the law provides that Medicare will pay an amount equal to 28 percent of gross covered prescription drug costs (net of rebates and discounts) between \$250 and \$5,000 per retiree. This Medicare payment will be excludable from an employer's taxable income, and employers subject to federal income taxes will still be able to deduct the full drug expense even though they receive the 28 percent subsidy from Medicare for the same costs. Together, the direct subsidies and the tax benefits have been estimated to total \$89 billion over ten years. Employers also have many other options for coordinating with the Medicare benefit, such as supplementing the Medicare benefit or subsidizing retiree premiums for the Medicare benefit.
- The new law also allows the importation of prescription drugs into the U.S. from Canada, if the Secretary of Health and Human Services (HHS) certifies that commercial importation of such drugs poses no additional risk to the public's health and safety. However, HHS Secretary Thompson has stated that he could not certify the safety of the imported drugs.

## **Jobs and Growth Tax Relief Reconciliation Act of 2003**

- Cuts tax rates as of January 1, 2003 and provided “marriage tax” relief for 2003 and 2004. It also increased the child tax credit to \$1,000 for 2003 and 2004, and provided for an advance rebate of up to \$400 per eligible child in July 2003. The law also reduced capital gains tax rates and provided that dividends received by individual shareholders from domestic and qualified foreign corporations will be taxed at lower capital gains rates.

## **Sarbanes-Oxley Act of 2002**

- Establishes an accounting oversight board of five members, appointed for five-year terms. Two of the members must be or have been certified public accountants, and the remaining three must not be and cannot have been CPAs. The Chair may be held by one of the CPA members, provided he or she has not been engaged as a practicing CPA for five years.
- Requires executives certify the contents of the company’s most recent financial statements filed with the SEC.
- Prohibition of most loans to directors and executive officers.
- Accelerated reporting of insider trading transactions.
- Employers required to provide 30-day written or electronic notice of blackout period and prohibition on officers and directors purchasing or selling stock during a blackout period.
- Prohibits any registered public accounting firm from providing non-audit services with audit services.
- Provides corporate and criminal fraud accountability.

## **Trade Adjustment Assistance Reform—2002**

- The Trade Act of 2002 made changes to the Trade Adjustment Assistance (TAA) program including the addition of an individual tax credit for health insurance costs for TAA-eligible individuals, a mechanism for advance payment of the credit, and an extension of the COBRA election period for such individuals.
- The credit and the advance payment provisions (but not the extended COBRA election period) also applies to individuals who are receiving pension benefits paid in whole, or in part, by the Pension Benefit Guaranty Corporation (PBGC).
- In general, the health insurance credit provisions of the new law are effective from November 4, 2002 until the TAA program expires in 2007.

## **The Public Health Security and Bioterrorism Preparedness and Response Act of 2002**

- Provides new programs to increase the preparedness and response capability of the U.S. public health system for a bioterrorist attack and public health emergency.
- Reauthorizes the Prescription Drug User Fees Act (PDUFA) through FY 2007.
- Authorizes additional funding for FDA’s Office of Drug Safety, the Office of Generic Drugs and the Division of Drug Marketing, Advertising and Communications.
- Provides FDA with the authority to notify physicians when clinical studies of new drugs have not been completed.
- Includes a 3-year delay in lock-in procedures for Medicare+Choice plans.

- Includes change in Medicare+Choice ACR reporting deadlines and annual, coordinated election period for 2003, 2004 and 2005.

### **Job Creation and Worker Assistance Act of 2002**

- Made technical corrections to the Economic Growth and Tax Relief Reconciliation Act of 2001
- Extended the Work Opportunity Tax Credit, which expired at the end of 2001, for two years.
- Extended the Welfare to Work Credit, which expired at the end of 2001, for two years.
- Extended the Archer Medical Savings Accounts programs through 2003.
- Extended unemployment benefits for certain unemployed workers up to 13 weeks. This brings available unemployment benefits to 39 weeks for most states.
- Extended two education tax credits.

### **Victims of Terrorism Tax Relief Act of 2001**

- Income tax liability for both 2001 and 2000 waived for those killed in the September terrorist attacks or in the subsequent anthrax terrorism, as well as 1994 and 1995 Oklahoma casualties.
- Provides tax free treatment of employer provided death benefits to families of victims.
- Allows employers to establish private foundations to provide tax free assistance to victims' families.

