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A New Millennium for Retirement Plans:

The 2001 Tax Act and Employer Flexibility

by Martha Priddy Patterson

►**Passage of the Economic Growth and Tax Relief Reconciliation Act (EGTRRA) in 2001 marks the first time that Congress has changed the law to increase employers' flexibility in designing and funding tax-favored plans.** *This article describes EGTRRA's provisions and shows why they have the potential to change the financial security of individuals and, consequently, of the nation. It also raises concerns that the act's ten-year sunset provision may limit that potential.*◄

2001 not only marks a new millennium, but also a significant change in Congress's approach to retirement saving. For the first time since the inception of tax-favored retirement plans, with the enactment of the Economic Growth and Tax Relief Reconciliation Act,[1] Congress has actually changed the law to provide employers with more flexibility in designing and funding those plans. Much of the focus and discussion on the new law—EGTRRA—has been on its more immediate provisions, especially the across-the-board rate reductions, the immediate tax rebates and the far more narrow, but much more debated, changes to the estate taxes. Yet the 4% of the revenue lost by EGTRRA's changes in retirement savings plans has the potential to change the financial security of individuals, and consequently the financial security of the nation, far more than any of its other provisions, including the rate cuts.

This may sound like hyperbole to some, but EGTRRA's retirement changes can work both indirectly and directly to increase savings, because these changes:

- Send a message on the need for retirement savings
- Increase retirement savings limits to levels more likely to enable individuals to save enough to generate an adequate retirement income
- Offer employers sponsoring plans more flexibility in plan funding and greater deductions
- Provide administrative simplification in a number of areas
- Preserve benefits for a more mobile workforce with faster vesting for matching contributions and increased portability among plans
- Focus executive attention on existing retirement plans
- Encourage employers not currently offering retirement plans to do so through more flexibility in funding, greater potential benefits, slightly improved deductibility rules and small business credits for pension plan start-ups.

The challenge will be to make that potential a reality through actual retirement savings action by employers and employees.

SENDS A MESSAGE ON THE NEED FOR SAVINGS

Including substantial retirement savings provisions in a major tax cut act, by itself, sends a message that the national policy has changed from the decades-old policy of regularly subsidizing other government spending by reducing retirement plan tax advantages to a national tax policy that supports and encourages retirement saving as positive public behavior. This signal alone is valuable. But fortunately, the new law contains many specific changes encouraging and emphasizing the need for retirement saving.

Increase in IRA Limits

One of the most obvious changes encouraging retirement savings is the increase in annual IRA limits. For the first time in 20 years, the individual retirement account (IRA) annual contribution limit will increase from $2,000. The limits will be $3,000 for 2002 through 2004, $4,000 for 2005-2007 and increase to $5,000 in 2008, indexed for inflation thereafter. Because IRAs are so widely recognized as a retirement savings vehicle and heavily promoted by banks, thrifts, brokers and mutual funds from January 1 to April 15 each year, the public will be widely and repeatedly informed of these increased limits. Given the IRA's relatively simple funding rules and the fact that virtually every working individual is eligible to fund an IRA, most individuals understand how IRAs work and also understand IRAs are easily available and accessible. While economists have been divided on whether IRAs actually encourage new savings or simply represent a shift of savings from taxable accounts to tax-favored accounts, other changes in the law, including low-income earner incentives to save, offer a greater chance for creating "new savers," in addition to any savings "shifters."

Catch-Up Contributions for IRAs, 401(k)s and Tax-Exempt Employers

In addition to increased limits on contributions, individuals age 50 and older by the end of the retirement plan year may make "catch-up" contributions to both IRAs and various employer plans, such as 401(k) plans, beginning in 2002. The permissible IRA catch-up amount in 2002 through 2005 will be $500, and in 2006 and thereafter the amount will be $1,000. (The IRA catch-up amount will not be indexed for inflation.)

For employer-provided 401(k), 403(b) and 457 plans sponsored by state and local governments, the catch-up amount is $1,000 in 2002, increasing by $1,000 increments until reaching $5,000 in 2006. SIMPLE plans may offer a catch-up amount of $500 in 2002, increasing in $500 increments annually to $2,500 in 2006. Again, the rules for these contributions are relatively simple. The employee must have made the maximum ordinary contribution to the plan. No discrimination rules are applicable to the catch-up amounts other than a requirement that all eligible employees must be offered the right to make catch-up contributions. Section 457 plan participants within three years of retirement also may continue to use the Section 457 "catch-up" provision of twice the otherwise applicable dollar limit; however, participants may not use both catch-up provisions in the same year.

