

Employee Plans News - Issue Number: 2010-06 - August 2, 2010

The *Employee Plans News* is a periodic IRS newsletter with retirement plan information for retirement plan practitioners.

1. Tax Return Preparers

IRS [announced](#) new proposed regulations on preparer tax identification number (PTIN) fees, which may impact ERPAs, enrolled actuaries and other benefit professionals.

Also, we've posted [FAQs](#) about the proposed new requirements for tax return preparers.

2. Pension Funding Relief

Relief for single-employer and multiemployer plans from certain minimum funding requirements and benefit restrictions under the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010.

3. Notices for Single and Multiemployer Defined Benefit Pension Plans on Pension Funding Relief

[Notice 2010-55](#)

[Notice 2010-56](#)

4. Retirement Plans Widget

Download our Retirement Plans [widget](#) to your website to connect your small business clients, customers or members to our [Retirement Plans Navigator](#) - a Web guide for choosing, maintaining and correcting retirement plans!

5. ESOP-Owned S Corporation

An ESOP owned S corporation cannot deduct accrued expenses for any ESOP participant, including retirement plan contributions based on accrued compensation.

6. Disregard the Payment Voucher Mailed with New Favorable Autoclosure Determination Letters

If a Payment Voucher was included with your favorable determination letters (Letter 4577), please disregard it. A programming error caused the voucher to be printed and stuffed in the envelope along with the Letter 4577. The error was corrected on July 12, 2010.

7. [EP Phone Forums](#):

EPCRS: Plan Correction Issues

August 24, 2010, from 2:00 p.m. to 3:30 p.m. EST. Avaneesh Bhagat, EP Voluntary Compliance Program Coordinator, will discuss recurring issues found in EPCRS.

Abusive Tax Avoidance Transactions and Emerging Issues

August 27, 2010, from 2:00 p.m. to 3:30 p.m. EST. Monika Templeman, Director of Employee Plans Examinations, and Colleen Patton, Area Manager of Employee Plans Examinations - Pacific Coast, will discuss the Abusive Tax Avoidance Transactions and how they can threaten saving for retirement.

If you have any comments or suggestions on our newsletter or Web pages, please send them to RetirementPlanComments@irs.gov.

New Relief for Single-Employer and Multiemployer Defined Benefit Plans

On June 25, 2010, President Obama signed the [Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010](#). The Act offers single-employer and multiemployer defined benefit plans relief from certain funding requirements and some benefit restrictions. On July 30, 2010, the IRS issued guidance on the availability of the funding relief for sponsors who have filed the Form 5500 for the 2009 plan year.

Single-Employer Plans

One component of the minimum required contribution is the amortization of shortfall amortization bases that are established when there is a gap between the plan's assets and liabilities. Absent the relief under the Act, these shortfalls must be amortized over 7 years. The Act would allow single-employer plan sponsors to use either of two alternative amortization schedules:

- 2+7-year method - pay interest only on the shortfall amortization base for two years and amortize the remaining balance over the following 7-year period; or
- 15-year method - extend the amortization period to 15 years.

However, if a plan sponsor opts for funding relief under the Act, it may be necessary to make accelerated contributions under certain circumstances; for example, if the plan sponsor or any company in its controlled group pays:

- Certain compensatory payments (such as certain compensation in excess of \$1 million to an employee for services performed after February 28, 2010), or
- Certain dividends or redemptions of stock.

The sponsor of a single-employer plan may elect to use this relief for any two plan years beginning in 2008 through 2011 for new bases established in those plan years, as long as the due date for making the final contribution for that plan year occurs on or after June 25, 2010. A plan sponsor that elects to use this relief for more than one year must use the same alternative amortization schedule (2+7-year or 15-year) for both years and must notify all plan participants and beneficiaries, as well as the PBGC. The plan may not revoke its election without the Secretary of the Treasury's approval and the PBGC must have an opportunity to comment on the revocation.

The Act also extends a single-employer plan's ability to use the adjusted funding attainment percentage (AFTAP) for an earlier year when applying the restriction on continued accruals under Code [§436](#).

Multiemployer Plans

Under the Act, sponsors of multiemployer plans that satisfy a solvency test may:

- spread the difference between expected returns and actual returns for either or both of the first two plan years ending after August 31, 2008, over a period of not more than 10 years, and /or
- expand the smoothing corridor so that the actuarial value of assets for either or both of the first two plan years ending after August 31, 2008, can range from 80% to 130% of the fair market value of assets.

Additionally, if the solvency test is met, multiemployer plans may, after providing notice to participants, beneficiaries and the PBGC, elect to amortize net investment losses that occur during either or both of the first two plan years ending after August 31, 2008, over a period beginning when the loss is first reflected in valuation assets and ending 30 years after the plan year in which the loss first occurred (29 years after the first base is established instead of the 15-year period that applies otherwise.)

