

EMPLOYEE BENEFITS

Alert

NEWS FOR THE CLIENTS AND FRIENDS OF BASS, BERRY & SIMS PLC

April 30th Deadline for Defined Benefit Plan Annual Funding Notices Quickly Approaching

March 9, 2009

The U.S. Department of Labor (the “DOL”) recently issued Field Assistance Bulletin No. 2009-01, which provides guidance for plan sponsors to comply with new annual funding notice requirements for defined benefit plans. The annual funding notice requirements are effective for plan years beginning after December 31, 2007. Generally, the annual funding notice must be distributed no later than 120 days following the close of each plan year. Thus, calendar year defined benefit plans will be required to distribute the annual funding notice for the 2008 plan year by April 30, 2009. However, “small” defined benefit plans (generally, plans which had 100 or fewer participants on each day of the preceding plan year) may delay distribution of the annual funding notice until the filing date of their Form 5500.

The annual funding notice must be distributed in lieu of the “summary annual report” and requires substantially more information. The annual funding notice must be distributed (i) to the Pension Benefit Guaranty Corporation (subject to temporary relief for single-employer defined benefit plans with liabilities that do not exceed plan assets by more than \$50 million), (ii) to each plan participant and beneficiary, and (iii) to each labor organization representing such participants or beneficiaries. In the case of a multiemployer plan, the annual funding notice must be distributed to each employer that has an obligation to contribute to the plan. The DOL has published two model notices; one for single-employer plans and one for multiemployer plans. Plan sponsors are not required to use the model notices; however, the Bulletin provides that the use of an appropriately completed model notice will be deemed to satisfy the content requirements regarding the new annual funding notices for purposes of DOL enforcement. For your convenience we have included links to Field Assistance Bulletin No. 2009-01 and the two model notices below.

Immediate action is required regarding the new annual funding notice requirements as the distribution deadline is quickly approaching. Please contact any of the attorneys in the Bass, Berry & Sims Employee Benefits Practice for assistance with these new requirements.

Link to Field Assistance Bulletin No. 2009-01 (including the DOL’s answers to frequently asked questions):

<http://www.dol.gov/ebsa/regs/fab2009-1.html>

Link to the Single-Employer Model Funding Notice:
<http://www.dol.gov/ebsa/regs/FundingNoticeAppA.doc>

Link to the Multiemployer Model Funding Notice:
<http://www.dol.gov/ebsa/regs/FundingNoticeAppB.doc>

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