Financial Distress and Retirement Plan Distributions

Tax Exempt and Government Entities

Employee Plans

2009 IRS Nationwide Tax Forum

Slide 1

Good morning/afternoon.

Introduce yourself and provide your qualifications for speaking.

Herbert Hoover once said, “About the time we can make the ends meet, somebody moves the ends.” Many of us, I am sure, feel this way about how the economy has gone in the past year.

In these tough economic times, many of your clients and their employees will look to their retirement plans for temporary relief of their financial distress – for a way to make the ends meet. Caution is required. Today we will help you help your clients avoid retirement plan pitfalls and keep them from turning a bad financial situation into a tax disaster.

Plan Loans

- Not all plans are created equal
  - Loans in IRA-based plans = no
  - Loans in qualified plans = maybe
- Basic loan provisions
- Taxability issues
- Employer “borrowing” plan assets
- Late deposits of EE contributions

Slide 2

We all need a little financial help from time to time. The economic downturn of the last year has caused many folks to look for other ways to get them over the hump. If employees have been making regular salary deferral contributions into their 401(k) plans, they may have accumulated a nice retirement nest egg. Many people look to that nest egg to help them out of a tight financial situation, for emergencies or to help pay for a home or college.

Not every type of retirement plan allows participant loans. Any of the IRA-based plans, such as SEPs, SIMPLE IRAs and SARSEPs, and traditional and Roth IRAs cannot allow loans. However, qualified plans, such as profit-sharing, 401(k) and money purchase plans are permitted to have loans, but the plan document must say so. The plan language (or a document referenced in the plan) must outline the loan program and describe the rules, limits and procedures for participants to borrow from their accounts.

Unless the loan meets the requirements spelled out in the Code, it is taxable income to the participant. The amount participants may take for a loan is limited to the lesser of 50% of their vested account balance or $50,000. 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 a primary home. A plan may limit the number of loans, the length of the repayment period and may require payments be made more frequently, but at least quarterly.

When are there taxability issues with plan loans? Loans that initially don't meet the requirements of the Code –- that aren't limited to 50% of the vested account balance or exceed $50,000 –- are treated as a distribution when the loan is made and is taxed accordingly. Missing payments can throw the loan into default, again causing it to be 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 it goes uncorrected, 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 withholding that applies to the full amount including the loan offset. The 10% early withdrawal additional tax applies if the person is under age 59 ½.

Another issue that rears its ugly head in times of financial downturn is employers 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 o.k. 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. So if your client is self-employed and wants to take a loan from his or her retirement plan, caution is required. We see this issue in examinations a lot. The self-employed person thinks - well the money is mine. Why can't I use it for a little while?

So what are the consequences of a prohibited transaction? Without getting into great detail, the loan needs to be corrected – the plan needs to be placed in the same position that it would have been in had the transaction not occurred and the disqualified person – the employer, in this case – would need to file a Form 5330 with the IRS and pay a 15% excise tax. The excise tax is based on the amount involved in the loan. If the transaction is not corrected, the excise tax increases to 100% of the amount involved. You can find more information on prohibited transactions in Publication 560, *Retirement Plans for Small Business*.

Another problem we frequently encounter, especially 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 o.k. The DOL 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. For SIMPLE IRAs, the employer must deposit deferrals within 30 days of the end of the month in which the amounts would otherwise have been payable to the employee in cash. Otherwise, the IRS considers this an informal loan and a prohibited transaction. In some cases, it can result in losing the tax-exempt status of the plan.

Hardship Distributions

- Hardship defined
  - 401(k), 403(b), 457 plans
  - Beneficiaries
- Hardship limits
  - Basic limits
  - Effect of designated Roth account

Slide 3

Another way that plan participants may be allowed to tap into their retirement funds is through a hardship distribution. You'll only find hardship distributions in defined contribution plans, such as 401(k), 403(b) and 457 plans. A plan is not required to provide hardship distributions to participants. But if it does, then the plan must provide the *specific* criteria it uses to make the determination of hardship.

