Volume 6, Summer 2009

A Look Inside

Also in this Issue

7 Steps to Making a Hardship Distribution

In these challenging economic times, participants may seek hardship distributions from their retirement plan. Before making hardship distributions, review the steps below to make sure you follow both the legal requirements and your plan's requirements.

The law states that some retirement plans (for example, 401(k) and 403(b) plans) may allow participants to withdraw certain amounts from the plan because of a financial hardship. IRS regulations provide guidelines for plans to follow to ensure they satisfy the law's requirements. A plan can make a hardship distribution only:

- if permitted by the plan;
- because of an immediate and heavy financial need of the employee and, in certain cases, of the employee's spouse, dependent or beneficiary; and
- in an amount necessary to meet the financial need.

Step 1 - Review the terms of your plan, including:

- whether the plan allows hardship distributions;
- the procedures the employee must follow to request a hardship distribution;
- the plan's definition of a hardship; and
- any limits on the amount and type of funds that can be distributed as a hardship from an employee's accounts.

Step 2 - Ensure that the employee complies with the plan's procedural requirements. For example, make sure the employee has provided a statement or verification of his or her hardship in the form required by the plan.

Step 3 - Verify that the employee's specific reason for hardship qualifies for a distribution using the plan's definition of what constitutes a hardship. For instance, the plan may limit a hardship distribution to pay burial or funeral expenses and not for any other reason.

Step 4 - If the plan, or any of your other plans in which the employee is a participant, offers loans, document that the employee has exhausted them prior to receiving a hardship distribution. Likewise, verify that the employee has taken any other available distributions, other than hardship distributions, from these plans.

Under some plans, a hardship distribution is not considered necessary if the employee has other resources available, such as spousal and minor children's assets (excluding property held for the employee's child under an irrevocable trust or under the Uniform Gifts to Minors Act).

Step 5 - Check that the amount of the hardship distribution does not exceed the amount necessary to satisfy the employee's financial need. However, the amount required to satisfy the financial need may include amounts necessary to pay any taxes or penalties that are due because of the hardship distribution.

Step 6 - Make sure that the amount of the hardship distribution does not exceed any limits under the plan and is made only from the amounts eligible for a hardship distribution. For example, the plan may permit a hardship distribution of only 50% of an employee's salary reduction contributions.

Step 7 - Most plans also specify that the employee is suspended from contributing to the plan and all other plans that the employer maintains for at least six months after receiving a hardship distribution. Inform the employee and enforce this provision! Failing to enforce the plan's suspension provision is a common plan error but may be corrected through the Employee Plans Compliance Resolution System (EPCRS).

Know the Rules Before You Break Open Your Retirement Piggy Bank

If you are under age 59 ½ and plan to withdraw money from your retirement account, you will likely pay both income tax and a 10% early distribution tax on any previously untaxed money that you take out. Withdrawals from a SIMPLE IRA before you are age 59 ½ and during the "2-year period" may be subject to a 25% additional early distribution tax instead of 10%. The 2-year period is measured from the first day that contributions are deposited. So, consider the decrease in your retirement savings and the increase in tax before you withdraw from either your IRA or a retirement plan (for example, 401(k) or 403(b) plans).

There are some different exceptions to the 10% early distribution tax depending on whether you take money from an IRA or a retirement plan.

Exceptions for IRAs Include:

You use the amount withdrawn to pay:

- medical insurance premiums while unemployed;
- qualified higher education expenses; or
- to buy, build or rebuild a first home.

An exception also applies if you receive distributions in the form of an annuity.

See Publication 590, *Individual Retirement Arrangements (IRAs),* for a complete list and details of the exceptions.

Exceptions for Retirement Plans Include:

- you separate from service and are age 55 or older in that year; or
- you elect to receive the money in substantially equal periodic payments after separation from service.

See Publication 575, *Pension and Annuity Income*, for a complete list and details of the exceptions. If you are required to pay the 10% early distribution tax, you may need to file Form 5329, *Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts*, along with your tax return.

Tax Return Preparer Review Held July 30, 2009

IRS Commissioner, Doug Shulman, will make recommendations by the end of 2009 for the IRS's review of the tax return preparer community. The IRS's goal is to increase taxpayer compliance and ensure uniform and high ethical standards of conduct for tax preparers. Potential recommendations include a new model for the regulation of tax return preparers, service and outreach for return preparers, return preparer education and training and enforcement for return preparer misconduct.