### **Administrative Simplification Compliance Act of 2001**

- One year delay to October 16, 2003 of HIPAA standards for electronic health care transactions and code sets.
- Requires HHS to develop and promulgate a model compliance form for the plan by March 31, 2002, and to allow for compliance plans to be submitted electronically.
- Continues compliance deadlines for the Privacy Rule (April 14, 2003 for all covered entities except small health plans; April 14, 2004 for small health plans).
- Requires providers stop submitting paper claims and submit claims electronically to Medicare by October 16, 2003.

### **Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA)**

- Increases participant elective deferrals to 401(k), 401(b) or 457 governmental plans to \$11,000 in 2002, up from \$10,500 in 2001. Thereafter the limit increases \$1,000 per year until it reaches \$15,000 in 2006. After 2006 the limit is indexed for inflation in \$500 increments.
- Allows "catch-up" contributions for employees age 50 and over if the plan allows. The catch-up limit is \$1,000 in 2002 and increases \$1,000 per year until it reaches \$5,000 in 2006. After 2006, the limit is indexed for inflation in \$500 increments.
- Increases 415 limit to the lesser of \$40,000 or 100% of a participant's compensation for plan years beginning in 2002, up from \$35,000 or 25% of compensation in 2001.
- Increases 401(a)(17) limit to \$200,000 for plan years beginning in 2002, up from \$170,000 in 2001. Indexed for inflation in \$5,000 increments thereafter.

- Increases deductible contributions to a stock bonus or profit-sharing plan (includes most 401(k) plans) to 25% of aggregate participant compensation from current 15%, with certain narrow exceptions. Additionally, participants' elective deferrals will no longer count toward the 25% limit.
- Changes definition of "compensation" for deduction purposes. Beginning in 2002, compensation is based on "gross pay," i.e., before amounts are deducted from participants' pay for cafeteria plan contributions, elective deferrals or tax-free transportation fringe benefits. Previously, "compensation" was determined after such amounts were taken out.

### **Ticket to Work and Work Incentives Act of 1999**

- Provides SSDI and disabled SSI beneficiaries with a "ticket" to obtain employment services, vocational rehabilitation (VR) services, and other support services from a provider of their choice to enable them to enter the workforce.
- Provides payments to employment networks that develop an individual employment plan for each beneficiary to select an employment goal and specific services to achieve that goal.
- Establishes a Work Incentives Advisory Panel to advise the President, Congress, and the Commission of Social Security on issues related to work incentives programs, planning, and assistance for individuals with disabilities.
- Expands State options under the Medicaid program for workers with disabilities.
- Extends Medicare coverage for OASDI disability benefit recipients.
- Extends SSDI program demonstration authority for 5 years, including authority for demonstration projects involving applicants as well as beneficiaries.

### **Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1998**

- Requires group health plans that provide coverage for mastectomy to also provide coverage for reconstructive surgery and to notify each participant and beneficiary of the new coverage, in writing (also known as the Women's Health and Cancer Rights Act of 1998).
- Increases amounts Medicare must pay to providers of home health care services.
- Increases the number of H-1B visas for skilled foreign workers (also known as the Workforce Improvement and Protection Act).
- Accelerates the full deduction of health insurance expenses by the self-employed for years beginning in 2003.
- Allows the child credit, adoption credit, HOPE and lifetime learning credits, and other nonrefundable personal credits to offset the individual's regular tax (as opposed to only the amount by which the regular tax exceeds the alternative minimum tax, as under prior rules).

### **Higher Education Amendments Act of 1998**

- Allows colleges and universities to offer tenured faculty certain voluntary supplemental early retirement incentive plans that are reduced or eliminated based on age.



### **Internal Revenue Service Restructuring and Reform Act of 1998**

- Provides for broad reform of IRS operations and its relations with taxpayers.
- Reduces capital gains holding period.
- Prohibits rollovers of hardship distributions.
- Waives early withdrawal tax for IRS levies on employer-sponsored retirement plans.
- Makes technical corrections to various IRA rules.

### **Savings Are Vital to Everyone's Retirement (SAVER) Act of 1997**

- Authorizes national summit to raise public awareness of the importance of retirement savings.

