Retirement News for Employers

Information for Sponsors of Retirement Plans

Internal Revenue Service Tax Exempt and Government Entities

Volume 5, Fall 2008

A Look Inside

Failing to remit payroll taxes and retirement plan contributions in a timely manner is not only a violation of your legal obligations; it can also subject you to heavy penalties. So, do the right thing...more on page 3

Use the worksheets posted on our web site to calculate the amount of RMDs from IRA accounts and also see our FAQs regarding RMDs...
more on page 4

In today's economic world, many plan sponsors are taking a second look at their retirement plan. They may wonder if their current plan is the right one...more on page 4

Help us to better serve you! Coming soon is our short survey for *Retirement News for Employers*...more on page 5

The employer must provide a safe harbor 401(k) notice to participants within a reasonable time period before the beginning of each plan year. However, an employer that failed to provide this notice can correct the error by following the procedures discussed in "Failure to Provide a Safe Harbor 401(k) Plan Notice."...more on page 6

The 2009 COLAs applicable to retirement plans have been announced...more on page 9

Also in this Issue

Help Your Employees Weather the Storm: Hardship Withdrawals and Loans from Retirement Plans

Like many people these days, some of your employees may be experiencing financial hardships and need access to the money in their retirement plans. Under certain circumstances, employees might be eligible for a loan or a hardship withdrawal from their retirement plan accounts. Below are questions you may have in helping your employees:

Can my employees get a loan or withdraw money from their retirement plan?

Although not required to do so, many retirement plans offer loans and hardship withdrawals. Check your retirement plan documents, such as a copy of the plan or the summary plan description, to see if your plan provides loans and/or hardship withdrawals. Remember, the law does not permit loans from IRA-based plans, such as SEPs and SIMPLE IRA plans.

What is the difference between a loan and a hardship withdrawal?

A loan is an amount employees can borrow from their retirement plan accounts and then pay back with interest. As long as the employee repays the borrowed amount, it is not taxed and the employee's retirement plan account balance is restored by the amount borrowed. Employees are not required to prove financial hardship to get a loan.

A hardship withdrawal is an amount that employees can receive from their retirement plan accounts and **do not** have to pay back. The amount withdrawn permanently reduces their account balance. To be eligible for a hardship withdrawal, employees must meet the requirements of a hardship withdrawal as stated in your plan. Usually, this means the employees must prove they have an unforeseeable financial hardship they cannot meet through any other available means, including a loan, if available, from the plan. Employees will have to pay taxes on the withdrawn amount.

How can employees get a loan from the retirement plan?

If the plan allow loans, it will outline the procedures employees need to follow to get the loan. Typically, employees will need to fill out loan forms and sign a repayment agreement outlining the number, the amount, and the due dates of repayment. The employees must pay interest on the amount borrowed and, depending upon the terms for loans as stated in your plan, may have to agree to repay the loan using automatic deductions from their future wages. The plan may

New on the Web

Here are the latest postings to the **Retirement Plans Community** web page:

Fix-It Guides Web Page

The **SEP Fix-It Guide** is here! It provides tips on how to find, fix, and avoid common mistakes in SEP plans. Check out our consolidated **Fix-It Guides** web page for both the 401(k) and SEP Fix-It Guides. SIMPLE IRA and SARSEP plan Fix-It Guides are coming soon.

ERPA Web Page

See our **ERPA** web page for information on the Enrolled Retirement Plan Agent (ERPA) program. If you have a question on the ERPA program, send them via our e-mail box for ERPA **questions**.

IRS Nationwide Tax Forums – EP Presentations

You can now view the materials used in EP's presentations at the 2008 IRS Nationwide Tax Forums, **Retirement Plan Choices for Self-Employed Individuals**, **401(k) Plans for Self-Employed Individuals**, and **Retirement Plan Pitfalls Workshop (Use IRS Fix-It Guides to Keep Your Clients Out of Trouble)**.

Correcting Plan Errors Web Page

We have made updates detailing the changes to the EPCRS Program in Revenue Procedure 2008-50 to our **Correcting Plan Errors** web page including updates to **Other EPCRS Resources**.

