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Pension Protection Act: How Does It Affect You?

Congress is at it again. Pension plans, long a concern for all of us, came into Congress' focus, and the result is a smorgasbord of changes that fill a 900-page piece of legislation grandly called the Pension Protection Act of 2006. This bill was just signed into law by President George Bush on August 17th of this year. This column will focus on just two aspects of this law: roll-over beneficiary designations for certain retirement accounts and a few changes in charitable giving laws.

As used in this article, the term "pension plans" refer to Individual Retirement Accounts ("IRA's"), 401(k) Plans and other so-called defined contribution retirement plans. Defined benefit plans are not discussed. Roth IRA's, however, are included as a pension plan.

One of the major changes is that individuals may now roll pension plans over to spouses and non-spouses alike. It used to be that a rollover pension plan was only available for a spouse. This meant that children, domestic partners, or other non-spouse beneficiaries, though beneficiaries of the pension plans, did not become the owners of those pension plans. This meant that the beneficiaries could not make certain elections regarding future distributions from those pension plans to other beneficiaries or change the required minimum distributions to base them on their own ages.

Now, however, any individual may become the owner of a decedent's pension plan through the rollover provisions previously reserved for spouses. This change will allow a much wider range of planning options. Of course, applicable income taxes and estate taxes will remain payable upon the death of the owner or at the times of withdrawals.

What Congress simplified on the one hand, it made more difficult with the other. Under the new law, charitable donations came under scrutiny and the following changes represent just some of the changes in Pension Protection Act.

It used to be that small donations of cash to a church or a non-profit were totaled up each year by a taxpayer and reported as one lump sum as a charitable donation. A number of years ago, Congress started requiring acknowledgements from the non-profits for certain donations over \$250. Now, every donation must be acknowledged, and each taxpayer must keep these records should there ever be a tax audit.

An improvement for making charitable donations is that owners of pension plans over the age of 70 ½ may now make charitable donations directly to qualified charitable organizations from those pension plans without having to declare those contributions as income. Of course, the taxpayer won't be able to deduct those contributions either. Unfortunately, donor advised funds and organizations such as university endowment funds may not be such a beneficiary.

Yet another change is that donations of clothing, furniture, automobiles, and other such items must be in good condition. The term "good condition" is not defined, but donations of worn out clothing won't work.

Again, these are just examples of some of the changes. Once the 900-page Pension Protection Act have been scrutinized, and all of the unintended consequences have been identified, this list of changes will, no doubt, grow substantially.