Low-Income Savings Credits

The nonrefundable tax credit for low-income taxpayers' retirement saving offers another message on the need for retirement savings. The credit applies to up to 50% of $2,000 annually for contributions to IRAs or qualified retirement plans such as 401(k), 403(b), 457 plans sponsored by state and local governments, and SIMPLEs. The credit will be available from 2002 through 2006. The individual must be age 18 or older by the end of the tax

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TABLE

Adjusted Gross Income			
Joint Return	**Head of Household**	**All Others**	**Credit Percentage**
$30,000 or less	$22,500 or less	$15,000 or less	50
$30,001 to $32,500	$22,501 to $24,375	$15,001 to $16,250	20
$32,501 to $50,000	$24,376 to $37,500	$16,251 to $25,000	10

year and must not be a dependent or a student. The table shows the credit's availability.

Some cynics have dismissed the efficacy of low-income credits with the patronizing argument that any family or individuals who would qualify for the credit cannot afford to save. Given that the median household income in the United States in 1999 was $40,300, this argument would write off entirely as savers more than 50% of households. In fact, the credit may provide just the incentive—not to mention additional disposable income—needed to make the retirement saving contribution.

The credit could be especially helpful to those employers trying to get more lower-paid employees into their retirement plan. Because the income levels are based on adjusted gross income, which does not include plan deferrals, contributing to the plan could enable employees who would otherwise exceed the credit's income caps to qualify for the credit based on the reduction in AGI after the deferrals.

INCREASES IN EMPLOYER PLANS' LIMITS TO REACH ADEQUATE RETIREMENT INCOME

When ERISA was enacted in 1974, several types of limits were placed on the benefits that could be paid from tax-favored retirement plans and on the funding of such plans. At that time, while deficit spending occurred, the federal government deficit was not the major issue it became in the next two decades. At the beginning of the 1980s, as deficits began to grow, Congress began to look to retirement benefit plans as a source of revenue. As regularly as Congress considered tax bills, it also shaved away at retirement benefits in many ways, including frequently reducing funding limits indirectly through lower and lower limits on covered compensation that established the ceiling for permissible contributions and benefit accruals; limits on benefits that could be paid; and limits on employee deferrals that could be contributed; and, less frequently, actually reducing the maximum funding formula for defined benefit plans.

The limit shaving reduced the amount companies and individuals could provide for retirement security. The limits became so low that those who changed jobs frequently, worked for an employer without a retirement plan, or took time out of the workforce to raise a family over their careers would find it difficult, if not impossible, to accrue adequate retirement savings during the periods when they were covered by a retirement plan. EGTRRA, for the first time, has reversed the trend toward lower and lower limits. By increasing virtually all savings limits and providing for faster inflation adjustments, individuals have a much greater chance of being able to accrue reasonable retirement benefits over a career, even if that career includes several employers, some of which may not offer a retirement plan.

- The covered compensation limit of $170,000 in 2001 is increased to $200,000 in 2002 and indexed for inflation in $5,000 increments. "Covered compensation" is the platform for all other limits as well as for plan funding; hence this increase has wide-reaching effects for all plans.
- The dollar limit on annual benefits payable from a defined benefit plan, now $140,000, is raised to $160,000 in 2002 and will be indexed for inflation in $5,000 increments. Also, the age used as "normal retirement" age to determine actuarial reductions or in-

creases for defined benefit plan payments is reduced from the current law "Social Security retirement age" to age 62. Benefits must be actuarially increased if benefits commence after age 65. This change will also increase benefit limits and reduce plan complexity as the normal "Social Security retirement age" changes annually beginning in 2003.

