



Pension Analyst

# Compliance Bulletin

January 2011

## IRS further extends deadline for certain PPA amendments

The Pension Protection Act of 2006 (PPA) required sponsors of qualified retirement plans to adopt plan amendments reflecting its provisions by the last day of the first plan year beginning on or after January 1, 2009. In 2009, the IRS extended the deadline for making certain PPA plan amendments to the last day of the first plan year beginning on or after January 1, 2010 (e.g., December 31, 2010, for plans with calendar plan years).

Some PPA provisions were later modified by the Worker, Retiree, and Employer Recovery Act of 2008 (WRERA) and the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 (PRA 2010). To give plan sponsors additional time to incorporate the revised provisions into their plans, the IRS published [Notice 2010-77](#) in late 2010, to further extend the amendment deadline for certain PPA provisions to the last day of the first plan year beginning on or after January 1, 2011 (e.g., December 31, 2011, for plans with calendar plan years).

This extension only applies to PPA-related amendments regarding:

- Funding-based limits on benefits and benefit accruals that apply to certain underfunded single-employer and multiple employer defined benefit plans; and
- Some, but not all of the requirements pertaining to cash balance and other hybrid plans, such as vesting, age non-discrimination and market rate of return. The amendment deadline extension does *not* apply to the elimination of a “whipsaw” provision under this type of plan.

Even though these amendment deadlines are delayed, plans must continue to operationally comply with the revised requirements.

## Anti-cutback relief

An amendment to an underfunded defined benefit plan to comply with the [benefit restriction](#) requirement may result in the elimination or reduction of a protected benefit. If this benefit cutback is made only to the extent necessary to comply with the benefit restriction rules, the amendment will not violate the anti-cutback rule as long as it is adopted by the extended amendment deadline.

On October 19, 2010, the IRS published final and proposed regulations regarding the treatment of cash balance and other hybrid plans. The IRS has indicated that when the proposed regulations are finalized, an amendment to a cash balance plan to satisfy these cash balance regulations, which eliminates or reduces protected benefits, may be eligible for similar anti-cutback relief. The proposed regulations are effective for plan years beginning on or after January 1, 2012. To qualify for the anti-cutback relief, the plan sponsor must adopt the amendment by the extended deadline and the elimination or reduction must be made only to the extent necessary to enable the plan to satisfy the cash balance plan rules.

## Next steps

Sponsors of defined benefit plans, including cash balance plans, should carefully read the guidance described in this newsletter to determine how it applies to their plans. If Prudential provides document services for your plan, your previously adopted PPA amendment includes all required updates. You should contact your Prudential representative if you and/or your legal counsel believe that further changes to your plan are required and we will work with you to ensure that appropriate amendments are prepared for timely adoption.

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