

Pension plan benefits for military personnel in the Heroes Earnings Assistance and Relief Tax Act of 2008

Dear Reader,

The recently enacted "Heroes Earnings Assistance and Relief Tax Act of 2008" (the 2008 Heroes Act) provides several important pension plan benefits for military personnel. Specifically, the Act makes the following pension plan liberalizations for members of the military and their families:

- Modifies the law which provides certain retirement plan protections for reservists who are called to active duty and who are able to return to their civilian employers after serving our country. The new law requires tax-qualified retirement plans to provide that if a participant dies while performing qualified military service, his or her survivors would be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) that would have been provided had the participant resumed employment and then terminated employment on account of death. Similar rules apply to 403(b) annuities and 457(b) plans. Additionally, the new law provides that retirement plans can permit individuals who leave for qualified military service and cannot be reemployed on account of death or disability to be treated as if they had been rehired as of the day before death or disability and then had terminated employment on the date of death or disability. These changes apply to deaths or disabilities occurring after 2006.
- Makes permanent the expiring Internal Revenue Code provision that permits active duty reservists to make penalty-free withdrawals from retirement plans.
- Permits a military death gratuity or amount received under the Servicemembers' Group Life Insurance (SGLI) program to be rolled over to a Roth IRA or Coverdell education savings account, notwithstanding the contribution limits that otherwise apply.

Please keep in mind that this is only a summary of the pension plan changes in the new law. If you would like more details about these provisions or any other aspect of the new law, please do not hesitate to call.