The IRS held its first of several public meetings scheduled with constituent groups on July 30, 2009, in Washington, D.C. The forum featured two panels. The first panel consisted of consumer groups, including the American Association of Retired Persons, Consumer Federation of America, Center on Budget and Policy Priorities, National Community Tax Coalition and Low Income Tax Clinic. The second panel, made up of tax professional groups, included the American Bar Association, the American Institute of Certified Public Accountants, the National Association of Enrolled Agents, the National Association of Tax Professionals and the National Society of Accountants.

Information for future public meetings including schedules and agendas will be available on the Tax Professionals page on the IRS Web site.

New on the Web

Check out our latest postings to the Retirement Plans Community Web page:

Fix-It Guides Web Page

The SARSEP Fix-It Guide is here! It provides tips on how to find, fix and avoid common mistakes in SARSEP plans. Check it out on our Fix-It Guides Web page where you will also find the 401(k), SEP and SIMPLE IRA Plan Fix-It Guides.

Enrolled Retirement Plan Agent Program (ERPA)

The ERPA questions and answers have been updated to include a list of approved ERPAs, approved ERPA CPE sponsors and Form 8554-EP, *Application for Renewal of Enrollment to Practice Before the Internal Revenue Service as an Enrolled Retirement Plan Agent (ERPA)*.

403(b) Retirement Plan Mini-Course for Employees

A short presentation for employees on how a 403(b) plan works.

TE/GE ACT Report Issued June 10, 2009

The ACT presented four recommendations to the IRS Commissioner and TE/GE.

401(k) Phone Forum - August 6, 2009 - Postponed

Due to unforeseen circumstances, we're sorry that the 401(k) EP Phone Forum, originally scheduled for Thursday, August 6, 2009, has been postponed. We will announce a new date and e-mail revised call-in information. We apologize for any inconvenience and look forward to your participation on the rescheduled date.

SIMPLE IRA Plans: The 2-Year Rule on Early Distributions

Generally, an early distribution from a SIMPLE IRA is treated the same as one from a traditional IRA; the 10% additional tax on early distributions applies. However, if a distribution is made from the SIMPLE IRA within two years of when contributions were first deposited to the participant's SIMPLE IRA, the additional tax on early distributions, if applicable, is increased from 10% to 25%. Any rollovers or transfers from a SIMPLE IRA within this 2-year period, unless to another SIMPLE IRA, are also subject to the 25% additional tax on early distributions.

Certain distributions are exempt from any additional tax on early distributions and include the following distributions made:

- after the participant is 59 ½ years old;
- for unreimbursed medical expenses that are more than 7.5% of adjusted gross income;
- in an amount not more than the cost of medical insurance;
- after the participant is disabled;
- in the form of an annuity;
- to pay qualified higher education expenses; and
- to buy, build or rebuild a first home.

If the employer terminates a SIMPLE IRA plan before the 2-year period, the 25% additional tax on early distributions still applies. Participants who want to avoid this additional tax have the option of:

- leaving the money in their SIMPLE IRA until the end of the 2-year period; or
- leaving the money in their SIMPLE IRA until they meet an exception to the additional tax.

Participants can roll over the balance in their SIMPLE IRA to another SIMPLE IRA, but the 25% additional tax on early distributions will still apply for distributions from the new SIMPLE IRA within the original 2-year period. After the 2-year period has been met, SIMPLE IRA assets can be rolled over or transferred to other types of retirement plans, including 401(k) plans, 403(b) plans, 457(b) plans, and traditional and Roth IRAs without being subject to the 25% additional tax on early distributions.

Additional Information on SIMPLE IRA Plans:

Publication 4334, *SIMPLE IRA Plans for Small Businesses*

Publication 560, *Retirement Plans for Small Business (SEP, SIMPLE, and Qualified Plans)*

Publication 590, *Individual Retirement Arrangements (IRAs)*

Retirement Plans FAQs regarding SIMPLE IRA Plans

SIMPLE IRA Plan

Fixing Common Plan Mistakes:

Correcting a Failure to Implement the Plan's Automatic Enrollment Provisions

Each issue of the *RNE* examines a common error that occurs in retirement plans and provides information on fixing the problem and lessening the probability of its recurrence.