Frequently Asked Questions on Required Minimum Distributions

We have updated our **FAQs on Required Minimum Distributions** web page. See our two **worksheets** on how to calculate your Required Minimum Distribution from your IRA.

COLA Increases

The IRS recently announced the 2009 Cost-of Living Adjustments for pension plans. We have updated our **COLA Increases for Dollar Limitations on Benefits and Contributions** web page.

limit the amount of money employees can borrow, but the maximum amount the plan can loan is: (1) the greater of $10,000 or 50% of the balance of the employee's retirement plan account; or (2) $50,000, whichever is less. All of an employee's outstanding loans must be taken into account when determining the maximum amount he or she can borrow.

When are employees eligible for hardship withdrawals from their retirement plan accounts?

Your plan documents should state whether employees can make hardship withdrawals and under what circumstances. Typically, hardship withdrawals are only for unforeseeable emergency expenses employees and/or their spouses, dependents, or beneficiaries are facing and are unable to pay using any other available resources, including loans, if available, from the plan. Depending upon the type of plan, these emergency expenses may include having to pay for:

(1) medical expenses;
(2) funeral expenses;
(3) repairs to their primary home after a fire or other damage;
(4) prevention of eviction or mortgage foreclosure;
(5) tuition expenses; or
(6) the purchase of their primary home.

Plans may limit the circumstances under which employees can get a hardship withdrawal. For example, some plans may only allow hardship withdrawals to pay funeral or medical expenses, but not to purchase a first home or to pay tuition expenses. Employees are usually required to provide proof of their hardship and, in some plans, cannot contribute to the plan from their wages for the next six months. Some plans may restrict the amount employees can withdraw as a hardship withdrawal to just the amount they have contributed to the plan from their wages, not contributions that the employer has made.

How can employees make hardship withdrawals?

Plan documents usually state specific procedures to obtain a hardship withdrawal. Generally, these procedures require employees to describe the specific hardship they are undergoing and verify they have no other resources, including potential loans from the plan, to meet their current financial crisis.

In IRA-based plans, there are no restrictions on withdrawing amounts, but there are tax consequences as described below.

What are the tax consequences of failing to repay a loan or making a hardship withdrawal?

The law does not consider a loan taxable income as long as the employee repays the loan. If they fail to repay the loan, the unpaid amount is taxable income in the year they fail to repay it and is subject to an additional 10% early withdrawal tax unless some **exception** to this early withdrawal tax applies.

The law considers the amount of a hardship withdrawal to be taxable income in the year the employee makes that withdrawal and it is subject to a 10% early withdrawal tax unless, again, some **exception** to this early withdrawal tax applies. The plan administrator needs to withhold taxes from the amount of the withdrawal. Remind your employee to consider the taxes that will be withheld and that he or she will owe on the withdrawal when determining the amount to withdraw.

Please refer to **Publication 575**, *Pension and Annuity Income*, for additional details on loans, and our Frequently Asked Questions on **loans** and **hardship withdrawals**.

Recent Guidance

Code §411(a)(11) Proposed Regulations
REG 107318-08 73 Fed. Reg. 59575 (October 9, 2008)
These proposed regulations provide that the notice required under §411(a)(11) to inform a participant of his or her right, if any, to defer receipt of an immediately distributable benefit must also describe the consequences of failing to defer receipt of the distribution. They also provide that the applicable election period for waiving the qualified joint and survivor annuity form of benefit under §417 is the 180-day period ending on the annuity starting date, and that a notice required to be provided under §§402(f), 411(a)(11), or 417 may be provided to a participant as much as 180 days before the annuity starting date (or, for a notice under §402(f), the distribution date).

Notice 2008-102, 2008-45 I.R.B. 1106, Cost-of-Living Adjustments
This notice lists cost-of-living adjustments effective January 1, 2009, for the dollar limitations on benefits and contributions under qualified retirement plans. See **IR-2008-118** issued October 16, 2008.

Do the Right Thing Even When Times are Tough!

