



2010 PENSION, WELFARE BENEFITS, AND ESTATE TAX UPDATE

➤ RETIREMENT PLANS

- **Amendment and Restatement Process**
The amendment and restatement of your qualified retirement plan is complete. As a Volume Submitter plan, the next amendment and restatement will occur in 2014-2015. During the intervening years, however, the Plan is still required to adopt interim amendments to reflect changes in the law, such as the HEART Act provisions described in the enclosed amendment.
- **Increased Contributions**
In some cases, retirement plan contributions may be increased by adopting a cash balance or traditional defined benefit plan. Call us if you would like to discuss this option.
- **Legislative Developments**
In the wake of the landmark Pension Protection Act of 2006 and the recent economic downturn, retirement plans remain a topic of primary importance for Congress. We expect significant changes to continue over the next several years, particularly in the areas of retirement plan options for small employers, tax-based incentives for the adoption of defined benefit plans, and new regulations with respect to investment advice and fee disclosure.

➤ HEALTH, WELFARE, AND CAFETERIA PLANS

- **Health Care Reform**
Significant changes to the nation's health care system are expected by the end of this year. Any changes that are enacted will likely impact your employee benefits program, whether through the availability of government-subsidized insurance exchanges, reduction of the tax benefits associated with employer-provided health insurance, or increased incentives for consumer-directed health plans. We will prepare and provide guidance on these issues if a new law is enacted.
- **Genetic Information**
The Genetic Information Nondiscrimination Act of 2009 (GINA) prohibits discrimination on the basis of genetic information and prohibits plans from requesting or requiring genetic information prior to enrollment. GINA regulations were issued earlier this month and may directly impact plans that use Health Risk Assessments as part of a wellness program.

- **Legislative Developments**
Effective for 2010, the Mental Health Parity Act prohibits the imposition of more restrictive financial requirements with respect to mental health benefits offered under a group health plan. The new law does not apply to employers with less than 51 employees. “Michelle’s Law” is also effective in 2010 and requires a group health plan to continue coverage for dependent college students when they are forced to take a medically necessary leave of absence from school. Newly issued regulations under the ADA and the FMLA may also affect the design and cost of your health plan.
- **HIPAA Changes**
Significant changes to the requirements under HIPAA were enacted earlier this year, including the application of the privacy and security rules directly to business associates, more stringent breach notification requirements, significantly increased civil penalties, and authorization for state attorney generals to enforce HIPAA requirements. Increased audit activity in this area is likely. We expect additional regulatory guidance in the next few months and will post an update on our website once the additional guidance is issued.
- **Cafeteria Plans**
Cafeteria Plans must be amended before the end of this year to reflect the special enrollment rights granted under the Children’s Health Insurance Program (CHIP). In addition, final Cafeteria regulations are expected by the end of the year with amendments required by the end of 2010. If you have a cafeteria plan, you should make sure that your plan is properly amended. We will provide the required amendments to those clients who use our cafeteria plan documents.

➤ **ESTATE TAX**

The current gift, estate, and generation skipping provisions will be repealed under current law. Unless Congress takes additional action, **there will be no estate or gift tax for 2010**. For 2011 and beyond, the law will revert back to the gift, estate, and generation skipping taxes that existed prior to 2001.

Although we cannot provide a definitive answer, most legislative analysts believe that the gift, estate, and generation skipping tax provisions as they exist for 2009 will simply be extended through 2010, with significant tax legislation coming under consideration for 2011. Because these taxes can directly impact your retirement account and your overall estate plan, we will keep you updated as to any developments in this area. Once Congress adopts appropriate legislation, it will be a good time to review your current estate plan and make any needed updates.

➤ **OVERALL OUTLOOK**

In the coming years, state and federal governments are likely to seek additional sources of revenue to offset the costs of the economic recovery legislation, underfunded pension plans, and increased health expenditures. We expect this will lead to continued legislative changes and increased audit activity in areas such as HIPAA compliance, cafeteria plans, and employee classification. Additional information regarding these and other tax-related developments can be found at our website www.grafstiebel.com.