

November 2008

This update summarizes recent legislative developments and trends related to retirement and financial management and highlights recently passed and pending legislation that may require employers to take action to comply with new rules or review existing plans.

Action May Be Required

United States/Canada—The U.S. Treasury Department announced that the Fifth Protocol to the Canada-United States Income Tax Convention will enter into force before the end of 2008. Under the Protocol, “cross-border commuters” will be permitted to deduct, for residence country tax purposes, contributions made to a plan in the country where they work, provided certain conditions are met. Individuals who move for work will be permitted to deduct, for source country tax purposes, their contributions to a plan or arrangement in the other country, for five years. Employers with cross-border commuters should examine their retirement plan arrangements in light of the new tax treatment.

Puerto Rico—Employers may wish to review their benefit programs in order to take advantage of a new law that creates Health Savings Accounts (HSAs), Health Reimbursement Arrangements, and Health Flexible Arrangements, effective January 1, 2009. Amounts contributed to an HSA accumulate on a tax-free basis and are not subject to tax if they are used to cover eligible medical expenses for the employee and dependents. Contributions made in one year, and not used to pay expenses in that year, may be used to pay eligible medical expenses in later years. At age 65, an individual may withdraw the accumulated funds in his or her HSA for any purpose without penalty; however, the funds will be subject to tax.

Argentina—The lower house of parliament approved a bill that would nationalize the private pension system (AFJPs). Employees affiliated with the privately managed defined contribution funds would be transferred back to the state-run pay-as-you-go system. The Senate may vote on the bill by the end of November. This move is not expected to have a direct impact on most companies since the use of AFJPs as a funding vehicle for employer-sponsored plans is minimal. Nonetheless, employers can expect to see greater market volatility which, not surprisingly, will have a negative impact on their plans, as well as greater employee interest in employer-provided pension plans.

Recent Developments

Americas

The **U.S.** Social Security Administration announced the Social Security 2009 indexed figures. The cost-of-living adjustment is 5.8%; the 2009 wage base is USD 106,800; the maximum monthly benefit is USD 2,323 for employees retiring at full retirement age; and the annual earnings test limit is USD 14,160 for individuals under the full retirement age. Also, the **U.S.** Internal Revenue Service released the 2009 official indexed figures for retirement and other benefit plans. The limits of most interest to large and medium employers include: Section 402(g) annual dollar limit for pretax contributions to Section 401(k), 403(b), and 457 plans—USD 16,500; Section 414(v) annual dollar limit on catch-up contributions for age 50 and over—USD 5,500; Section 414(q) pay threshold for highly compensated employees—USD 110,000; Section 415 limit for defined benefit plans—USD 195,000; Section 415 limit for defined contribution plans—USD 49,000; Section 401(a)(17) recognizable pay limit—USD 245,000; and Section 416 pay threshold for key employees in a top-heavy plan—USD 160,000.

The **U.S.** Pension Benefit Guaranty Corporation published the 2009 flat premium rate for single-employer and multiemployer defined benefit pension plans. For single employers, the rate is USD 34.00 per participant; for multiemployer plans, it remains USD 9.00 per participant. The maximum annual insurance benefit for participants in underfunded pension plans terminating in 2009 is USD 54,000.

The **Canada** Revenue Agency announced that the maximum pensionable earnings under the Canadian Pension Plan is CAD 46,300 in 2009, and employer and employee contribution rates remain 4.95%. The government of **Quebec** has introduced various pension measures to address the impact of the global financial crisis on the province. In 2009, the refundable tax credit for retirement income is CAD 2,000. Other initiatives include ensuring the solvency of supplemental pension plans and encouraging the federal government to increase the age limit at which investors must access their Registered Retirement Savings Plans or Registered Pension Plan from age 71 to age 73. The Accounting Standards Board has provided guidance on which International Financial Reporting Standards will be required for most **Canadian** publicly accountable enterprises after January 1, 2011.

Under the latest social security reform proposal in **Bolivia**, employees would be able to choose between private or public pension fund administrators. In the late 1990s, Bolivia replaced its pay-as-you-go public pension system with privately managed individual accounts. To reduce the negative impact of the global economic crisis on the value of pension assets in privately managed defined contribution accounts (AFPs), the **Peruvian** government is proposing to create a profitability-linked commission system; guarantee minimum returns for affiliates; and allow members to have two accounts with different risk profiles at the same AFP.

In **Trinidad and Tobago**, the maximum deduction allowable for contributions to approved pension plans will increase from TTD 25,000 to TTD 30,000 if the 2009 budget is approved.

Asia

In **Malaysia**, the government will reduce employees' contributions to the Employees Provident Fund (EPF) from 11% to 8% of total pay for two years, beginning January 1, 2009. Employees may opt out of the contribution reduction by completing specified paperwork and submitting it to their employer. The reduction is expected to help employees during the economic crisis. In **Thailand**, the Social Security Board wants to reduce employer and employee contributions by 1.5% to offset the impact of the downturn in the economy.

The **Hong Kong** government wants to raise the normal old age allowance from HKD 705 to HKD 1,000 for individuals age 70 and over; however, it would make the receipt of the allowance subject to a means test. To stimulate the economy, the **Australian** government will provide a one-off payment of AUD 1,000 to single pensioners and AUD 2,100 to couples in December 2008.

India and **Germany** have signed a social security totalization agreement. Once implemented, the agreement would eliminate dual social security contributions for citizens if sent to work in the other country for a period of five years.

Europe

Pension trustees in the **United Kingdom** should review the Pension Regulator's new trustee knowledge and understanding framework, which is under consultation. Changes in the framework reflect the importance of good administration; the forthcoming introduction of registration and autoenrollment requirements; emerging buyout issues, including abandonment and inducement; and pension plan wind-up and appropriate preparatory steps. The **U.K.** government has reintroduced an amendment that would allow women to buy up to six years of voluntary pension contributions to cover the period used to raise children or care for sick relatives.

The **Dutch** government has proposed a series of tax incentives in its draft 2009 budget to encourage employers to hire or keep mature-aged employees as well as encourage mature-aged employees to stay in the workforce. The incentives include: 1) annual EUR 6,500 reduction in employers' unemployment and occupational disability contributions for each new hire over age 50 up to three years; 2) EUR 2,750 reduction in employers' annual social security contributions for retaining an employee age 62 or over up to three years. In 2013, this reduction would increase to EUR 6,500 per year; 3) introduction of a "no-risk" policy in which the government would subsidize sick pay for a limited period when an employer hired an individual age 55 or over who was collecting unemployment benefits for one year; 4) introduction of a "work bonus" for employees who defer retirement. The amount of the bonus would vary by income and age, up to a maximum of EUR 4,591 per year; 5) deferral of the AOW state pension for up to five years and receipt of a larger state pension or work part time and receipt of a partial pension; and 6) simplification of the tax treatment of annuities and lump-sum payments.

In **France**, the lower house of parliament passed a measure that would prevent employers from requiring employees to retire at age 65. Employees would be permitted to work until age 70, if they express this intent to their employer prior to reaching the retirement age. The Senate must now review the measure. The **Norwegian** government is proposing that changes to the Contractual Pension Scheme (AFP), scheduled for implementation in early 2010, be postponed until 2011. According to the government, early and deferred retirement programs would not be completed in time for a 2010 rollout.

Effective January 1, 2009, employees' TyEL (pension plan) contributions will increase 0.2% in **Finland**. The **Danish** government has given up plans to reintroduce the Special Pension Contribution Plan in 2009, which would have required employees to contribute 1% of gross pay into special pension accounts.