Like many businesses, you might be feeling the financial crunch these days and be tempted to use money you deduct for taxes and retirement plan contributions from employee wages. However, failing to remit **payroll taxes** and **retirement plan contributions** in a timely manner is not only a violation of your legal obligations; it can also subject you to heavy penalties.

Remember, when you, as an employer, deduct income and Social Security taxes from your employees' wages, that money is not yours to use, even for a short period of time. You must remit the deducted amounts, along with your portion of payroll taxes, by your next scheduled **Federal Tax Deposit deadline**. There are **deposit penalties** for making late deposits and for not depositing the proper amount. Additionally, there are penalties for **willful** failure to file returns and pay taxes when due, for filing false returns, and for submitting bad checks. The rate of these penalties increases with every passing day until you make the deposits. **Interest** is also charged on the total unpaid tax and the penalty. These penalties and interest can add up quickly and lead to even bigger financial troubles for your business.

If you maintain a retirement plan and allow employees to make contributions from their wages, you cannot use any money you deduct for contributions to pay other business expenses. Instead, you have **fiduciary obligations** under the **Employee Retirement Income Security Act of 1974 (ERISA)** to deposit the deducted amounts as soon as they can be segregated from your general assets, but no later than the 15th business day of the month immediately after the month in which you received or withheld the contributions. A DOL **proposed rule** allows plans with less than 100 participants a safe harbor of seven business days to deposit employee contributions.

Instead of using money that is not yours, explore other options. For example, look into reducing your overhead or borrowing money. In the long run, these other options will be better for you and your business!

Desk Side Chat with Monika Templeman

Is My Plan the *Right* Plan?

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

In today's economic world, many plan sponsors are taking a second look at their retirement plan. They may wonder if their current plan is the right one for them and their employees.

I'm glad to hear that many plan sponsors are taking an interest in making certain they have the right plan, not only for themselves, but for their employees. Retirement plans are a valuable retirement vehicle, and it is important to use the type of plan that best meets the needs of your workforce. As your business grows or changes, it is wise to re-evaluate whether your current plan is still a good fit. This type of strategic planning helps plan sponsors and their employees prepare for their future retirement.

Is it important that plan sponsors replace their current plan if that plan is not right for them?

Technically speaking, replacing is not the correct term. Terminating the current plan and starting a new one is often the best solution. I recommend going to our EP web site at **www.irs.gov/ep** and checking out our **Navigator** to help decide what plan would be the best retirement vehicle to use.

Would you please remind employers of the key benefits in sponsoring a plan?

I would be happy to. For employers, there are several excellent benefits when they sponsor a plan. These include the fact that employer contributions are tax deductible, assets in the plan grow tax-deferred with compounding interest, and having a retirement plan can attract and retain employees.

What are some employee benefits?

The main benefit for employees is better financial security. Other benefits are employees can easily contribute through payroll deduction, tax on both employee contributions and investment gains is deferred until distributed, and retirement assets can be carried from one employer to another.

What would you recommend to plan sponsors who want to start the process of re-evaluating their plan?

I highly recommend that they familiarize themselves with the various options and carefully compare the features of the different types of plans. The IRS has terrific tools to help employers select the right plan. I recommend a publication entitled ***Choosing a Retirement Solution for Your Small Business*****.**

Required Minimum Distribution Reminder

Required Minimum Distributions (RMDs) are amounts an employee must start withdrawing annually from their retirement plan by December 31 of the year of the later of: reaching 70 ½ years of age or when he or she retires. However, an employee who is a 5% or more owner of the business sponsoring the retirement plan must begin taking RMDs by April 1 of the year following the year in which he or she turns 70 ½ years of age, regardless of whether he or she is retired.

RMDs from IRAs must begin by December 31 of the year the IRA account holder turns 70 ½. However, like the retirement plan RMDs, the first RMD payment can be delayed until April 1 of the year following the year in which the account holder turns 70 ½.

Use the **worksheets** posted on our web site to calculate the amount of RMDs from IRA accounts and also see our **FAQs regarding Required Minimum Distributions**.