- The dollar limit on annual additions to defined contribution plans is increased to $40,000 and will be indexed for inflation in $1,000 increments; the 25% of compensation limitation is increased to 100% of compensation. The increase to 100% of compensation is especially helpful for lower-paid plan participants, who frequently were limited in their contributions by the 25% test. The change offers two-earner families in which only one earner is covered by an employer plan the opportunity to save for the "family" and also rewards those thrifty employees willing to sacrifice current consumption for future security.
- The limit on annual elective deferrals to 401(k) plans, 403(b) annuities, salary reduction SEPs and Section 457 plans will increase to $11,000 in 2002 and then increase in $1,000 increments until it reaches $15,000 for taxable years beginning in calendar year 2006. These amounts will be indexed for inflation in $500 increments after December 31, 2006. The Section 457 plan annual contribution limit of 33⅓% of compensation is increased to 100% of compensation.
- The limit on annual elective deferrals to SIMPLE IRAs and SIMPLE 401(k) plans will be increased to $7,000 in 2002 and will be increased in $1,000 increments until it reaches $10,000 for taxable years beginning in calendar year 2005. After that time, the SIMPLE limits will be increased for inflation in $500 increments.
- The 403(b) "exclusion allowance" limit and special annual contribution limits applicable only to 403(b) plans are repealed and replaced by the annual compensation limits applicable to most other defined contribution plans.

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MORE FLEXIBILITY IN PLAN FUNDING AND GREATER DEDUCTIONS FOR PLAN SPONSORS

Defined Benefit Plan Funding Limits Expanded

Changes increasing permissible defined benefit plan funding will not only strengthen plan funding, but may also make defined benefit plans more attractive to employers that do not currently offer these plans. If, in fact this occurs, it could reverse several years of decline in defined benefit plans.

Employer contributions to a defined benefit plan are not deductible if they cause the plan to be overfunded, and nondeductible contributions to a plan are subject to a 10% excise tax. Prior to 1988, defined benefit plans' full funding limitation was based on accrued liabilities. But beginning in 1988, the full funding limitation was changed.

Under existing law, a plan is overfunded if the value of the plan's assets exceeds the "full funding limit," which is generally defined as the lesser of the accrued liability under the plan or the "applicable percentage" of the plan's current liability. The "applicable percentage" was to be 160% in 2001 and 2002, 165% in 2003 and 2004, and 170% thereafter.

Limits based on accrued liability offered an employer more flexibility in funding from year to year, permitting heavy funding in the employer's more profitable years, creating a cushion for lower earnings years that could enable an employer to reduce the amount contributed to the plan or even avoid the need to contribute in such years. This narrow corridor for funding increased the volatility of funding levels, leading some employers to terminate their plans. While Congress increased the full funding percentage in the 1997 Taxpayer Relief Act, it was not enough to convince employers to reconsider defined benefit plans.

Beginning in 2004, the new funding limit will be the excess of the plan's accrued liability over the value of the plan's assets. The "applicable percentage" of current liability funding limit will be 165% in 2002, 170% in 2003, and will be repealed effective for plan years beginning on or after January 1, 2004. The special rule regarding deducting contributions up to 100% of a defined benefit plan's unfunded current liability applies to all defined benefit plans, subject to certain special rules for plans with less than 100 participants and plans that terminate during a plan year.

Defined Contribution Plan Deduction Limits Expanded

As with deductions for defined benefit plans, employers are limited in the amount they may deduct in defined contribution plans. Consequently, the new increases in permissible deferrals and contributions to defined contribution plans would be ineffectual without corresponding changes to the limits on employer deductions for contributions to those plans. Under existing law, contributions to a 401(k) plan or other profit-sharing or stock bonus plan may be deducted only to the extent they do not exceed 15% of total compensation. For these purposes, the employees' elective deferrals are counted as employer contributions when applying the deduction limits. Worse yet, employee elective deferrals are not included in determining the amount of total compensation paid by the employer for a given year. In effect, employee deferrals are included in the numerator of the percentage fraction, but excluded from the denominator, making the current deduction limit artificially low.

Beginning in 2002, the deduction limits for employer contributions to a stock bonus or profit-sharing trust are increased to 25% of total compensation. Equally important, the definition of *total compensation* used to calculate this percentage is changed in two ways. First, employees' elective deferrals are not treated as employer contributions when calculating the employer's deduction limit for contributions to qualified plans. Second, for purposes of the limit on deductible contributions to stock bonus and profit-sharing plans and certain contributions to ESOPs, total compensation includes any employee elective deferrals contributed or deferred in 401(k), 403(b) and 457 plans, cafeteria plans under Internal Revenue Code (IRC) Section 125, and qualified transportation fringe benefits under IRC Section 132.

ADMINISTRATIVE SIMPLIFICATIONS

In addition to hampering retirement plans through benefit and contribution limit levels, Congress frequently imposed more regulatory burdens, including increasingly complex nondiscrimination testing and limitations on payments and distributions. While some of these restrictions addressed potentially abusive situations, others focused on such narrow and limited opportunities for tax abuse as to be picayune. The new law offers several administrative simplifications that will reduce complexity and costs, without impairing the rights and protections of plan participants and, in fact, increases those rights and protections in some instances.