### **Balanced Budget Act of 1997**

- Expands health plan choices for Medicare recipients through Medicare Part C (Medicare+Choice), providing health plan choices, including traditional fee-for-service Medicare, HMOs, PPOs, provider-sponsored organizations (also known as PSOs), private fee-for-service plans, and a pilot program of Medicare medical savings accounts (MSAs) (limited to 390,000 beneficiaries).
- Makes Medicare secondary payer rules permanent for the disabled and for data match program.
- Makes employer plan primary for 30 months for end-stage renal disease.
- Allows Medicare to recover overpayments if requested within three years of the date of the service and overpayments from third-party administrators under certain circumstances.
- Expands Medicare coverage to include certain preventive benefits (with some limitations), including, for example, mammography, diabetes self-management, pap smear and pelvic exams, screening for prostate and colorectal cancer, and bone-mass measurements.
- Applies new formulas to Medicare payments for hospital services and physicians.

### **Taxpayer Relief Act of 1997**

- Increases small cashout amounts for qualified retirement plans.
- Reduces top capital gains rates.
- Reinstates the tax exclusion for employer-provided educational assistance.
- Increases pension plan full funding limit.
- Repeals SPD and SMM filing requirements.
- Directs IRS and DOL to issue paperless administration guidance for benefit plans.
- Permits employers to offer choice between cash and nontaxable parking benefits.

### **Defense of Marriage Act of 1997**

- Stipulates that no other state would have to recognize the validity of a marriage between same sex domestic partners authorized in another state, and defines marriage under federal law as the union of a man and a woman, thus preventing same sex domestic partners from sharing benefits such as Social Security.

### **Medicare and Medicaid Coverage Data Bank Repeal Act of 1996**

- Repeals requirement from Omnibus Budget Reconciliation Act of 1993 that required employers to provide HCFA the names of all individuals covered by the employer's group health plans.

### **Mental Health Parity Act of 1996**

- Requires employer-sponsored health plans to treat mental health coverage the same as medical coverage for purposes of determining the amount, scope or duration of mental health benefits.

### **Newborns' and Mothers' Health Protection Act of 1996**

- Prohibits employer-sponsored health plans from restricting hospital stays for childbirth to less than 48 hours (96 hours in the case of a caesarian section).

### **Personal Responsibility and Work Opportunity Reconciliation Act of 1996**

- Requires employer-sponsored medical plans to comply with medical child support orders issued by state agencies if equivalent to court order under state law.
- Requires each state to establish an automated State Directory of New Hires containing information supplied by employers on each newly hired employee.

### **Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

- Tightens allowable preexisting condition limits.
- Provides tax-favored treatment for long-term care insurance and accelerated death benefits.
- Creates pilot project for medical savings accounts.

### **Small Business Job Protection Act of 1996**

- Increases the minimum wage.
- Simplifies 401(k) testing by permitting use of prior year nonhighly compensated deferrals.
- Simplifies definition of "highly compensated employee."
- Repeals five-year income averaging for lump sum distributions.
- Permits postponement of mandatory distributions until retirement.
- Allows tax-exempt nongovernmental employers to offer 401(k) plans.
- Reinstates the tax exclusion for employer-provided educational assistance.
- Adds income exclusion for employer-reimbursed adoption expenses.
- Modifies the rules for determining whether a worker is an employee or independent contractor for employment tax purposes.

### **Taxpayer Bill of Rights 2 of 1996**

- Creates new penalty tax for “excess benefits” in tax-exempt organizations.

### **Contract With America Advancement Act of 1996**

- Increases the Social Security earnings test for age 65–69 retirees.

### **State Source Taxation [actual legislation untitled]—1996**

- Prohibits states from taxing former state residents on income from tax-qualified retirement plans and certain income from nonqualified plans.

### **Defense Appropriations—1995**

- Further limits executive pay that can be charged to federal defense contracts.

### **Uruguay Round of General Agreement on Tariffs and Trade (Retirement Protection Act of 1994)**

- Modifies contribution requirements for certain pension plans.
- Changes various PBGC rules.
- Slows the indexing of certain IRS limits for retirement plans.