The Problem:

Two common errors found in 401(k) plans are not giving an eligible employee the opportunity to make elective contributions and failing to execute an employee's salary deferral election. In both cases, the employer can fix the problem by using one of the programs available through the Employee Plans Compliance Resolution System (EPCRS). The remedy for both requires the employer to make a corrective contribution of 50% of the missed deferral (adjusted for earnings) for the affected employee. The employee is fully vested in these contributions and the contributions are subject to the same restrictions on withdrawal that apply to elective deferrals. The only difference in the correction for the two situations lies in the calculation of the amount of the missed deferral. In the case of an erroneously excluded employee, the missed deferral is based on the average of the deferral percentages ("ADP") for other employees in the employee's category (for example, nonhighly compensated employee). In the case of failure to implement an employee's election, the missed deferral is based on the employee's elected deferral percentage.

Many 401(k) plans provide an automatic enrollment feature. Under automatic enrollment, unless there is a specific election to the contrary, the employee is treated as having elected to make a contribution equal to the plan's automatic enrollment deferral percentage. The employee also has the option of choosing to contribute an amount other than the plan's automatic enrollment deferral percentage. The following question often comes up for automatic enrollment plans: How do we correct the mistake of not implementing automatic enrollment for employees? The answer to the question is based on the *reason* for the failure. Specifically, did the failure to implement automatic enrollment arise from the erroneous exclusion of an eligible employee? Or, did the failure arise because of the failure to execute the employee's "election" (or more accurately, "non-election")?

Let's consider the following two examples. In both examples, the employees are nonhighly compensated employees (NHCEs) of the Engine Company ("Engine"). Engine sponsors a 401(k) plan ("Plan"), which provides that unless the employee elects otherwise, Engine will enroll the employee in the Plan and withhold 3% of compensation from the employee's paycheck. For 2008, the ADP for NHCEs was 4%.

Example 1: Albert became eligible to participate in Engine's Plan on January 1, 2008. Due to an oversight, Engine did not give Albert the plan's enrollment materials. Included in the enrollment materials are: (i) a description of the plan, and (ii) the procedures for an eligible employee to elect to contribute an amount other than the automatic enrollment deferral percentage (including zero). Albert did not make any specific election and the Plan did not implement its automatic enrollment provision for Albert. As a result, Albert did not make any elective contribution to Engine's Plan in 2008. Albert earned $30,000 in compensation in 2008.

Example 2: Bobbi became eligible to participate in Engine's Plan on January 1, 2008. In November of 2007, the Plan sponsor gave Bobbi the Plan's enrollment materials. Bobbi did not make any specific election and the Plan did not implement its automatic enrollment provision for Bobbi. As a result, Bobbi did not make any elective contribution to Engine's Plan in 2008. Bobbi earned $30,000 in compensation in 2008.

Fixing the Mistake:

Example 1: In failing to provide Albert with the Plan's enrollment materials, the Plan effectively precluded him from making a timely election to contribute to the plan. Since Albert was erroneously excluded from the Plan, Albert's missed deferral would be determined using the applicable ADP for 2008. In this case, Albert's missed deferral is $1,200 (4% (ADP for NHCEs) multiplied by $30,000 (Albert's compensation for 2008)). The corrective contribution required for Albert is $600 (50% multiplied by his $1,200 missed deferral).

Example 2: After receiving the Plan's enrollment materials, Bobbi did not submit an election form. By **not** making an affirmative election in this automatic enrollment plan, Bobbi has expressed her desire to contribute at the Plan's automatic enrollment deferral percentage of 3% of compensation. By failing to implement the Plan's automatic enrollment provisions, the Plan did not execute Bobbi's election. In this case, Bobbi's missed deferral is $900 (3% (Bobbi's elected deferral percentage) multiplied by $30,000 (Bobbi's compensation for 2008)). The corrective contribution required for Bobbi is $450 (50% multiplied by her $900 missed deferral).

In both examples, the corrective contributions should be adjusted for earnings from the date that the elective deferrals should have been made through the date of the corrective contribution.

Finding the Mistake:

Employers should periodically review the records of eligible employees who are not making elective deferrals to the plan. For these employees, plan records should contain affirmative elections requesting that the elective deferral be reduced from the automatic enrollment default percentage level to zero. In the absence of affirmative elections, it is likely that the plan failed to implement the plan's automatic enrollment provisions.