How will this publication help?

This user-friendly publication contains a comprehensive chart (located in the center of the document) that compares the different plans based on key advantages, employer eligibility, contributors to the plan, coverage, vesting requirements, and other factors. The publication also provides a brief description of each type of plan. If the employer wants more information on a particular type of plan, they can visit the online **Navigator**.

How can plan sponsors get the "Choosing" publication?

They can download and print the publication **(Publication 3998)** from the IRS web site, order **paper copies**, or visit our exhibit booths at the **IRS Nationwide Tax Forums** and **IRS Benefits Conferences**. If they visit a benefits conference where I am speaking, I would love the opportunity to meet them and hear any questions or concerns.

Should plan sponsors do anything else?

I recommend that they consider contacting a tax professional familiar with retirement plans. Another alternative is to contact a financial institution that offers retirement plans. Deciding on what type of plan would be most advantageous is a crucial decision and it is important to get the best advice possible. Between our web content and the advice of a tax professional, plan sponsors should be able to find the right plan for themselves and their employees.•

Contributors to this Issue:

Avaneesh Bhagat
Anita Bower
Kathy Davis
Roger Kuehnle
Mark O'Donnell
Nancy Payne
John Schmidt
Brenda Smith-Custer
Monika Templeman
Mikio Thomas
Kathy Tuite•

RNE Survey

Help us to better serve you! Coming soon is our short survey for *Retirement News for Employers* subscribers. We want your thoughts on the type of articles that appeal to you. So, please take a minute to tell us about the type of information you would like to see published in our newsletter.

The *Retirement News for Employers* is a free, electronic, quarterly newsletter provided by the Employee Plans office of the Internal Revenue Service. Its goal is to provide practical retirement plan information to employers and business owners – and their tax advisors.•

Fixing Common Plan Mistakes:

Failure to Provide a Safe Harbor 401(k) Plan Notice

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

Background:

A safe harbor 401(k) plan requires the employer to provide:

- timely notice to eligible employees informing them of their rights and obligations under the plan and
- certain minimum benefits to eligible employees either in the form of matching or nonelective contributions.

The employer should provide the rights and obligations notice within a reasonable period before the beginning of each plan year (or in the year an employee becomes eligible, within a reasonable period before the employee becomes eligible). In general, the law considers notices timely if the employer gives them to employees at least 30 days (and no more than 90 days) before the beginning of each plan year. The notice must include, at a minimum, details on:

- whether the employer will make matching or nonelective contributions,
- other contributions under the terms of the plan,
- the plan to which the safe harbor contributions are made, if more than one plan,
- the type and amount of compensation that may be deferred under the plan,
- how to make cash or deferred elections,
- the specific time periods available under the plan to make cash or deferred elections,
- withdrawal and vesting provisions for plan contributions, and
- how to easily obtain additional information about the plan (including a copy of the summary plan description).

The Problem:

Rainbow Company established a safe harbor 401(k) plan in 2005. The plan provides for matching contributions in an amount equal to: 100% of elective contributions up to 3% of the employee's compensation plus 50% of elective contributions greater than 3%, but not more than 5% of the employee's compensation. Eligible employees received timely notices in 2004, 2005, and 2006. However, in 2007 Rainbow failed to provide safe harbor notice to its employees. In addition, Rainbow did not furnish notices to employees who became eligible to participate in the plan in 2008. Rainbow discovered the problem when it conducted an internal review of its plan operations at the end of 2008.

Violet first became eligible to participate in the plan on January 1, 2008. She did not receive notice and Rainbow did not inform her of her right to make elective contributions to the plan. She earned $20,000 in compensation in 2008.

Indigo has been a participant in the plan since 2005. She has made elective contributions of 2% of compensation each year, after receiving notices in 2004, 2005, and 2006. While she did not receive a notice in 2007, the human resource department (HR) informed her that the employer's matching contribution formula will remain the same for 2008 and that she should inform HR if she wanted to make any changes to her elective contributions for 2008.