### **Uniform Services Employment and Reemployment Rights Act of 1994 (USERRA)**

- Clarifies and improves the reemployment rights of members of the armed services.

### **Defense Appropriations—1994**

- Limits executive pay that can be charged to federal defense contracts.

### **Omnibus Budget Reconciliation Act of 1993 (OBRA '93)**

- Adds 36% and 39.6% income tax brackets.
- Reduces recognizable pay cap to \$150,000.
- Eliminates corporate deduction for CEO and top executive pay over \$1 million.
- Uncaps wage base for 1.45% Medicare portion of FICA tax.
- Retroactively extends Section 127 income tax exclusion for employer-provided education reimbursement.
- Mandates various provisions and reporting requirements for group health plans, including recognition of “qualified medical child support orders.”

### **Family and Medical Leave Act of 1993 (FMLA)**

- Requires employers to grant up to 12 weeks of unpaid leave to care for newborn or newly adopted children, to care for a seriously ill family member, or for the employee’s own serious illness.
- Requires continuation of health coverage to employees on FMLA leave on same basis as coverage for active employees.

### **Comprehensive National Energy Policy Act of 1992**

- Establishes health plan benefit requirements for employers of coal-mining employees.

## **Unemployment Compensation Amendments of 1992 (UCA)**

- Extends unemployment benefits.
- Expands types of distributions eligible for rollover.
- Allows employees to elect direct transfers into IRA or another qualified plan.
- Mandates 20% withholding for nonperiodic distributions not directly transferred to another qualified plan or IRA.

## **Civil Rights Act of 1991**

- Overturns several Supreme Court cases that had made it more difficult for employees to prevail in employment discrimination cases.
- Adds punitive and compensatory damages in the case of intentional discrimination and adds the opportunity for jury trials.

## **Omnibus Budget Reconciliation Act of 1990 (OBRA '90)**

- Increases both the flat and variable rate PBGC premiums, to \$19 and a maximum of \$53.
- Allows employers to transfer a certain portion of excess plan assets to a retiree medical account.
- Increases tax for pension reversions from 15% to 20% or 50%.
- Prohibits a health care spending account from reimbursing for cosmetic surgery.
- Increases the Medicare wage base to \$125,000.
- Removes requirement that employers withhold FICA on imputed income for retiree group term life.

## **Older Workers Benefit Protection Act of 1990**

- Restores the “equal benefit or equal cost” requirement for age-based differences in employee benefits.
- Allows a retirement plan to continue to have minimum age for eligibility for normal or early retirement benefits, and have subsidized early retirement benefits.
- Requires that early retirement incentives be voluntary and “consistent with the relevant purpose or purposes of the Act.”
- Requires that waivers of rights under ADEA be made on a “knowing and voluntary” basis.

## **Americans with Disabilities Act of 1990 (ADA)**

- Mandates that employers may not discriminate against disabled individuals in any aspect of employment, and must make “reasonable accommodations” to enable the disabled to work.

## **Repeal of Medicare Catastrophic Act of 1989**

- Repeals Medicare Catastrophic Act. Employers still required to make “maintenance of effort” payment for 1989.

## **Omnibus Budget Reconciliation Act of 1989 (OBRA '89)**

- Increases Social Security wage base for 1990.
- Revises physician reimbursement under Medicare using the RBRVS system.
- Lengthens COBRA period for certain disabled employees.
- Makes technical corrections to pension plan rules.
- Restricts exclusion of 50% of interest on ESOP loans to ESOPs that own at least 50% of the corporation. Deductibility of dividends limited to dividends from securities acquired by the same ESOP loan.

## **Section 89 Repeal—1989**

- Repeals Section 89 welfare plan nondiscrimination rules and generally reinstates nondiscrimination rules in effect prior to TRA '86.

## **Technical and Miscellaneous Revenue Act of 1988 (TAMRA)**

- Changes penalty for COBRA violations to an employer excise tax.
- Makes numerous technical changes to TRA '86 including allowing the minimum participation test to be passed on a separate line of business basis and providing an alternative definition of highly compensated employee.
- Makes changes to Section 89 welfare plan nondiscrimination rules. (Repealed in 1989)
- Restricts favorable tax treatment of life insurance products that are primarily for investment purposes.

