

Pension Law: An Overview

Upon retirement many workers continue to receive monetary compensation from their employer in the form of a pension. There are mainly two types of pensions. Under a defined benefit plan the benefit that an employee receives is normally based on the length of a workers employment and the wages that were received. Each employee does not have a separate account in these programs, as the money to support the pensions is generally administered through a trust established by the employer. In a defined contribution plan the employer makes regular deposits into an account established for each employee. The employee is not guaranteed to receive a given amount during retirement but only the amount in the account.

Pensions are governed primarily by federal statutory law. Congress passed the Employee Retirement Income Security Act (ERISA) under its Constitutional mandate to regulate interstate commerce. *See* [U.S. Constitution, Art. I, § 8](#). The act was passed in response to the mismanagement of funds in direct benefit plans. All employers who engage in interstate commerce and provide defined benefit plans to their employees must abide by ERISA guidelines. The provisions of ERISA do not apply to defined compensation plans.

ERISA is highly complicated and provides detailed regulations for many aspects of defined contribution plans. ERISA requires that employers provide both the Labor Department and its employees with detailed descriptions of the benefits they are to receive. It also outlines which employees must receive a pension if they are offered and requires that a percentage of the retirement benefits become vested in the employees after they have worked for a given number of years and/or have reached a given age. ERISA also requires that pension plans provide benefits to an employers survivors upon his death. The legislation also requires employers to adequately fund the program and establishes fiduciary responsibilities that must be adhered to. ERISA also establishes the Pension Benefit Guaranty Corporation to insure defined benefits plans. (PBGC). Employers must pay premiums so that their plans are covered by the PBGC. The termination of plans is also extensively regulated.

To encourage employers to provide pension plans that follow Congressionally-established guidelines such as ERISA Congress has authorized tax breaks to employers who follow the guidelines. Title 26 (the Internal Revenue Code) establishes numerous qualifications and requirements in order for an employer to receive special tax treatment. For example, pension plans must be vested and must meet minimum coverage

requirements.

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