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Infrastructure Investment and Jobs Act Expands Interest Rate Smoothing and Disaster Relief Provisions

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On November 15, 2021, President Biden signed the Infrastructure Investment and Jobs Act (the "IIJA") into law. IIJA contains two sections that may affect qualified retirement plans.

- Section 80602 of the IIJA extends the interest rate smoothing provisions that affect the minimum funding requirements for most defined benefit pension plans. These smoothing provisions were first introduced in Moving Ahead for Progress in the 21st Century Act ("MAP-21"), and have been extended and enhanced several times, most recently in the American Rescue Plan Act of 2021 ("ARPA").
- Section 80501 of the IIJA expands and streamlines the automatic 60-day extensions of numerous pension-related IRS deadlines for "federally declared disasters". This provision may obviate the need for the IRS to announce the extension of various deadlines in response to certain disaster events.

Section 80604 of the IIJA also ends the employee retention tax credit ("ERTC") early as of October 1, 2021.

Background: Interest Rate Smoothing Prior to the IIJA

The Pension Protection Act of 2006 generally requires the use of corporate bond interest rates when determining the minimum funding requirements for defined benefit pension plans. MAP-21, enacted in 2012, created the concept of an interest rate stabilization corridor. Under this provision, the interest rates used to measure the minimum funding requirements could not be more than 10% above or below the 25-year average of corporate bond interest rates.

If you have any questions, please do not hesitate to contact your regular Groom attorney or the authors listed below:

Mark Carolan
mcarolan@groom.com
(202) 861-5424

Elizabeth Dold
edold@groom.com
(202) 861-5406

Michael Kreps
mkreps@groom.com
(202) 861-5415

Louis Mazawey
lmazaway@groom.com
(202) 861-6608

Joshua Shapiro
jshapiro@groom.com
(202) 861-2613

Brigen Winters
bwinters@groom.com
(202) 861-6618

In the low interest rate environment that existed in 2012 – which continues to the current day – the effect of the interest rate stabilization corridor is a reduction in the minimum funding requirement for defined benefit pension plans. Lower funding requirements tend to reduce pension contributions and associated tax deductions, which in turn raises government revenue. The interest rate stabilization corridor in MAP-21 was originally scheduled to begin phasing out in 2013, but the relief has been extended several times, including again under the IIJA.

Interest Rate Smoothing Under the IIJA

Section 80602 of the IIJA delays the date on which the phase-out of the interest rate smoothing begins by an additional five years over the period set by ARPA. Specifically, the Act extends the phase-out of interest rate smoothing to 2031 (instead of 2026 as was provided under ARPA). This provision is regarded as raising revenue by reducing the minimum tax-deductible contributions that plan sponsors must make to their defined benefit pension plans in the affected years.

Under the IIJA, the following revised corridor applies:

	Pre-IIJA Corridor		**IIJA Corridor**	
Year	Minimum	Maximum	Minimum	Maximum
2021-2025	95%	105%	95%	105%
2026	90%	110%	95%	105%
2027	85%	115%	95%	105%
2028	80%	120%	95%	105%
2029	75%	125%	95%	105%
2030	70%	130%	95%	105%
2031	70%	130%	90%	110%
2032	70%	130%	85%	115%
2033	70%	130%	80%	120%
2034	70%	130%	75%	125%
2035+	70%	130%	70%	130%

Disaster Relief Extension

Section 80501 of the IIJA expands and streamlines the automatic 60-day extension of numerous pension-related IRS deadlines for "federally declared disasters" including:

- individual tax filing deadlines,
- pension contribution deadlines, including IRAs, and
- 60-day rollover deadlines.

These welcome changes, which will avoid the need for specific IRS announcements in certain circumstances, apply to post-enactment federally declared disasters.

In addition, the IIJA includes "significant fire(s)" in the provisions for disaster relief. A "significant fire" is one "with respect to which assistance is provided under section 420 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act."

Employee Retention Tax Credit

The IIJA ends the ERTC early for most employers, retroactive to October 1, 2021, instead of January 1, 2022 as had previously been scheduled. The ERTC was created as part of the Coronavirus Aid, Relief, and Economic Security ("CARES") Act in 2020, and then was amended by the Consolidated Appropriations Act, 2021 ("CAA") late last year, and then by ARPA in March 2021.

Next Steps

Plan sponsors should work with their actuary and Groom attorney regarding the implications of the IIJA on their retirement plans. We will continue to monitor developments and guidance relating to the IIJA.