The regulations under §401(k) spell out the requirements for making a hardship distribution of a participant's elective deferrals, but plans often use these same criteria for hardship distributions from a participant's other monies in the plan.

The regulations require there to be an "immediate and heavy financial need." I'm sure many of you think, prior to Super Bowl Sunday, not having a big screen plasma TV is a hardship. The Regulations would disagree.

A distribution is deemed to be for an "immediate and heavy financial need" 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.

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. In other words, certain hardship distributions can now be made to a participant based upon the need of a grandchild or domestic partner as long as that individual has been designated as a beneficiary under the plan. This modification is only available for hardships related to medical, tuition and funeral expenses. Employers are not required to include this change in their plans; however, if they want to make this option available, they must amend their plan document.

Also, a distribution is not considered necessary to satisfy an immediate and heavy financial need if the employee has other resources available to meet the need, including the employee's spouse's and minor children's assets. Whether other resources are available is determined based on facts and circumstances.

So how much is available for the hardship? In the case of a participant's elective contributions, a hardship distribution must be limited to the total of the participant's elective contributions (not including earnings), reduced by any previous distributions of elective contributions. The amount of the hardship cannot be greater than necessary to satisfy the financial hardship need (with any

associated costs of taking the distribution). If a plan has a designated Roth feature, then the total amount that a participant could take as a hardship would include the designated Roth contributions. If the hardship does come from both pre-tax elective deferrals and designated Roth contributions, then we would consider any distribution that includes designated Roth contributions to be a pro-rata portion of *both* the Roth elective deferrals and earnings. Part of it would, therefore, be non-taxable. The portion of a distribution from a designated Roth account attributable to earnings is taxable and subject to the 10% early withdrawal additional tax.

Although this is a nice feature and provides employees some piece of mind in knowing they can have access to these contributions if they are in a dire situation, employees should keep in mind that it is not free money. Hardship distributions taken from elective contributions are subject to income tax in the year of distribution and, if the employee is under the age of 59 ½, to the 10% additional income tax (unless it qualifies as a reservist distribution). However, these distributions are not subject to the mandatory 20% income tax withholding. These associated costs may be added to the amount of the distribution request. For example, a participant has a vested account balance of $200,000, including $100,000 in elective deferrals and has a hardship need of $26,000. Assuming the participant is in a 25% tax bracket and is subject to the 10% early distribution additional tax, a distribution of approximately $40,000 would be required in order to satisfy the hardship and that's not counting state and local taxes.

One last thing employees should consider when contemplating taking a hardship distribution from a retirement plan. Unlike plan loans, a hardship distribution is a permanent reduction to the participant's account balance – it cannot be paid back. Hardship distributions should be used only as a last resort.

Note: PPA 06 modified the early distribution penalty for qualified public safety employees to allow penalty-free withdrawals from governmental defined benefit plans after the age of 50.

Pre-Retirement Distributions Tax Consequences

- Take it or leave it – things to consider
- 10% early distribution additional tax
  - Exceptions
    - Age 59 ½
    - Separation from service and age 55
    - Substantially equal payments
    - Disability or death

Slide 4

Unfortunately, in these tough economic times a lot of folks are losing their jobs. So what happens to a participant's retirement account if he or she is terminated from employment before reaching retirement age? A participant terminating employment with a vested account balance greater than $5,000 is not required to take a distribution from any plan prior to reaching Normal Retirement Age. But should they? Should the former employee's retirement account be left in the old plan? Distributed? Rolled over to a new employer's plan or IRA? And what if the account is less than $5,000?

Here are some things employees should consider:

- Does the old plan offer an investment not available elsewhere, such as employer stock?
- Would the participant have easy access to the retirement account of his former employer, if needed?
- Is the participant allowed the same investment opportunities as other participants in the old plan?
- Does the participant's new employer's plan offer better investment choices?
- Will the participant have access to those funds via plan loans or hardship distributions in the new employer's plan?
- Is the participant age 55 when he or she terminates employment?