Ability to Eliminate Payment and Benefit Options

Generally the vesting rules under IRC Section 411(d)(6) prohibit any reduction in a participant's accrued benefit under a qualified plan. Among other things, this so-called anticutback rule protects optional forms of distributions, early retirement benefits and retirement-type subsidies. But with plan mergers, corporate acquisitions and changes in plan designs, a plan eventually can grow to have a confusing and difficult-to-communicate number of distribution options, many of which most participants never use.

The new law offers defined contribution plans the opportunity to simplify their payment and benefit options by eliminating a form of distribution as part of a plan-to-plan transfer without violating the anticutback rule, if a lump-sum payment is also available and the lump-sum payment is based on the same or greater portion of the participant's account as the form of distribution being eliminated. The new law also directs the secretary of the treasury to issue regulations permitting plan amendments that eliminate or reduce early retirement benefits, retirement-type subsidies, and optional forms of benefit that create significant burdens or complexities for the plan and plan participants, unless the amendment adversely affects the rights of any participant in a more than *de minimis* manner.

Repeal of 401(k) Multiple Use Test and Same Desk Burdens

Two rules that have long plagued 401(k) plans have been repealed. These are the so-called multiple use test, which prohibits using a more favorable nondiscrimination test for both deferrals and contributions, and the "same desk rule," which prohibits distributions—including rollovers—of 401(k) plan accounts when employees were transferred with a new owner of the business. These two rules caused countless administrative problems, greatly increasing the cost of plan administration and angering plan participants.

Special 401(k) nondiscrimination rules, limiting elective deferrals and employer matching contributions to highly compensated employees, provide that the actual deferral percentage (ADP) and the actual contribution percentage (ACP) tests can be passed in one of two ways. The tests are satisfied if either (1) the ADP or ACP of the highly compensated employees is not more than 125% of that of the nonhighly compensated employees; or (2) the ADP or ACP of the highly compensated employees is not more than 200% of that of the nonhighly compensated employees and not more than two percentage points greater than the ADP or ACP of the nonhighly compensated employees. Under existing law, a 401(k) plan cannot make multiple use of the more generous alternative limitations of the two percentage point/200% test to satisfy both tests. Under the new law, effective for years beginning after December 31, 2001, the IRS multiple use rule cannot be used, and the IRS is instructed to draft new regulations regarding 401(k) nondiscrimination testing. The actual degree of simplification this change offers will depend on the complexity of the new regulations, which presumably will be less complicated than the old multiple use test.

The IRS same desk rule for 401(k) plans arises, according to IRS regulations, when an employee continues on the same job for a different employer as a result of the liquidation, merger, consolidation or other similar corporate transaction. In such cases "no separation from service" occurs that would permit a distribution of the employee's 401(k) account balance and absent any other event that would permit distribution—death, disability, reaching age 59½—the account held with the former employer could not be transferred to the new employer. The new law repeals the same desk rule by amending the condition for distribution standard to be "severance from employment," rather than separation of service.

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Top-Heavy Plan Changes

"Top-heavy" tax-qualified retirement plans—plans in which more than 60% of the contributions or benefits under the plan are provided to "key" employees—generally must provide faster vesting and enhanced benefits or contributions to non-key employees. The definition of *key employee*, coupled with a four-year lookback to establish key employee status, made these plans extremely difficult and expensive to administer. Under existing law a *key employee* generally is defined as any employee in the current or past four years who is (1) an officer earning over onehalf of the defined benefit plan dollar limitation of Section 415 ($70,000 for 2001); (2) a 5% owner of the employer; (3) a 1% owner of the employer earning over $150,000; or (4) one of the ten employees with the largest ownership interests in the employer and earning more than the defined contribution plan dollar limit ($35,000 for 2001).