## **Health Maintenance Organization Amendments of 1988**

- Requires that contributions to a federally-qualified HMO may not financially discriminate against an employee enrolled in the HMO. Additional rate-setting method allowed for HMOs.
- Repeals dual-choice requirement as of October 24, 1995.

## **Family Support Act of 1988**

- Reduces maximum expenses for calculation of dependent care credit by amount of expenses in the income exclusion.
- Lowers maximum age for eligible dependents from age 15 to age 13, except for disabled dependents.
- Requires employees to provide taxpayer ID of dependent care provider to claim the dependent care credit or exclusion.

## **Medicare Catastrophic Coverage Act of 1988 (Repealed in 1989)**

- Expands Medicare Part A and Part B. Expansion paid for by increased Part B premiums and a supplemental premium based on income.
- Requires employers that offer coverage duplicative of expanded benefits to either refund one year's actuarial value of duplicated benefits or increase benefits by a like amount.

### **Pension Protection Act of 1987**

- Increases PBGC premium from \$8.50 to \$16.00 per participant, plus variable-rate premium for underfunded plans.
- Increases minimum funding requirements.
- Prohibits deductions for plan contributions in excess of 150% of current liability.
- Requires FICA withholding for key employees for imputed income on group term life insurance above \$50,000.
- Excludes overnight camp expenses as an eligible dependent care expense.

### **Age Discrimination in Employment Amendments of 1986**

- Prohibits cessation of retirement plan accruals or contributions because of age.

### **Omnibus Budget Reconciliation Act of 1986**

- Prohibits qualified retirement plans from reducing or freezing the rate of benefit accruals or contributions because of age.
- Prohibits qualified retirement plans from excluding employees hired within five years of plan's normal retirement age.
- Establishes employer's health plan as primary to Medicare for disabled employees and their family members eligible for Medicare.

### **Tax Reform Act of 1986**

- Requires all qualified retirement plans to satisfy new nondiscrimination standards, minimum vesting standards, and integration rules.
- Reduces maximum early retirement benefits for defined benefit pension plans.
- Requires after-tax employee contributions to be included in calculating limits for defined contribution plans.
- Limits employee 401(k) deferrals to \$7,000 per calendar year.
- Repeals 10-year averaging tax treatment for lump sum retirement plan distributions. Replaces with one-time choice of 5-year forward averaging.
- Imposes additional taxes on retirement distributions taken before age 59-1/2, and annual benefits exceeding \$150,000.
- Establishes new requirements that health, group life, and dependent care plans must meet to avoid resulting in imputed income for high-paid employees.
- Reduces maximum corporate and individual tax rates.
- Repeals preferential tax treatment for long-term capital gains.
- Phases out interest deductions on consumer loans.

## **Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA)**

- Rules that employers must offer continuation of group health plan coverage to beneficiaries who no longer qualify for coverage, to terminated employees, and to employees with reduced hours.
- Increases PBGC premiums for single-employer defined benefit pension plans.
- Increases employer liability when a single-employer defined benefit pension plan is terminated due to insufficient assets.

## **Retirement Equity Act of 1984 (REA)**

- Reduces the minimum age for qualified retirement plan participation to age 21.
- Sets new break-in-service rules for crediting service in qualified retirement plans for vesting and benefit purposes.
- Rules that qualified retirement plans must provide automatic survivor benefits in the form of qualified preretirement survivor annuities to the spouse of a vested participant who has died prior to annuity start date.
- Recognizes the assignment of participant benefits to alternate payees under qualified domestic relations orders (divorce proceedings).

## **Deficit Reduction Act of 1984 (DEFRA)**

- Freezes the Section 415 limits for defined benefit and defined contribution plans until 1988.
- Permits tax-free rollovers to IRAs if the distribution is at least 50% of the employee's plan value.
- Limits tax-deductible benefits and reserve accumulation in funded welfare benefit plans.
- Rules that dividends paid on stock held by PAYSOPs/ESOPs are deductible only if distributed directly to plan participants.
- Limits the types of benefits available under cafeteria plans and restricts the percentage of cafeteria plan benefits that can be paid to key employees.
- Establishes rules for income tax exclusions for miscellaneous fringe benefits.
- Limits depreciation on company cars and adds more restrictive recordkeeping requirements.
- Sets limits on "golden parachute" payments.