On this slide we are going to discuss the cost to employees of taking the money with them, on the next slide we'll discuss rolling the money over.

In these tough economic times, more and more folks are tempted to take the cash. So what's the cost of opting to take the cash when an employee terminates employment before retirement age?

First, the distributions are considered taxable income in the year of distribution. In addition, a 10% additional tax under Code §72(t) generally applies to most distributions to participants when they are under age 59 ½. Third, in many instances, a state tax is applicable. Many find these early distributions being reduced by a 40% plus tax bite. With mandatory withholding only 20%, the former employees may find themselves coming up a little short on April 15.

The participant will not owe the 10% early withdrawal additional tax on distributions from a retirement plan if:

- The distribution was received after the participant left the company; and
- The participant left the company during or after the calendar year in which he or she reached age 55; and
- The participant's departure from the company qualifies as a separation from service.

- Note – the distributions do not have to begin immediately upon separation from service.

This exception is not available for IRA distributions. So, if a participant who qualifies for this exception happens to roll money out of their 401(k) plan into an IRA, any early distribution from that IRA is now subject to the early withdrawal 10% tax. Rolling the other way -- if prior to leaving a company, an employee rolled money into their 401(k) from an IRA -- once they attained age 55 and separated from service, they could take the full balance in the 401(k) account, including the money rolled in from the IRA, and avoid the 10% additional tax.

The participant will not owe the 10% early withdrawal additional tax on distributions made at any age if:

- The distribution was received after the participant left the company and made in a series of substantially equal payments, at least yearly, based on the participant's life expectancy, or the joint life expectancy of the participant and his or her designated beneficiary, and
- The payments must be continued for at least five years or to age 59 ½, whichever is later,
- Or if the distribution was made due to the death or disability of the employee.

We have had a little confusion on the ages 55 and 59 ½ on this slide in earlier presentations – so let me clarify – A distribution taken after age 59 ½ is not subject to the 10% tax – even if the participant is still working (72(t)(2)(A)(i)). If, however, the participant is age 55 AND is separated from service, he or she will not be subject to the additional 10% tax (72(t)(2)(A)(v)).

As you can see, it's important to make some decisions prior to taking a distribution or rolling it over.

Rollover of Pre-Retirement Distributions

- Rollover or not?
- Direct rollover rules
- Automatic rollovers
- Roth 401(k)/IRA
- Withholding requirements
- 60-day rollover waiver – PLR

Slide 5

We just discussed the tax consequences of taking a distribution from a retirement plan prior to retirement age and keeping the money. Participants also have the option of taking their money from their former employer's plan and moving it into a new employer's plan or to an IRA. However, if the participant consents to take a distribution, the plan is required to offer a direct rollover distribution option. A participant can set up an IRA account with a financial institution, give this information to the plan administrator, and then select the rollover option for the distribution from the plan. In a direct trustee-to-trustee rollover to traditional IRA or to another employer plan, there are no tax consequences.

Prior to March 2005, plan administrators typically distributed, cashed-out, account balances of $5,000 or less straight to the participant, less the required 20% withholding. As we discussed in the prior slide, often participants spend the distributed funds instead of rolling them over or saving them and they don't consider the additional income taxes that will be required to be paid April 15th. Even though the plan withholds 20%, many people will owe some more.

Since March 2005, a participant with a distributable account balance between $1,000 and $5,000 may be subject to an automatic rollover. For account balances between $1,000 and $5,000, a plan is required to set up an IRA in the name of the participant and then make a direct rollover of the funds to the account. This is only after notifying the participant that his or her money will be rolled over and he or she does not elect to receive the funds directly or have them rolled over to another IRA or to a plan. In reality, most plans do their best to contact participants prior to setting up an IRA in their name. They would prefer to make a direct rollover of the funds to the participant's own IRA if at all possible.