A plan that uses the relief cannot increase benefits during the two-year period following a plan year in which the relief applies unless certain funding requirements are met or unless a plan amendment increasing benefits is required by law.

Notices

On July 30, 2010, the IRS issued [Notice 2010-55](#) (for single-employer plans) and [Notice 2010-56](#) (for multiemployer plans), which provide that, in the case of an eligible plan year that ends before the IRS issues guidance under the Act, the funding relief is available without regard to whether the plan sponsor has filed the Form 5500 (and Schedule SB or Schedule MB) for that year. The obligation to timely file the Form 5500 (and Schedule SB or Schedule MB) is unchanged (taking into account the rules for obtaining an extension). The notices also describe issues that may be addressed by future guidance, including:

- How to determine the amount needed to satisfy minimum funding requirements;
 - How to make an election to use the special funding rules;\
 - How to meet the requirement to notify participants and beneficiaries of affected plans; and
 - Any effect of an election to use the special funding rules on the certification of a multiemployer plan's status (for example, endangered, critical or neither) under Code [§432\(b\)](#), including certifications already made.
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An S Corporation Cannot Deduct Accrued Expenses for Related Parties

If an Employee Stock Ownership Plan (ESOP) owns an S corporation's stock, that S corporation may not deduct any accrued expenses for any ESOP participant, including retirement plan contributions based on accrued compensation.

Under Code [§267\(a\)\(2\)](#), a taxpayer, including an S corporation, may only deduct an expense in the same tax year that the payment is reported as income by a related party. Under Code [§267\(e\)\(1\)\(B\)\(ii\)](#), a related party includes any person who directly or indirectly own any of that S corporation's stock. Therefore, if an ESOP holds an S corporation's stock, that ESOP's participants indirectly own stock in the S Corporation. These participants do not include accrued compensation in their income until the year in which they receive it and, therefore, the S corporation cannot deduct any compensation (including any bonus or vacation pay) accrued to these participants. The S corporation also can't deduct any plan contributions for these participants that are based on accrued compensation.

EP Phone Forums

Free phone forums featuring IRS employees discussing retirement plan topics.

Upcoming Phone Forums

Abusive Tax Avoidance Transactions and Emerging Issues - August 27, 2010

Monika Templeman, Director of Employee Plans Examinations, will be joined by Colleen Patton, Area Manager of Employee Plans Examinations in Pacific Coast, to discuss the Abusive Tax Avoidance Transactions and how they can threaten saving for retirement. The Forum will focus on potential abusive schemes and new emerging issues including insurance funded plans, schemes involving defined benefit pension plans, S Corporation ESOP abuses, ROBS compliance issues, reversion and distribution schemes, management company promotions, abuses involving union plans and other issues of concern. Also discussed will be the Service's strategies to proactively detect and deter abuse, including the use of Promoter Investigations. Attendees are encouraged to submit questions in advance at ep.phoneforum@irs.gov.

Conference Access Code	Register	Eastern	Central	Mountain	Pacific
875279	Register	2:00 p.m.	1:00 p.m.	12:00 p.m.	11:00 a.m.

You will be assigned a Personal Identification Number (PIN) that must be used to join the conference.

If you have never registered with AT&T phone forum, you will need to click on "create a profile" first.

EPCRS: Plan Correction Issues - August 24, 2010 (Date Changed)

Avaneesh Bhagat, Employee Plans Voluntary Compliance Program Coordinator, will conduct the Employee Plans Compliance Resolution System (EPCRS) Phone Forum. Avaneesh will discuss recurring issues found in ECPRS. Attendees are encouraged to submit questions in advance at ep.phoneforum@irs.gov. Also, it is anticipated that there will be time for live questions.

Conference Access Code	Register	Eastern	Central	Mountain	Pacific
715270	Register	2:00 p.m.	1:00 p.m.	12:00 p.m.	11:00 a.m.

You will be assigned a Personal Identification Number (PIN) that must be used to join the conference.

If you have never registered with AT&T phone forum, you will need to click on "create a profile" first.

Dial In Toll Free: (866) 216-6835

- Dial in 15 to 20 minutes before the scheduled time.
- Enter your access code, then the pound (#) sign.
- Enter your PIN, then the pound (#) sign.
- Your line will be placed on hold until the conference begins.

Continuing Professional Education (CPE) Credits

- [Enrolled Agents](#) and [Enrolled Retirement Plan Agents](#) may earn CPE credit for attending. Other professional groups should consult with their licensing agencies regarding acceptability of credit.
- Participants must register individually and use their own assigned PIN to receive CPE credit.
- Each participant must use an individual phone line to determine attendance and the length of time attending the forum.
- A Certificate of Completion will be e-mailed to the participants who meet the attendance requirement in about a week after the forum.

If you have question(s), please contact us at ep.phoneforum@irs.gov.