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Executive Office of the President

Regulatory Review Ordered by New Administration

A memorandum released by Rahm Emanuel, Assistant to the President and Chief of Staff, on January 20, 2009 and published in the Federal Register on January 26, 2009 requests that President Obama's appointees and designees approve of any new or pending regulations. <http://edocket.access.gpo.gov/2009/pdf/E9-1639.pdf>

In addition, all proposed or final regulations not published in the Federal Register should be withdrawn according to the memorandum. For those regulations that have been published in the Federal Register but are not yet effective, an extension of the effective date for 60 days was also requested.

Potential Guidance Impacted

The effective date of a final regulation on investment advice published by the Department of Labor on January 21, 2009, which was scheduled to be effective March 23, 2009, has been delayed. The final regulation published in January may also be revised. <http://edocket.access.gpo.gov/2009/pdf/E9-710.pdf> <http://edocket.access.gpo.gov/2009/pdf/E9-2296.pdf>

Other regulatory projects that may be affected by the delay include the following:

- Fee disclosure projects, including those relating to participants as well as service providers and plan fiduciaries under ERISA
- IRS prototype program and the Employee Plans Compliance Resolution System (EPCRS) update for the final 403(b) regulations
- Automatic enrollment
- Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART) guidance

Internal Revenue Service

Starting in 2010 Nonspousal Beneficiary Rollovers Will Be Mandatory Plan Provision

A technical correction to the Pension Protection Act of 2006 enacted under The Worker, Retiree and Employer Recovery Act of 2008 (Act) will affect the right of nonspousal beneficiaries to rollover amounts from a 401(a), 403(b) or governmental 457 plan directly to an IRA. The IRA is then treated as an inherited IRA for purposes of required minimum distributions.

The right of nonspousal beneficiaries to rollover, which was effective starting in 2007, was considered a permissive plan feature. As a permissive feature, a plan sponsor had to decide whether to offer such rollovers under the plan. The technical corrections in the Act

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specify that, effective for plan years beginning after December 31, 2009, 401(a), 403(b) and governmental 457(b) plans are required to allow nonspousal beneficiary rollovers.

IRS Updates Tax Publications

The IRS recently published the following updated tax publications:

- Publication 525 - *Taxable and Nontaxable Income* <http://www.irs.gov/pub/irs-pdf/p525.pdf>
- Publication 560 - *Retirement Plans for Small Business (SEP, SIMPLE, and Qualified Plans)* <http://www.irs.gov/pub/irs-pdf/p560.pdf>
- Publication 571 - *Tax-Sheltered Annuity Plans (403(b) Plans) For Employees of Public Schools and Certain Tax-Exempt Organizations* <http://www.irs.gov/pub/irs-pdf/p571.pdf>
- Publication 575 - *Pension and Annuity Income* <http://www.irs.gov/pub/irs-pdf/p575.pdf>
- Publication 590 - *Individual Retirement Arrangements (IRAs)* <http://www.irs.gov/pub/irs-pdf/p590.pdf>

Department of Labor

Automatic Enrollment 401(k) Plans for Small Businesses Publication Released

The Department of Labor and the IRS released a new publication to help small employers understand automatic enrollment for 401(k) plans offered to their employees. <http://www.dol.gov/ebsa/pdf/automaticenrollment401kplans.pdf> *Automatic Enrollment 401(k) Plans for Small Businesses* provides a comprehensive overview of the advantages of starting and operating an automatic enrollment feature for a 401(k) plan. The following information is included:

- how to set up the plan,
- management of the plan,
- fiduciary responsibilities, and
- checklist to ensure compliance with the law.

Social Security Administration

Online Application for Social Security Now Available

In a recent press release <http://www.socialsecurity.gov/pressoffice/pr/pattyduke-pr-alt.pdf>, the Social Security Administration announced that applications for benefits may now be filed online. <https://secure.ssa.gov/apps6z/iRRet/rib> According to Michael J. Astrue, Commissioner of Social Security, "Social Security's new online retirement application can be completed in as little as 15 minutes from the comfort of your home or office."

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