Since we have seen a lot of accounts drop in value in the past year, we have encountered many questions such as: "What if the account balance was more than $5,000 when the participant quit, but now its value has dropped to well below $5,000? What do we do?" The regulations (1.411(a)-11(c)(3)) state that the determination is made as of the date the distribution commences.

Rollovers from a designated Roth account in a 401(k) to a Roth IRA have a special rule -- the age of the designated Roth contributions is not taken into account in determining the 5-year period for qualified distributions from a Roth IRA. Thus, if a participant, who is under age 59 ½ takes a distribution from his 3-year-old designated Roth account in his former employer's 401(k) plan and uses the money to open his first Roth IRA, he must wait at least 5 years before he can get a qualified distribution from the Roth IRA. A qualified distribution from a Roth IRA is not taxable.

If a terminated participant chooses not to roll over his or her account balance, then it will be subject to 20% federal income tax withholding. If the participant subsequently decides to roll over the distribution within 60 days, he or she can use his or her own funds to make up the 20% withheld from the original distribution.

Individuals that didn't meet the 60-day deadline for rolling funds over to their IRA or to another qualified plan may apply for a private letter ruling, asking the IRS to waive that requirement. The fee for those rulings has increased significantly, from $95 to upwards of $3,000. If the reason for missing the 60-day deadline is legitimate and out of the control of the individual, the IRS will likely approve the request.

Or an individual can always take the money and run. Live for today. Don't worry about money at retirement; we'll always have social security to fall back on.

Partial Terminations

- Deemed to occur if:
  - Employer-initiated action
  - Reduces plan participation ≥ 20%
  - Facts and circumstances
- 100% vesting required

Slide 6

What if an employer terminates a number of employees that is a significant reduction in its workforce? It could be a partial termination. Whether or not there is a partial termination in a retirement plan is a facts and circumstances determination. This is an often overlooked issue that can cause an employer some real headaches.

In general, a partial termination is deemed to occur when an employer-initiated action results in a significant decrease in plan participation. As an example, a partial termination may be deemed to occur when an employer reduces its workforce (and plan participation) by 20%. The law requires that all affected participants be fully vested in their account balance upon the date of plan termination or partial plan termination. So if an employer has a profit-sharing plan and, due to the economic downturn, it needs to lay off part of its workforce, it could potentially result in a partial termination. If the employer fails to 100% vest the employees who were terminated due to the employer-initiated action, it could result in jeopardizing the tax-exempt status of all of the employee's retirement accounts. Obviously, this won't be an issue if your client sponsors an IRA-based plan, such as a SEP or SIMPLE IRA plan, as all contributions to these types of plans are always required to be 100% vested. It is something to keep in mind if your client sponsors a profit-sharing, 401(k) or defined benefit plan.

Plan Losses

- Funding
  - Excise tax if required contributions are not made
- Plan Losses – Deductible?
- Required Minimum Distributions
  - WRERA provides some relief
  - No RMD for 2009

Slide 7

Retirement plans have been hard hit by the stock market tumble. When it comes to IRA-based and defined contribution plans, such as profit-sharing and 401(k) plans, employees bear the investment losses.

Defined benefit plan losses, on the other hand, have to be made up by the employer. If your client has a defined benefit plan, it may need to make a substantial contribution this year to meet its funding requirements. There is an excise tax if minimum funding requirements are not satisfied or required contributions are not made timely. The IRS published guidance in Notice 2009-22 earlier this year to provide some relief in the actuarial calculations required to determine the funding required for these plans.

We've been getting a lot of questions regarding the deductibility of plan losses. Losses can only be deducted upon a distribution and only if the loss went below the participant's basis. Publication 590 has a section that provides additional information on this for IRAs.

