

To: Clients and Friends
From: Smith & Downey
Date: February 28, 2008
Re: New 2008 Requirement for Plans with Annuity Options

Employers that sponsor money purchase pension plans, defined benefit pension plans, or profit sharing or 401(k) plans with annuity options (e.g., with "former money purchase pension plan" accounts) should confirm that, for plan years beginning after 2007, the requirements of new Code section 417(g)/ERISA section 205(d) are being met by their plans. (A special effective date for these new rules is provided for collectively bargained plans.)

In general, these rules require that a plan (or portion of a plan) subject to the surviving spouse annuity rules must offer a 75% survivor annuity option in addition to the traditional 50% survivor option. (These rules also require plans that use a default survivor percentage that is 75% or greater offer an optional 50% survivor option.)

(These new rules do not apply to church plans or governmental plans.)

These new rules require changes to plan documents, SPDs, and administrative forms and notices.

Please contact us if you have any questions, or if we can assist you with your 417(g)/205(d) compliance efforts.