Avoiding the Mistake:

Plan administrators should determine which employees will be eligible to participate in the plan at the plan's next entry date and ensure that they receive timely and complete information about the plan. The plan administrator and payroll provider should establish procedures so that the payroll provider has complete and updated information for eligible employees and their respective elections, as of the beginning of each pay period. The payroll provider must have a thorough understanding of the plan's provisions with respect to elective contributions and make sure that its systems are consistent with plan design.

Employee Plans Published Guidance

Revenue Rulings

Rev. Rul. 2009-18, 2009-27 I.R.B. 1
This revenue ruling lists all guidance documents that are obsolete or superseded due to 403(b) final regulations under 1.403(b)-1 through 11 being issued.

Notices

Notice 2009-42, 2009-20 I.R.B. 1011
This notice modifies Notice 2009-31, extending the time-period for multiemployer plans making elections described in section 204 of WRERA. This notice substitutes "June 30, 2009," for "April 30, 2009."

Notice 2009-71, 2009-35 I.R.B.
This notice announces plans to issue guidance for Code §414(x) eligible combined plans and requests public comments.

Desk Side Chat…With Monika Templeman

ABCs of Loans and Hardship Distributions

In each issue, Monika Templeman, Director of EP Examinations, responds to questions and offers insights on retirement plan topics uncovered during audits. You may provide feedback or suggest future topics for discussion by e-mailing her at: RetirementPlanComments@irs.gov

Henny Youngman is attributed to saying, "I went to the bank and went over my savings. I found out I have all of the money that I'll ever need…if I die tomorrow." Being a comedian, it was funny in its time. However, the current economic landscape makes this quote more serious.

Sadly, this is true. As a society we're getting older and less frugal. This is particularly alarming in light of the current economic factors that are impacting our nation. Although more than $11.7 trillion is currently invested in retirement plans, the amount was approximately $16 trillion in September 2008 – obviously the economic downturn impacted retirement plans. Almost everyone lost money in their retirement accounts and many people either have lost jobs or are facing the possibility of losing their jobs. We are finding that many participants are now looking to their retirement plans for temporary relief of their financial distress. We are doing our best to assist plan sponsors and participants in understanding the rules for the different ways money can be taken out of the plan. We also want to caution plan participants of the need to save for retirement and to avoid depleting their retirement savings for anything short of an emergency. Only 44% of families nearing retirement have an IRA with an average account balance of $60,000. The question isn't at what age you want to retire, it's at what income.

Let's start with plan loans. Which types of plans can offer plan loans?

Qualified plans, such as profit-sharing, 401(k) and money purchase plans are permitted to have loans as long it is stated in the plan document. IRA-based plans, such as SEPs, SIMPLE IRAs and SARSEPs, and traditional and Roth IRAs are not permitted to provide loans.

Are there limitations on the amount of the loan?

The amount participants may take for a loan is limited to the lesser of: 50% of their vested account balance or $50,000. The vested interest is the amount that actually belongs to the participant, even if they terminate employment.

Loans need to be repaid back to the account. What requirements are there for loan repayments?

The participant must make payments at least quarterly, over a period not exceeding five years. There is an exception to the 5-year rule for loans taken out for the purchase of the participant's primary home.

When are there taxability issues with plan loans?

Loans that initially don't meet the requirements of the Code because they aren't limited to 50% of the vested account balance or they exceed $50,000 are treated as a distribution when the loan is made and is taxed accordingly. Missing payments cause the loan to go into default and therefore taxed as a distribution. Sometimes, this is just a payroll mix-up. Suddenly, the loan payments are no longer coming out of the participant's payroll check. If the error is not corrected, then the law treats the loan as a deemed distribution and it is includible in the participant's income. Some plans allow for a "cure period" in which participants can make up missed payments.

The number one taxability issue we see with loans occurs when a participant terminates employment with an outstanding loan balance. In this situation, plans usually offset the distribution of the participant's account by the amount of the outstanding loan balance. For tax purposes, the amount of the distribution includes the loan balance at the time of the offset. If the participant wants to roll over his or her entire benefit, then he or she must come up with money that represents the loan offset as well as money to cover the 20% mandatory federal income tax withholding that applies to the full amount including the loan offset. The 10% additional early distribution tax applies if the person is under age 59 ½ unless some exception to this early withdrawal tax applies.

Can owner-employees borrow from the plan?

An owner employee is allowed to borrow from the plan. However, he or she must follow the same rules as any other participant. It must be a formal loan meeting all of the loan requirements dealing with amounts and repayment. If it does not then it may be a prohibited transaction. What is **not allowed** is the employer dipping into plan assets – maybe informally borrowing a little just to tide it over – to meet payroll or pay other bills and then pay it back later. This is **never** permitted.