For all plans -- no matter if it is a defined benefit plan or a defined contribution plan -- the law requires that plan participants not keep their funds in retirement plans indefinitely. A portion of the account, referred to as a "Required Minimum Distribution," must be distributed each year beginning when the participant attains age 70 ½. In response to the plan losses in defined contribution plans and IRAs, President Bush signed the Worker, Retiree, and Employer Recovery Act of 2008 into law. The Act waives 2009 required minimum distributions from IRAs, 401(k), profit-sharing, money purchase pension, 403(b) and certain 457 retirement plans. The Act did not waive any 2008 RMD due by April 1, 2009. A participant who turns 70 ½ in 2009 would have been required, in the absence of the 2009 RMD waiver, to take his or her first RMD by April 1, 2010, and then take his or her 2010 RMD (the second RMD) by December 31, 2010. The Act, however, waives the first RMD (the 2009 RMD) for account owners who turn 70 ½ in 2009. The 2009 RMD waiver does not affect RMDs required for 2010. Therefore, the account owner who turned 70 ½ in 2009 would still be required to take his or her second RMD by December 31, 2010.

Divorce

- Qualified Domestic Relations Order (QDRO)
  - Permitted distribution options per plan
  - Not subject to 10% early withdrawal additional tax

Slide 8

How does divorce affect retirement assets? Experts say that money is one of the top reasons couples split up. A study conducted by Nobel Prize winner Gary Becker concluded that couples that experience any sudden significant and unexpected change in income -- positive or negative -- are at risk of divorce. In most states' divorce laws, the retirement plan account is up for grabs. Distributions to a spouse or another alternate payee, based on a qualified domestic relations order, or QDRO, may be based on a distributable event like a distribution based on termination or reaching retirement age, but a QDRO has its own set of rules.

First, the distribution option called for in the Domestic Relations Order, or DRO, must be one offered by the plan. If the plan offers a lump sum option only and the DRO calls for a ten-year payout, it won't be a qualified domestic relations order.

Second, for QDROs, federal law provides a very specific definition of earliest retirement age, which is the earliest date as of which a QDRO can order payment to an alternate payee - unless the plan permits payments at an earlier date.

Third, a person receiving a QDRO is not subject to the 10% additional tax on early distributions.

A plan must make the determination that a domestic relations order is qualified within a reasonable period after receipt of the order.

A plan may charge the participant to make the determination a DRO is qualified.

ROBS

- Rollovers as Business Start-ups
  - Establish C corp and retirement plan
  - Rolls over retirement assets to new plan
  - 100% of rollover invested in ER stock
  - Funds used to purchase franchise or start-up business

Slide 9

It seems that in tough economic times, folks come up with some elaborate ways to walk a very fine line with the rules. Recently, our examination and determination letter agents have identified a retirement plan design that results in the avoidance of taxes on distributions from tax-deferred retirement accounts. This plan design is a way for potential business owners to access retirement funds, without paying applicable distribution taxes, in order to cover new business start-up costs. We call these arrangements Rollovers as Business Start-ups, or ROBS.

While ROBS would otherwise serve legitimate tax and business planning needs, they are questionable in that they may serve solely to enable one individual's exchange of tax-deferred assets for currently available funds, by using a qualified plan and its investment in employer stock as a medium. This may avoid distribution taxes otherwise assessable on this exchange.

A ROBS transaction typically takes the form of the following sequential steps:

- An individual establishes a shell corporation that has no employees, assets or business operations, and may not even have a contribution to capital to create shareholder equity.
- The shell corporation establishes a retirement plan that allows all participants to invest 100% of their account balances in employer stock.
- The individual is the only employee of the shell corporation and the only participant in the plan. He or she executes a rollover or direct trustee-to-trustee transfer of available funds from a prior qualified plan or personal IRA into the newly created qualified plan. Note that at this point, because assets have been moved from one retirement plan or IRA to another, all income or excise taxes have been avoided.
- The sole participant in the plan invests his or her account balance in employer stock, which is valued based on the amount of plan assets he or she wishes to access.
- He or she uses the transferred assets to purchase a franchise or begin a business.
- After the business is established, the plan may be amended to prohibit further investments in employer stock. As a result, only the original individual benefits from this investment option. Future employees and plan participants will not be entitled to invest in employer stock.
- A portion of the proceeds of the stock transaction may be remitted back to the promoter, in the form of a professional fee.