Under the new law, effective for plan years beginning after December 31, 2001:

- A 401(k) plan that satisfies the design-based safe harbor for elective deferrals and matching contributions (i.e., generally contributes at least 3% of compensation or offers 100% matching contribution on certain amounts) is not a top-heavy plan.
- The test for a plan's top-heavy status: (1) includes current year distributions in calculating the individual's accrued benefit or account; (2) includes in-service distributions in the last five years in calculating benefits or accounts; and (3) does not include in the calculations the accrued benefit or account balance of an individual who did not work during the year.
- The simplified definition of *key employee* includes only individuals who in the current year are (1) officers earning more than $130,000 for the year (adjusted for inflation); (2) 5% owners; or (3) 1% owners earning over $150,000 (not adjusted for inflation). For this purpose, the number of officers will not exceed the lesser of 50 individuals or the greater of three or 10% of the employees.
- Employer matching contributions can be counted in satisfying the minimum benefit requirement.
- In determining the minimum benefit required under a defined benefit plan, a year of service does not include any year in which no key employee or former key employee benefits under the plan, thereby eliminating benefit requirements for frozen plans.

Rollovers Disregarded in Involuntary Cashouts

Unless the present value of a terminated participant's vested benefit in a qualified plan is less than $5,000, a retirement plan cannot distribute the participant's retirement plan balance without the participant's consent prior to age 70½. Any rollovers accepted by the plan are counted in determining the $5,000 amount. Effective for distributions after December 31, 2001, plans can ignore the value of any rollovers (and earnings thereon) in determining whether the present value of a terminated participant's benefit is less than $5,000.

Deduction for Reinvested ESOP Dividends

The ability to deduct dividends paid on ESOP stock distributed in cash to the ESOP participants, but not to deduct such dividends if retained as earnings in the ESOP, has long been a thorn in ESOP administration. The restriction is punitive for both sponsors and participants. In fact, most ESOP sponsors with 401(k) plans partially avoided the deduction problem by using a deferral system designed to keep the value of dividends in ESOPs through automatically increasing corresponding employee 401(k) deferrals. But the arrangement worked only for nonhighly compensated employees or those employees who were not already deferring the maximum limit to the 401(k) plan, and it still prevented participants from getting the full value of earnings in the plan. For tax years beginning after December 31, 2001, an employer will be able to deduct dividends paid on behalf of stock held in an ESOP if participants are given the option to take the dividends in cash or have them reinvested in the plan.

PRESERVING BENEFITS FOR A MOBILE WORKFORCE

The new law recognizes the effects of a mobile workforce on retirement saving and attempts to address some of the portability issues through faster vesting for certain contributions and through more opportunities to roll over balances from different types of plans to new employer plans.

Faster Vesting for Matching Contributions

One of the few EGTRRA retirement plan changes that employers may not applaud is the shortened vesting periods for employer matching contributions to defined contribution plans. Under old law, those contributions are subject to the same five-year cliff vesting or seven-year graduated vesting applicable to all other plans. Generally, for plan years beginning in 2002, matching contributions must vest completely in three years or vest gradually at the rate of 20% after two years of service, with an additional 20% vested each year thereafter, reaching 100% vesting in the sixth year of service. How great a burden this will be for employers remains to be seen. Almost one-third of plan sponsors currently have immediate vesting for matching contributions, and another 28% vest gradually over five years, according to the Deloitte & Touche—*Pensions & Investment 2001 Benchmarking 401(k) Survey,* suggesting this change may not affect the majority of plans. Additionally, even those plans that currently have five-year and seven-year vesting may find the change has relatively little effect on the plan because a significant percentage of plan participants who reach a three-year tenure stay for five years or more and would have become vested regardless of the change in vesting.

Portability—Increased Rollover Opportunities

Under the law prior to EGTRRA, plan rollovers were encouraged, but rollovers from different types of plans were not permitted. Aftertax contributions could not be rolled over to any tax-favored retirement plan or IRA. With the increase in defined contribution plans that routinely pay lump-sum distributions and encourage departing employees to take the lump sum, rollovers are an increasingly important tool to prevent retirement savings "leakage" that occurs when employees leave for a new job. Unless all retirement savings amounts, including even seemingly small amounts, are preserved until retirement, many employees will not have an adequate retirement income, even though they may have participated in several employer plans.

For distributions after December 31, 2001, eligible rollover distributions from qualified retirement plans, Section 403(b) annuities, and state and local government Section 457 plans generally can be rolled over to any of such other plans or arrangements. Distributions from an IRA generally can be rolled over into a qualified plan, Section 403(b) annuity, or state and local government Section 457 plan. Distributions to a deceased employee's spouse also can be rolled into another retirement plan maintained by the spouse's employer. Aftertax contributions can be rolled over to an IRA or an employer plan, if the plan agrees to separately account for the aftertax contributions. Aftertax amounts in an IRA cannot be rolled into an employer plan. As under current law, plans are not required to accept rollovers, and plans may limit the types of rollovers they will accept.

