LEGISLATIVE DIGEST
HOUSE REPUBLICAN CONFERENCE | CHAIRMAN ADAM PUTNAM

1420 LONGWORTH HOB, WASHINGTON, DC 20515 www.GOP.gov PHONE 202.225.5107 FAX 202.226.0154

H.R. 6382 – PENSION PROTECTION TECHNICAL CORRECTIONS ACT OF 2008

FLOOR SITUATION

H.R. 6382 is being considered on the floor under suspension of the rules and will require a two-thirds majority vote for passage. This legislation was introduced by Representative Charlie Rangel (D-NY) on June 26, 2008. It was referred to the House Committee on Ways and Means on June 26, 2008, but was never considered.

H.R. 6382 is expected to be considered on the floor of the House on July 9, 2008.

SUMMARY

Title I - Technical

H.R. 6382 makes a number of technical corrections to the Pension Protection Act of 2006 (P.L. 109-280), clarifying the law's cross-referencing and drafting errors. For example, the bill makes necessary clarifications to the single-employer defined benefit plan funding rules included in P.L. 109-280. It also clarifies the diversification requirements for defined contribution plans and exemptions from fiduciary liability during qualified blackout periods. In addition, the bill provides that the Secretary of the Treasury is allowed to provide a transition rule for estimating an at-risk plan's funding target attainment percentage.

Title II – Non-Technical

H.R. 6382 establishes that current or former employees of commercial passenger airlines that receive airline payments and transfer any amount of this money into a Roth IRA within 180 days of the enactment of H.R. 6382, then that amount is to be treated as a qualified rollover contribution. Therefore, these amounts transferred to a Roth IRA are able to be included in the gross income of the employee just as if it were not a part of a rollover contribution. The airline payments referred to are those made by bankrupt commercial airline carriers to current or former employees as an offset for future pension benefits that have been discontinued.

The bill provides that for retirement and pension plans available under the Age Discrimination Employment Act (P.L. 90-202), cash balance plans must use an interest rate no greater than the market rate of return for the purposes of benefit of accrual. This provision would allow state and local government cash balance plans to use any interest rate provided under state and local rules.

The legislation also includes a provision that would allow certain small business employer plans to use a fixed rate of 5.5 percent when calculating whether the distribution of a lump sum violates maximum benefit payout rules as opposed to using a market rate of return.

Additionally, the bill includes a provision providing that amounts paid to a person from a specified government health plan must be excluded from that individual's gross income because the government health plan provides for the reimbursement of the health care expenses of deceased plan participant's beneficiary. For this provision to apply, the plan must have provided for the reimbursement of a deceased plan participant's beneficiary on or before January 1, 2008.

The legislation offsets all related costs of the bill by increasing penalties on business partnerships that have failed to file tax returns by $4 to $90 per partner. Additionally, the bill increases penalties on S corporations that have failed to file tax returns by $4 to a total of $90 per shareholder.

BACKGROUND

The Pension Protection Act of 2006 (P.L. 109-280) brought the first major changes to existing pension laws since the enactment of the Employee Retirement Income Security Act of 1974. The Act set new

1420 LONGWORTH HOB, WASHINGTON, DC 20515 www.GOP.gov PHONE 202.225.5107 FAX 202.226.0154

funding rules for single-employer defined benefit pension plans, expanded the deduction limits for contributions to such plans, modified the rules for determining lump sum distributions, and provided clarification and added new rules for cash balance pension plans. The Act also added rules relating to automatic enrollment plans, eliminating legal impediments to such arrangements and providing incentives for plan sponsors to adopt these arrangements.

The Pension Protection Act was passed by the House on July 28, 2006, by a vote of 279-131. The Senate passed it on August 3, 2006, by a vote of 93-5. The President signed the legislation into law on August 17, 2006. Additionally, the House passed H.R. 3361, the Pension Protection Technical Corrections Act of 2008 by voice vote on March 12, 2008. H.R. 6382 includes many of the technical provisions from H.R. 3361, but also incorporates many non-technical provisions.

The gross income of an employee generally does not include accident or health plan coverage provided by an employer when these amounts are paid to reimburse the employee for the medical care expenses of the employee, their spouse or dependant. However, the IRS has ruled that amounts paid to an employee under a medical reimbursement plan are not excludable from the employees gross income if the plan permits amounts to be paid as medical benefits to someone other than the employee' spouse or dependant.

Currently, the IRS code offers two types of individual retirement arrangement (IRA) pension plans: traditional IRAs and Roth IRAs. Generally, money transferred to a traditional IRA may be tax deductible with distributions includible in gross income. Money transferred to a Roth IRA are not deductible with certain distributions from Roth IRAs excludable from an individual's gross income.

The Employee Retirement Income Security Act of 1974 (ERISA) (P.L. 93-406) sets minimum standards for most voluntarily established pension and health plans in the private sector. ERISA requires that these plans provide participants with information about the plans, including plan features and funding, the financial responsibilities of the managers of the plans, as well as giving participants the right to file suit for benefits and any breaches of fiduciary duty.

COST

The Congressional Budget Office has not yet scored this legislation.

STAFF CONTACT

For questions or further information contact Justin Hanson at (202) 226-2302.