Finding the Mistake:

In order to find the mistake, review:

- The deferral decisions among eligible employees. If many eligible employees are either not making elective contributions or deferring at low rates, it is possible that they did not have timely access to the information contained in the notice.
- The plan's procedures for issuing notices.
- The plan's records showing that the employer followed the plan's procedures relating to the distribution of notices.

Fixing the Mistake:

Rainbow must evaluate the impact of its failure to provide notice to its eligible employees. The solution might be different for each affected employee. As illustrated in this problem, the failure to provide notice could require correction for the exclusion of an eligible employee or a simple revision to an administrative procedure.

Exclusion of an eligible employee. Violet belongs in this category. Due to its failure to provide notice, Rainbow did not inform Violet of her ability to make an elective contribution when she was eligible. To correct the failure, Rainbow must make a corrective contribution for Violet to replace her missed deferral opportunity and the missed matching contributions that occurred because Rainbow improperly excluded her from the plan. The corrective contributions are determined as follows:

(a) Missed deferral opportunity: If an employee is not provided with the opportunity to elect and make elective deferrals to a safe harbor §401(k) plan that uses a rate of matching contributions to satisfy the safe harbor requirements of §401(k)(12), then the missed deferral is deemed equal to the greater of 3% of compensation or the maximum deferral percentage for which the employer provides a matching contribution rate that is at least as favorable as 100% of the elective deferral made by the employee. Violet's missed deferral is 3% of her compensation of $20,000, or $600. Violet's missed deferral opportunity is 50% of her missed deferral of $600, or $300. Rainbow needs to make a corrective contribution to replace Violet's missed opportunity to make elective contributions of $300 (adjusted for earnings).

(b) Missed matching contribution: If Violet made an elective deferral of $600, she would have received an employer matching contribution of $600. Rainbow needs to make a corrective contribution to replace the missed matching contribution of $600 (adjusted for earnings).

Fixing an administrative problem. Indigo belongs in this category. The failure to provide notice did not prevent her from making an informed timely election to change (or maintain) her elective contribution to the plan. No corrective contribution for Indigo is required. The plan needs to reform its procedures to ensure that she receives timely notices in the future.

Correction Program(s) Available:

Rainbow may use the correction programs described in **Revenue Procedure 2008-50** to correct the mistake.

Avoiding the Mistake:

Employers should maintain a calendar for due dates by which certain tasks need to be completed. In the case of a safe harbor 401(k) plan, this includes the timely distribution of notices to eligible employees.

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.

My account in my employer's retirement plan is made up of employer contributions, my after-tax employee contributions, and earnings on both. Can I take out just the after-tax portion and roll it to a Roth IRA and leave the rest in the plan?

No, you may not take a distribution of only your after-tax contributions. Any distribution from a retirement plan account in which there is **basis** is treated as consisting of both pre-tax amounts (your employer's pre-tax contributions and earnings) and your after-tax contributions. The after-tax contribution portion of each distribution is tax-free, but the rest must be included in your gross income. To determine the amount of the distribution to include in your income, subtract the portion that represents your after-tax contributions. You can use the following formula:

$$\text{Amount of Distribution} \times \frac{\text{Your After-Tax Contributions}}{\text{Your Account Balance}} = \text{After-Tax Portion}$$

The total amount of the distribution minus your after-tax portion equals the amount that must be included in your gross income.

If you roll over the distribution to a Roth IRA (assuming you meet the income limits and filing status for making rollovers to Roth IRAs), the pre-tax portion (employer contributions and earnings) must still be included in your gross income. If you roll over only part of the distribution, the first dollars rolled over are considered the pre-tax dollars. These same rules apply if you make a direct rollover to the Roth IRA.