Another problem we frequently encounter in tough economic times is when an employer withholds salary deferrals from employees' pay intending to deposit the money in its 401(k) or SIMPLE IRA plan, but doesn't. The employer "borrows" the money, maybe to cover payroll, or rent or whatever, thinking that it won't hurt to wait a few weeks until the withheld salary deferrals are deposited into the plan's funding vehicle. Again, this is **never** okay. The Department of Labor looks very harshly on this fiduciary violation. The money must be deposited in the trust or IRAs as soon as the money can be reasonably segregated from the employer's assets.

Let's turn our attention to hardship distributions. What type of plans can offer hardship distributions?

You'll only find hardship distributions in defined contribution plans, such as 401(k), 403(b) and 457 plans.

What are the requirements for hardship distributions?

The regulations require that there has to be an "immediate and heavy financial need." A distribution is deemed to be for an "immediate and heavy financial need" as defined in the plan, but generally, if it is for medical expenses, purchase of principal residence, tuition and related education expenses, to prevent eviction, funeral expenses, and repairing casualty damage to the employee's house. Also, a distribution must be necessary to satisfy an immediate and heavy financial need as defined by plan terms. The participant must exhaust all loans available under all plans of the employer. Some plans may also require that the employee not have other resources available to meet the need, including the employee's spouse's and minor children's assets.

I think it is important to note that the Pension Protection Act modified the 401(k) hardship rules to treat a participant's beneficiary the same as a participant's spouse and dependents for purposes of qualifying for certain hardship distributions. Certain hardship distributions (medical, tuition and funeral expenses) can now be made to a participant based upon the need of a grandchild or domestic partner if that individual has been designated as a beneficiary under the plan.

When are there taxability issues with hardship distributions?

Employees should keep in mind that hardship distributions are not tax free money. Generally, they are subject to income tax in the year of distribution and, if the employee is under the age of 59 ½, to the 10% early distribution tax unless some exception to this early distribution tax applies. However, these distributions are not subject to the mandatory 20% income tax withholding.

Any final words of caution you wish to provide to the plan sponsors?

Yes. If you wish to allow loans, hardship distributions, and even the modified hardship rule for the participant's beneficiary, the plan must include the language allowing them. Too many times my examination agents find that the plan sponsor allows these provisions to occur in operation because they may have read or heard that they are permitted by law, but their plan specifically prohibits them or is silent. I would suggest that every plan sponsor read their plan before they offer any of these arrangements to their participants.

We're Glad You Asked!

Each issue of the *RNE* looks at a common question we receive and provides an answer and additional resources in response to the question.

I own 100% of the stock of a corporation that has one common-law employee and a Simplified Employee Pension plan. My wife owns 80% of the voting stock in another corporation that employs her and five others. Do I have to include the employees in the other company in my SEP?

Yes, if they meet the SEP plan's eligibility requirements. Corporations in a controlled group must consider including all eligible employees of all such corporations for their retirement plans. In general, SEP plans must cover all employees of all related employers who are age 21 or older, have worked in 3 out of the prior 5 years and, for 2009, have compensation of at least $550.

Except for a limited spousal exception that does not apply if you live in a community property state, you are considered to own any stock that your wife owns under the family attribution rules. You are also considered to own any stock that your minor children under age 21 own. Further, you are also deemed to own any stock that your parents, grandparents and children over age 21 own, but only if you already own more than 50% of the stock in the same corporation.

Since, through attribution, you have more than 80% common ownership of the total combined voting stock in both corporations and more than 50% identical ownership of both corporations, a brother-sister controlled group exists. This means that your company's SEP plan must cover all employees of the other corporation as long as they meet the plan's eligibility requirements.

Additional Resources:

Publication 4285, *SEP Checklist*

SEP Fix-It Guide

Internal Revenue Code §414(b)

Internal Revenue Code §1563

We're Glad You Asked! - 2

I am a participant in my company's SIMPLE IRA plan, but I am also self-employed and have a SEP plan for my own business. What is the maximum amount of contributions that my employer and I can make to both plans?

The contribution limits for a SIMPLE IRA plan are separate from the limits for a SEP plan. The SIMPLE IRA plan permits both employee and employer contributions, but the SEP plan only allows employer contributions. All limits discussed below are for 2009, and are subject to cost-of-living adjustments for later years.

