

IVINS, PHILLIPS & BARKER

CHARTERED

1700 PENNSYLVANIA AVENUE, N.W., SUITE 600
WASHINGTON, D.C. 20006-4723

TELEPHONE (202) 393-7600
FACSIMILE (202) 393-7601
IPB@IPBTAX.COM
WWW.IPBTAX.COM

JAMES S.Y. IVINS (1885-1960)
PERCY W. PHILLIPS (1892-1969)
RICHARD B. BARKER (1906-1988)

OF COUNSEL
STEPHEN N. SHULMAN
CLIFTON B. CATES III
LISA MILOT
DAVID D. SHERWOOD

H. STEWART DUNN, JR.
CARROLL J. SAVAGE
ERIC R. FOX
LESLIE JAY SCHNEIDER
ROBERT H. WELLEN
KEVIN P. O'BRIEN
PATRICK J. SMITH
ROBERT B. STACK
JEFFREY B. COHEN
MICHAEL R. HUFFSTETLER
LAURIE E. KEENAN
JEFFREY E. MOELLER
STEVEN H. WITMER
ROSINA B. BARKER
WILLIAM L. SOLLEE, JR.
JODI H. EPSTEIN
ROBIN M. SOLOMON
H. CARTER HOOD
JOSHUA T. BRADY
JENNIFER J. FINN
DANIELLE E. ROLFES

LOS ANGELES OFFICE
1875 CENTURY PARK EAST, SUITE 600
LOS ANGELES, CALIFORNIA 90067
TELEPHONE (310) 551-6633
FACSIMILE (310) 551-1188

January 25, 2010

*NOT ADMITTED IN THE DISTRICT OF COLUMBIA

JONATHAN ZIMMERMAN
VICTOR S. CHANG
NICOLE OCCHUZZO
JOHN D. BATES
MATIE B. LITTLE
JOHN LOVELACE*
DOUGLAS M. ANDRE*

2009 Plan Year Pension Funding Waiver Requests Due March 15, 2010

Sponsors of calendar-year qualified pension plans generally are required to make final minimum funding contributions for the 2009 plan year by September 15, 2010. For cash-strapped companies impacted by the current recession, this required contribution may present a significant business hardship.

Given the uncertain state of the economy, some plan sponsors may be tempted to adopt a wait-and-see attitude with respect to the scheduled September 15 funding obligation, hoping that things will turn around and there will be sufficient cash on hand to comfortably satisfy the obligation. But this may be a dangerous approach. If it turns out a contribution is not feasible in September, the opportunity to request a waiver from the IRS and PBGC will have passed. The deadline for submitting an application requesting a waiver for the 2009 plan year – *i.e.*, for contributions due September 15, 2010 – is March 15, 2010.

Rather than waiting and hoping for the best, a more prudent approach may to apply to the IRS now for a waiver of the funding contribution due September 15. An application filed by March 15 can later be withdrawn if circumstances dictate. But new applications cannot be filed after March 15: The deadline, set by statute, cannot be extended by the IRS. If in doubt about your ability to fulfill funding obligations in September, file now.

Contact [Will Sollee](#) or your regular Ivins, Phillips & Barker [contact](#) for more information. Ivins has had success negotiating funding waivers in even the most challenging situations, having recently helped a major manufacturing company secure the largest waivers ever granted. *See* IRS Private Letter Rulings 200730026 and 200730027.