The notice required for eligible rollover distributions from tax-qualified plans must also include information about the different restrictions and tax consequences that may apply to distributions from the type of plan receiving the rollover. The IRS is directed to draft a model notice covering this information.

In Rev. Rul. 2001-51, the IRS authorizes plan sponsors to ignore for now the EGTRRA "sunset" when calculating annual funding, deduction and benefit limits.

FOCUSING EXECUTIVES AND BUSINESS OWNERS ON RETIREMENT PLANS

When the covered compensation limits dropped from almost $236,000 in 1993 to $150,000 in 1994, the increase in nonqualified deferred compensation plans to make up the difference was dramatic and almost immediate. Rightly or wrongly, many executives came to view the company's qualified retirement plans as immaterial to their pocketbooks. Focus shifted to nonqualified plans and how to maximize their benefit and safety. Now, with the $30,000 increase in covered compensation and the $20,000 increase in defined benefit annual payments, along with the many other changes in the plan, executives and other decision makers in the company may once again take a greater interest in the plans. And when top decision makers have a—literally—vested interest in a benefit, decisions are likely to be more favorable.

ENCOURAGING EMPLOYERS TO BEGIN OFFERING PLANS

Increasing the number of employers offering retirement plans, and consequently the percentage of workers covered by those plans, is critical to building retirement security for the nation as well as its citizens. Lack of employer retirement benefits only increases the pressure on an already-strained Social Security system. EGTRRA contains several changes to encourage new retirement plan sponsorship. Ironically, the two provisions aimed at small employers, a three-year $500 annual tax credit for new retirement plan administrative expenses and free IRS determination letters, are not likely to inspire many new plans, although they may tip the scale a bit for small employers already considering plans.

But the combination of other changes may so improve the regulatory landscape for retirement plans that new employers become interested in plan sponsorship. The increased flexibility in defined benefit funding can be a real advantage for employers, especially small employers. The higher limits for covered compensation, contributions and benefits should also be a big incentive for business owners to institute a plan. Indeed, for a middle-aged business owner, there are few better retirement saving and tax reducing investments, both personally and for the business, than a defined benefit retirement plan. The various simplifications also may assuage some hesitancy in adopting plans.

Finally, if interest and concern about retirement savings, including media ads by investment companies, generate support for a retirement plan among employees, that support could be an important factor moving employers to adopt a plan. According to the Employee Benefit Research Institute's 2001 *Small Employer Retirement Survey,* the single most important reason small businesses do not offer a retirement plan is that employees prefer other wages or benefits; 43% of these businesses rank it as a major reason, exceeded only by revenue uncertainty as a reason for not offering plans. If employees demand retirement plans, the employer may well provide them.

THE SUNSET— LIMIT ON THE POTENTIAL

The new law has provided the infrastructure for significant growth in retirement plans and retirement plan saving, but some would argue the infrastructure may be built on a fault line. The fault line is EGTRRA's ten-year sunset provision, at which time all the changes are repealed and the law existing as of 2001 again applies.

Those who assume the sunset will be quickly repealed are misguided, at least so long as the current economic climate prevails. Given budgetary constraints, Congress and the president are not likely to enact a blanket repeal of the EGTRRA sunset, or even a narrow repeal of the sunset, for only the retirement plans. Such a repeal would carry significant revenue costs, creating projections for budget deficits for many years. With current concerns about funding Social Security and the potential for a return to federal budget deficits, neither the Bush administration nor Congress will move to eliminate the entire EGTRRA sunset in the near future.

Of course, there are many other reasons why the "sunset" is not inevitable. For retirement plan law especially, the sunset may be irrelevant. Retirement plan laws have never remained unchanged for as long as ten years in the now 26 years since ERISA was enacted! Congress no doubt will make several changes in retirement plan law between now and 2011. And those changes, in effect, will repeal the sunset for those provisions. Many of the EGTRRA changes may be made permanent and, as in past years, others will be changed yet again.

While the sunset raises issues that cannot be lightly dismissed, such as selecting appropriate actuarial projections, retirement plan professionals should take their usual approach in dealing with the ever-changing laws. The only difference is, this time most of the changes will promote greater retirement benefit coverage, saving and security. ◄

Endnote

1. P.L. 107-16, June 7, 2001.