SIMPLE IRA Plans

Employee Contribution Limits

Elective deferrals, or salary reduction contributions, are limited to $11,500. Employees age 50 or over can contribute an additional $2,500 in catch-up contributions. Note that if you participate in more than one retirement plan that allows elective deferrals, you must aggregate all your elective deferrals to determine how much you can contribute to each plan.

Employer Contribution Limits

Your employer can either:

- match your contribution, dollar-for-dollar, up to 3% of your compensation, or
- make an employer nonelective contribution of 2% of your compensation limited to $245,000.

SEP Plans

SEP plans only allow employer contributions. They are limited to the lesser of:

- 25% of compensation, which, in the case of a self-employed individual, means 25% of net earnings from self-employment, limited to $245,000, or
- $49,000.

If your business sponsors another defined contribution plan, such as a profit-sharing plan or a 401(k) plan, then you would have to make sure that the total amount contributed to all plans does not exceed the limits stated above.

Additional Resources:

Publication 4284, *SIMPLE IRA Plan Checklist*

Publication 4285, *SEP Checklist*

Publication 560, *Retirement Plans for Small Business (SEP, SIMPLE, and Qualified Plans)*

Publication 590, *Individual Retirement Arrangements (IRAs)*

Retirement Plans FAQs regarding SEPs

Retirement Plans FAQs regarding SIMPLE IRA Plans

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UNITED STATES DEPARTMENT OF LABOR
Employee Benefits Security Administration

DOL Corner

The Department of Labor's Employee Benefits Security Administration (DOL/EBSA) announced new guidance as featured below. You can subscribe to DOL/EBSA's Web site homepage for updates.

403(b) Plans

On July 20, DOL/EBSA issued Field Assistance Bulletin (FAB) 2009-02 providing guidance on certain Form 5500 requirements dealing with tax-sheltered annuity programs.

In 2007, DOL/EBSA made changes to annual reporting rules to, among other things, require that not-for-profit employers with 403(b) retirement plans covered by ERISA comply, starting this year, with the same financial reporting rules that apply to 401(k) plans.

The FAB provides transition relief for plan administrators of 403(b) plans who make a good faith effort to comply with applicable annual reporting requirements for the 2009 plan year. The FAB allows 403(b) plans to avoid the administrative burden and expense of having to collect and include in their 2009 Form 5500 financial report information on certain individual annuity contracts and mutual fund custodial accounts of current and former employees which were entered into before 2009 and for which the employer has no ongoing contribution obligation.

The FAB complements the transition relief issued by the IRS under new §403(b) final regulations.

Target Date Funds and Similar Investment Options

On June 18, DOL/EBSA and the Securities and Exchange Commission held a joint public hearing on the investment of 401(k) and other retirement plans in target date type plans. The purpose of the hearing was to examine the need for additional guidance given the importance of these investments to the retirement savings of investors.

Witnesses addressed topics relating to:

- How target date funds (TDF) managers determine asset allocations and changes to asset allocation;
- How they select and monitor underlying investments;
- The extent to which the foregoing, and related risks, are disclosed to investors and the adequacy of that disclosure; and
- The approaches or factors to compare and evaluate TDFs.

The hearing was open to the general public. An archive of the live webcast of the hearing is available on DOL/EBSA's homepage. The hearing agenda, transcript, testimony and additional materials are available on DOL/EBSA's Web site.

Getting Ready for the 2009 Form 5500 and Electronic Filing

DOL/EBSA held its second webcast on June 11 to address frequently asked questions about preparing the Form 5500 and preparing for electronic filing and the new EFAST2 system. The webcast also highlighted new features of the Delinquent Filer Voluntary Compliance Program that make it easier to use.

As part of the changes to the 2009 Form 5500, a new Form 5500-SF was created for certain small plan filers and a number of the schedules to the Form 5500 were changed. The webcast featured the layout of the new Form 5500-SF and the key changes to the Form 5500 schedules and their instructions.

Along with the form changes, the ERISA Filing Acceptance System (EFAST) is being modernized. The new filing system, EFAST2, will receive only electronic filing submissions. The webcast discussed the key dates surrounding the EFAST decommissioning and transition to EFAST2

The archive of this webcast as well as the first webcast held in February are available on DOL/EBSA's homepage. Subscribe to this page for notification of additional webcasts on the changes to filing the Form 5500.