## **Social Security Amendments of 1983**

- Extends Social Security coverage to new federal, state, and local government employees, as well as employees of nonprofit organizations.
- Accelerates FICA payroll tax, and Social Security tax for self-employed.
- Reduces dependent and survivor Social Security benefits for public pension recipients.
- Subjects Section 401(k) deferrals and nonqualified deferred taxation to FICA and FUTA taxation.
- Extends the Social Security normal retirement age to 67 while reducing early retirement benefits.

- Increases Social Security late retirement benefit.
- Fixes payment for Medicare reimbursement to hospitals based on national averages for established categories of hospital treatment.

### **Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA)**

- Reduces the Section 415 limits for defined benefit and defined contribution retirement plans.
- Subjects “top-heavy” plans to stricter qualification rules.
- Sets limits and repayment rules for loans from qualified retirement plans.
- Reduces the allowable amount of Social Security integration in a defined contribution plan.
- Removes exclusion for first \$50,000 of life insurance for “key employees” in a discriminatory plan.
- Rules that employers must offer active employees and their dependents age 65-69 the same health plan benefits offered younger employees. Establishes the employer’s health care plan as primary to Medicare for active employees age 65–69.

### **Economic Recovery Tax Act of 1981 (ERTA)**

- Permits employees covered by qualified employer-provided retirement plans to make tax-deductible IRA contributions.
- Establishes incentive stock options.
- Re-emphasizes that distributions from qualified retirement plans are taxed only when actually received.
- Dependent care assistance programs approved as a tax-free benefit.

### **Revenue Act of 1980**

- Allows employers to add a deferred compensation choice to a cafeteria program.

### **Multiemployer Pension Plan Amendments Act of 1980**

- Restructures PBGC coverage of multi-employer pension plans.
- Requires all employers withdrawing from a multi-employer pension plan to continue funding their share of the plan’s unfunded vested benefits through payment of a withdrawal liability.
- Establishes guidelines for identifying plans experiencing financial difficulties and requires these plans to enter reorganization status for corrective action.

### **Pregnancy Discrimination Act of 1978**

- Prohibits employers from discriminating in employee benefits or employment practices on the basis of pregnancy, childbirth, or related medical conditions. Pregnant women must be offered the same sick leave benefits as any disabled employee.
- Rules that an employer must cover costs of pregnancy, childbirth, and related medical conditions under the same terms of coverage as other medical conditions.



### **Revenue Act of 1978**

- Reinstates favorable tax treatment for cash-or-deferred profit sharing arrangements and sets nondiscrimination requirements for such plans.
- Reduces taxes on long-term capital gains for individual taxpayers.
- Re-emphasizes that deferred compensation is eligible for taxation only when paid or otherwise made available.
- Requires uninsured health plans to meet nondiscrimination rules.
- Excludes nontaxable cafeteria plan benefits from employee's income. Sets coverage, eligibility, and benefit tests for cafeteria plans.
- Section 127 education assistance approved as a tax-free benefit.

### **Age Discrimination in Employment Act of 1978**

- Extends protection against discriminatory treatment based on age to individuals less than age 70.
- Permits employer to reduce benefits (within limits) for employees age 65-69, provided the reduction can be cost-justified.

### **Social Security Amendments of 1977**

- Provides significant increases in Social Security tax rates and taxable wage base.
- Adjusts Social Security benefit formula to produce a decline in the percentage of pay replaced by Social Security. Repeals "double indexing."

### **Tax Reform Act of 1976**

- Removes favorable tax treatment for qualified stock options.
- Allows entire lump sum distribution to be taxed at ordinary rates using 10-year forward averaging.
- Prepaid legal plans approved as a tax-free benefit.

### **Tax Reduction Act of 1975**

- Increases allowable investment tax credit if contributions are made to an ESOP.

### **Employee Retirement Income Security Act of 1974 (ERISA)**

- Establishes participation, vesting, and funding standards for defined benefit and defined contribution retirement plans. Sets limits on pension plan benefits and profit sharing contributions.
- Guarantees certain levels of benefits in the event of pension plan termination. Establishes the Pension Benefit Guaranty Corporation to administer plan termination insurance programs.
- Sets guidelines governing fiduciary conduct and reporting responsibilities.