ROBS transactions may violate the law in several ways. First, it may create a prohibited transaction between the plan and its sponsor. Additionally, it may not satisfy the benefits, rights and features requirement of the Regulations.

Although the IRS does not believe that the form of all of these transactions may be challenged as non-compliant per se, we are viewing them very closely and will assess them on a case-by-case basis. Promoters of this arrangement often request a determination letter from the IRS. The promotional material gives the impression that the IRS has approved all aspects of the arrangement. We give approval on the form of the plan document only. They should not be misled into believing these plans are OK because of the determination letter. There are a lot of operational pitfalls. Your clients should be aware that under these arrangements, not only are they risking their business, but their retirement assets as well. Caution is required. As the old saying goes, If it's too good to be true, it's too good to be true.

Check out our web site for more information on these arrangements and how we are addressing them.

What if a Mistake is Made?

- IRS Correction Programs -
  - Self-Correction, Voluntary or Audit
- Correction Examples
  - Failure of 60-day rollover rule
  - Failure to make RMD
- Fix-It Guides Available
- “The Fix Is In”

Slide 10

We at the IRS know that mistakes happen. IRS sponsors a voluntary correction program, the Employee Plans Compliance Resolution System, or EPCRS. Under this correction program, plan sponsors are allowed to correct a variety of errors, many times without ever contacting the IRS or paying any sanction. The basic premise with this program is to have the plan sponsor become more involved in making certain the plan is being properly operated. There are three different programs available:

- Self-Correction is available for many errors corrected within two years of the year the error occurred and generally include more common errors in the operation of the plan. These errors can be fixed by the sponsor without IRS involvement.
- Voluntary Correction is available for more significant operational errors and errors in the form of the plan document. These errors do require an application to the IRS and involve a sanction.
- Audit CAP – This piece is available for errors found during an IRS audit of the plan. Sanction amounts can be significantly higher than the other programs, but the plan does retain its qualified status.

As we attempt to expand this program to smaller businesses and make it more accessible to plan sponsors who don't have an ERISA attorney on the payroll, you can expect a more simplified look at EPCRS on our web site.

Let's look at a couple of mistakes from our presentation today and see how they might fit into the EPCRS Correction Program.

If the mistake is a failure to roll over a distribution from an IRA or retirement plan within the 60-day period, the only option available is to request a private letter ruling. Lay out the facts, pay the fee and get the ruling. EPCRS is not available for this error.

If the mistake is a plan's failure to make a required minimum distribution, EPCRS may be used to make correction. There are basically two different errors here. The first is that the RMDs were not made, and second, the terms of the plan were not followed, as all plans are required to have language requiring minimum distributions to be made. So if they weren't made, the plan could lose its tax-qualified status for the error. Under EPCRS, the plan can use Self-Correction by making the required distributions as long as correction is made within two years following the year the error occurred. Each individual who did not receive an RMD timely would be required to file a Form 5329 and request a waiver of the 50% additional tax.

If the plan files a Voluntary Correction application with the IRS, it will still correct by making the required distributions. But it can also use the correction application

to request a waiver of the 50% additional tax for all the affected participants. If approved, a Form 5329 and waiver request is not required by the individual participants. EPCRS is not available for a missed RMD from an IRA. EPCRS is only available for errors involving retirement plans, and IRA-based plans, such as SEPs or SIMPLEs.

We have developed Fix-It Guides for 401(k), SEP, SIMPLE IRA and SARSEP plans to help you and your clients find, fix and avoid common mistakes in these types of plans. You can easily view or download these guides on our web site, www.irs.gov/ep. They are a great resource to help you explain mistakes to your clients and to emphasize their need to fix these mistakes sooner rather than later. Additionally, you can find more in-depth information on correcting plan errors on our “Correcting Plan Errors” web page.

Maybe after reviewing one of our Fix-It Guides, you or your client may find that the plan it has is not the right plan to meet its goals. We have a publication, *Choosing a Retirement Solution for Your Small Business*, that may help your clients choose a plan that better fits their needs.

