The "Genesis" of ERISA—Happy Birthday

By David J. Witz

On Labor Day, September 2, 1974, President Gerald Ford signed into law the Employee Retirement Income Security Act (ERISA). What was the genesis for Congress to ink this Act of extraordinarily complex rules? Some might argue that it was the demise of Studebaker in 1963 that was the impetus for the establishment of ERISA; however, I would offer this good humored reflection on the Genesis of ERISA with great anticipation of continued challenges for the next 30 years.

In the beginning, Congress created ERISA. Now ERISA was formless and empty, darkness was over the surface of the deep, and Congress was hovering over boundless words of expression.

And Congress said, "Let there be Title I" and Congress saw that Title I was good for it imposed minimum standards of eligibility, vesting, and funding to protect the common man. And statutory requirements were created to impose minimum standards for Reporting, Disclosure, Fiduciary Responsibility. And powers of Enforcement over these statutory requirements were delegated to the Department of Labor. And there was evening and there was morning—it was one of many days!

And Congress said, "Let there be Title II" and Congress created a great expanse between the waters of Title I and Title II. And it was so. Congress called the expanse the Department of the Treasury to monitor greed and gluttony (410(b)–415 & 416). And there was Labor and there was Tax—the second of many more days!

And Congress said, "Let there be Title III" and Congress gathered the Department of Labor and separated them from the Department of the Treasury dividing enforcement between them over the great expanse. And it was so. Congress called the Department of Labor (DOL) "Labor" and the Department of the Treasury (Internal Revenue Service-IRS) "Tax." And Congress saw that it was good.

Then Congress let DOL issue rules, regulations, interpretive bulletins, prohibitive transaction exemptions, field assistant bulletins, and private letter rulings and gave the IRS similar authority so that they may produce—so that man may know the heart and mind of Congress. And it was done and Congress saw that it was good. And it was evening and it was morning—the third of many more days!

And Congress said, "Let there be Title IV" to fill the expanse between the powers of the DOL and the IRS over the accrued benefits created by Defined Benefit plans. So Congress created the PBGC to govern this expanse and to guarantee minimum benefits for the common man. And Congress saw that it was good. And there was evening and there was morning—and Congress was exhausted and temporarily decided to create no more.

Then Congress said, "Let us name these Titles in our own image, in our likeness, and let it rule over plans'

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sponsors in all these United States." Congress thought long and hard over this great Act of creation and many more days passed. Finally, Congress named their Act of creation, ERISA, an acronym for "Every Ridiculous Idea Since Adam" for it truly reflected the image of its creator.

So Congress created ERISA in its own image, in the image of Congress they created ERISA; and with the powers of Labor and Tax, Congress created ERISA. Congress blessed ERISA and said, "Be fruitful and increase the number of financially independent retirees and let them fill their retirement accounts." For the account of a retiree will be for food, shelter, and enjoyment during their golden years. And it was so.

Upon reflection, Congress saw that all it had created was very good indeed! And there was evening and there was morning—and it was the end of the 94th Congress 2nd session. ■