

Publications

Proposed Cash Balance Plan Regulations

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SERVICES

On December 28, 2007, the IRS and Treasury issued much anticipated proposed regulations relating to cash balance and other hybrid plans. 72 Fed. Reg. 73680 (December 28, 2007). The Proposed Regulations address many of the new rules applicable to these plans enacted in the Pension Protection Act of 2006. The regulations are an important first step towards developing a set of rules to address a number of difficult legal issues that have plagued hybrid plans for many years.

The Proposed Regulations address the primary changes made by the PPA, including:

- the general age discrimination standards for hybrid plans,
- the requirement that hybrid plans credit interest at no more than a “market rate of return,”
- the anti-“wear away” protections for plans converting to a hybrid formula after June 29, 2005,
- the 3-year vesting rule for hybrid plans, and
- the elimination of “whipsaw” calculations for lump-sum distributions from hybrid plans.

The Proposed Regulations begin to provide a detailed framework to implement these new rules, though a number of important issues remain unresolved. In general, once finalized, the regulations would be effective for plan years beginning on and after January 1, 2009. Plan sponsors may rely on the proposed regulations for the periods between the statutory effective date (generally June 29, 2005) and the effective date of the final regulations.

The IRS and Treasury have requested comments on the Proposed Regulations by March 27.

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