

Pension Bill Affects Indian Tribal Government Plans

The question of when tribal pension plans could be considered “governmental plans” was recently addressed as part of the major pension reform bill that President Bush signed into law in August. Although most Tribes were seeking to obtain full parity with other governmental entities, the final legislation added a limitation on tribal entities by stating that the term “governmental plan” includes a plan which is established and maintained by an Indian tribal government, a subdivision of an Indian tribal government, or an agency or instrumentality of either, and all of the participants of which are employees of such entity substantially all of whose services as such an employee are in the performance of essential governmental functions but not in the performance of commercial activities (whether or not an essential government function).

This limitation was not anticipated, but appears to require the filing of Form 5500 for plans that include any employees involved in casinos or other commercial enterprises.

The IRS is analyzing the overall pension bill. We will continue to post updated information on this web site. Our overall goal is to keep tribal employees covered, and transition plans into compliance with new rules.