Investment Advice

On May 22, DOL/EBSA published a Federal Register notice extending the effective and applicability dates of the final rule until November 18, 2009.

Free Compliance Assistance Events: For dates and locations of free compliance assistance events sponsored by EBSA for both retirement and health benefit plans, visit EBSA's homepage.

2009 RMDs from Defined Benefit Plans?

Since defined benefit plans are not individual account plans, they must make the 2009 required minimum distributions.

Mark Your Calendar

Operating a retirement plan can be a time-consuming job. To help you, we have listed some important dates in the upcoming months. Please note that the filing dates are for calendar-year end plans. Noncalendar-year end plans must adjust their dates.

August 25 - 27: IRS Nationwide Tax Forum – New York, NY.

September 8 - 10: IRS Nationwide Tax Forum – Dallas, TX.

September 15: Deadline for making final required minimum contributions for 2008 calendar-year money purchase and defined benefit plans.

September 22 - 24: IRS Nationwide Tax Forum – Atlanta, GA.

September 30: Summary Annual Report due to participants for 2008 calendar-year end plans.

October 15: File 2008 Form 5500, *Annual Return/Report of Employee Benefit Plan,* or Form 5500-EZ, *Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan*, with DOL/EFAST if you filed for a 2-1/2 month extension prior to August 1.

October 15: Deadline for making third quarter contributions to 2009 calendar-year defined benefit plans.

November 2: Last day for employers with SIMPLE IRA or SIMPLE 401(k) plans to notify eligible employees of their 2010 salary reduction rights and whether their required contributions will be matching or nonelective contributions.

For a comprehensive list of upcoming EP Educational Events, visit the Retirement Plans Community **Web page**.

Retirement News for Employers

Retirement News for Employers is a free, quarterly newsletter aimed at keeping employers informed about retirement plan sponsorship. RNE is prepared by the IRS's Employee Plans (Tax Exempt and Government Entities) office.

For your convenience, RNE includes Internet links – identified by the blue underlined text – to referenced materials.

How to Subscribe

RNE is distributed exclusively through IRS e-mail. Sign up for your free subscription by going to the Retirement Plans Community Web page and selecting "Newsletters" in the left pane. Prior editions of the RNE are also archived there.

Send Comments/Suggestions to:

EP Customer Education & Outreach
SE:T:EP:CEO
1111 Constitution Ave., N.W., PE-4C3
Washington, DC 20224
FAX: (202) 283-9525
E-Mail: RetirementPlanComments@irs.gov

Have a Question?

For taxpayer assistance with retirement plans technical and procedural questions:

Please call (877) 829-5500 or visit the "Contact EP/Services" section at www.irs.gov/ep.

For questions relating to retirement income, IRAs, Roth IRAs, educational IRAs, medical savings accounts and §125 cafeteria plans:

Please call (800) 829-1040.

IRS
Department of the Treasury Publication 4278 (08-2009)
Internal Revenue Service Catalog No. 37968D
www.irs.gov

Timing is Everything

Some helpful retirement tips for employees from the IRS

National Save for Retirement Week

October 18 - 24, 2009, is designated as "National Save for Retirement Week." This annual event is the first national effort established by Congress to raise public awareness about the importance of saving for retirement.

Did You Know...

Retirement can last for 30 years or more?

Almost 1 in 3 retirees say that they have no savings of any kind?

The average amount paid monthly by the Social Security Administration in the form of benefit is $1,153?

Why Participate in a Retirement Plan?

Saving through an employer retirement plan is one of the easiest ways for employees to save. Recent tax law changes have increased the contribution amounts for 401(k) plans and IRAs. Participants age 50 or older can contribute additional amounts to help catch-up on their savings as they near retirement. Other employee benefits include: tax on most employee contributions is deferred until distributed, investment gains in the plan are not taxed until distributed, retirement assets can be carried from one employer to another, contributions can be made easily through payroll deductions, Saver's Credit is available, and, most importantly, greater financial security upon retirement!

Future Retirement Savings Value

Monthly Savings, 6%	5 Years	15 Years	20 Years
$50	$3,489	$14,541	$23,102
$200	$13,954	$58,164	$92,408
$500	$34,885	$145,409	$231,020

How We Can Help

The IRS is committed to educating employees about retirement savings by providing information and resources designed to explain federal retirement plan law. Visit our Web site www.irs.gov/ep, for publications and other resources, or call (877) 829-5500 for telephone assistance.

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