In the next slide I am going to tell you about our newsletters. One of the recurring articles that we feature in our newsletter is called “The Fix is In.” Each edition features a mistake that we commonly see in retirement plans. The article describes the mistake, and gives a detailed explanation of how to find it, the steps you need to take to fix it and tips on how to avoid making the mistake. Examples of topics that have been featured in our newsletter are Vesting Errors in Defined Contribution Plans, "Simple" Retirement Arrangements - SEPs, SARSEPs and SIMPLE IRA Plans - How to fix the common problems found with "Simple" IRA-based plans and Failure to Timely Start Minimum Distributions. This is just a sampling of topics covered. You can find an archive of all past articles on our web site.

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Retirement Plans Community Topics

- Newsletters
- Published Guidance
- EP Forms &Pubs
- Correcting Plan Errors
- Exam/Enforcement
- EP FAQs
- Types of Plans
- Contact EP/Services
- More Topics..

Retirement Plan Assistance

- www.irs.gov/ep
  - Includes pages dedicated to Fix-It Guides and Correcting Plan Errors
- (877) 829-5500
  - Customer Account Services
- RetirementPlanQuestions@irs.gov
- Newsletters

Slide 11

We have developed many tools to assist you and your clients with retirement plans, whether your question is “How do I choose a retirement plan?” or “How much money can I contribute to my retirement plan?” or “This plan isn’t working for me anymore. How do I terminate it?”

You can visit our web site at www.irs.gov/ep. Or you can find the Retirement Plans Community web page on the main www.irs.gov landing page. You will find information for “Benefits Practitioner,” “Plan Participant/Employee” and “Plan Sponsor/Employer.” The pages contain all of the retirement plan information that you have come to expect from EP. *Be sure to check our new Participant page that contains a tremendous amount of information in plain language to answer plan participant’s questions about their retirement plans*. (assuming page is up and running) You will find pages dedicated to the IRS Fix-It Guides and Correcting Plan Errors, that we spoke of in the last slide, in addition to many other resources to help you keep your client out of trouble with the IRS.

There are two different ways that you can discuss your questions with a retirement plan specialist. You can call our Customer Account Services toll-free at (877) 829-5500 or, if you prefer, you can e-mail your questions to RetirementPlanQuestions@irs.gov. Our specialists must respond to all e-mail questions by telephone, so please remember to include your phone number and we will call you with the answer to your questions.

Finally, we have two free, quarterly electronic newsletters you can subscribe to. The first is the *Employee Plans News*. This newsletter is geared toward the practitioner community and is more technical and involved than our newsletter geared toward plan sponsors, *Retirement News for Employers*. Being a web-based product, the newsletters make an excellent reference guide as we fill them with embedded links to source materials. This is the newsletter that has the recurring “The Fix Is In” article that I discussed on the last slide.

You can easily subscribe to these newsletters. Just click on “Newsletters” in the left navigation pane of our web page, then “Employee Plans News” or “Retirement News for Employers,” “Subscribe,” and provide us with your e-mail address. That’s all it takes. [Note to Speakers – check with CE&O analyst working your Tax Forum. If they are o.k. with it, you can offer to the masses that they can stop by the booth with their e-mail address and we can subscribe for them. With our new cellular modems, we might be able to have a laptop right there to register on sight!].

When we issue an edition, you will receive a message in your e-mail inbox with a link to it.

- Be sure to attend our session on SEP Plan Pitfalls (Use the IRS SEP Plan Fix-It Guide To Keep Your Clients Out Of Trouble)
- Questions

Slide 12

Please be sure to attend our presentation on “SEP Plan Pitfalls (Use the IRS SEP Plan Fix-It Guide To Keep Your Clients Out Of Trouble),” this afternoon which discusses how to find, fix and avoid the five mistakes we most commonly see in SEP plans.

Thank you for your attention and please stop by the TE/GE booth for additional retirement plan information.

Questions?