H.R. 7327: Worker, Retiree, and Employer Recovery Act of 2008

Signed Into Law December 24, 2008.

This legislation replaced the legislation originally proposed in HR 4061 and S2505 which was supported by DP3. The major difference in the legislation passed and the proposed legislation is that HR 7327 only allows bankruptcy proceeds to be rolled over into Roth IRAs. This means there is no immediate tax savings to the individual rolling assets into the Roth IRA, although under current tax law there are no taxes due on qualified distributions from Roth IRAs.

The following is the section of H.R. 7327 that will apply to those who received payments from carriers in bankruptcy between September 11, 2001 and January 1, 2007. **Delta has 90 days from December 24th** to provide employees with a statement regarding the amount and date of payments that are eligible to be rolled over into a Roth account.

Please Note: The members of DP3 have many different tax circumstances; please consult with your tax advisor on how this law may benefit your particular situation.

SEC. 125. ROLLOVER OF AMOUNTS RECEIVED IN AIRLINE CARRIER BANKRUPTCY TO ROTH IRAS.

(a) General Rule- If a qualified airline employee receives any airline payment amount and transfers any portion of such amount to a Roth IRA within 180 days of receipt of such amount (or, if later, within 180 days of the date of the enactment of this Act), then such amount (to the extent so transferred) shall be treated as a qualified rollover contribution described in section 408A(e) of the Internal Revenue Code of 1986, and the limitations described in section 408A(c)(3) of such Code shall not apply to any such transfer.

(b) Definitions and Special Rules- For purposes of this section--

(1) AIRLINE PAYMENT AMOUNT-

(A) IN GENERAL- The term *airline payment amount* means any payment of any money or other property which is payable by a commercial passenger airline carrier to a qualified airline employee--

(i) under the approval of an order of a Federal bankruptcy court in a case filed after September 11, 2001, and before January 1, 2007, and

(ii) in respect of the qualified airline employee’s interest in a bankruptcy claim against the carrier, any note of the carrier (or amount paid in lieu of a note being issued), or any other fixed obligation of the carrier to pay a lump sum amount.

The amount of such payment shall be determined without regard to any requirement to deduct and withhold tax from such payment under sections 3102(a) and 3402(a).

(B) EXCEPTION- An airline payment amount shall not include any amount payable on the basis of the carrier’s future earnings or profits.

(2) QUALIFIED AIRLINE EMPLOYEE- The term *qualified airline employee* means an employee or former employee of a commercial passenger airline carrier who was a participant in a defined benefit plan maintained by the carrier which--

(A) is a plan described in section 401(a) of the Internal Revenue Code of 1986 which includes a trust exempt from tax under section 501(a) of such Code, and

(B) was terminated or became subject to the restrictions contained in paragraphs (2) and (3) of section 402(b) of the Pension Protection Act of 2006.

(3) REPORTING REQUIREMENTS- If a commercial passenger airline carrier pays 1 or more airline payment amounts, the carrier shall, within 90 days of such payment (or, if later, within 90 days of the date of the enactment of this Act), report--

(A) to the Secretary of the Treasury, the names of the qualified airline employees to whom such amounts were paid, and

(B) to the Secretary and to such employees, the years and the amounts of the payments.

Such reports shall be in such form, and contain such additional information, as the Secretary may prescribe.

(c) Effective Date- This section shall apply to transfers made after the date of the enactment of this Act with respect to airline payment amounts paid before, on, or after such date.