For additional information, see:

Pub 575, *Pension and Annuity Income*

Pub 590, *Individual Retirement Arrangements(IRAs)*

Code Section 402(c)(2)

2009 Retirement Plan Limits Announced

The IRS announced the following **cost-of-living adjustments (COLAs)** to retirement plan limits for 2009:

Limit	**2009**
Defined Contribution Plan Annual Dollar Limit (The maximum dollar amount that may be contributed to a participant's account under IRC §415(c))	$49,000
Defined Benefit Plan Annual Dollar Limit (The maximum dollar amount that may be payable to a participant under IRC §415(b))	$195,000
401(k)/403(b) Elective Deferral Limit (The maximum annual amount of elective deferrals and designated Roth contributions (if permitted under the plan) to 401(k) and 403(b) plans under IRC §402(g)(1))	$16,500
Governments/Tax-Exempts Deferral Limit (The maximum annual amount of elective deferrals to 457 plans under IRC §457(e)(15))	$16,500
SEP Minimum Annual Compensation Limit (The least amount an employee must earn in compensation to be eligible to participate in a SEP under IRC §408(k)(2)(C))	$550
401(k)/403(b)/457 "Catch-up" Limit (The additional amount that a participant age 50 or older may defer to 401(k), 403(b), or 457 plans under IRC §414(v)(2)(B)(i))	$5,500
SIMPLE Employee Contribution Limit (The maximum annual amount of elective deferrals to SIMPLE plans under IRC §§401(k)(11) and 408(p)(2)(E))	$11,500
SIMPLE "Catch-up" Limit (The additional amount a participant age 50 or older may defer to SIMPLE plans under IRC §414(v)(2)(B)(ii))	$2,500
Highly Compensated Employee Compensation Limit (The compensation threshold triggering classification of an employee as "highly compensated" under IRC §414(q)(1)(B))	$110,000
Annual Compensation Limit (An employee's maximum compensation that a plan may take into account for determining employer contributions and deductions under IRC §§401(a)(17), 404(l), 408(k)(3)(C), and 408(k)(6)(D)(ii))	$245,000
Top-Heavy Plan's Key Employee Compensation Limit (The definition of "key employee" compensation level triggering the application of top-heavy rules under IRC §416(i)(1)(A)(i))	$160,000

EBSA In The 21st Century

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**.

DOL News

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** or **PPA page** for updates.

Guidance on Exercising Shareholder Rights and Investing in Economically Targeted Investments

On October 17, DOL/EBSA published two interpretive bulletins in the *Federal Register* clarifying the obligations of plan fiduciaries when considering shareholder rights and investments in economically targeted investments.

The **bulletin** on economically targeted investments supplements earlier guidance issued by DOL/EBSA addressing the limited circumstances under which ERISA fiduciaries may, in connection with investment decisions, take into account factors other than the economic interests of the plan. The supplement further clarifies, through explanation and examples, that fiduciary consideration of non-economic factors should be rare and, when considered, must comply with ERISA's rigorous fiduciary standards.

The **bulletin** on shareholder rights updates prior guidance issued by DOL/EBSA on the application of ERISA's fiduciary standards to proxy voting. The new bulletin includes clarifications of the earlier guidance, as well as interpretive positions issued by DOL/EBSA since 1994 on shareholder activism and socially-directed proxy voting initiatives.

The guidance reiterates that plan fiduciaries, who are charged by law with the responsibility for operating employee benefit plans on behalf of plan participants, may never increase expenses, sacrifice investment returns, or reduce the security of plan benefits in order to promote legislative, regulatory, or public policy goals that have no connection to the payment of benefits or plan administrative expenses.

Proposed Rules on Investment Advice Exemption for 401(k) Plans and IRAs

The PPA amended ERISA to add a new prohibited transaction exemption that allows greater flexibility for participants in 401(k) plans and IRAs to obtain investment advice.

On August 22, DOL/EBSA published a **proposed regulation** providing general guidance on the statutory exemption's requirements, including computer model certification, and a non-mandatory model form that advisers may use to satisfy the exemption's fee disclosure requirement.

DOL/EBSA also published a **proposed class exemption** that permits advisers to provide individualized advice to a worker after giving advice generated by use of a computer model.

On October 21, DOL/EBSA held a public hearing on the proposals. **Comments** on the proposed regulation and information about the hearing as well as **comments** on the proposed class exemption are posted on DOL/EBSA's web site.•

Retirement News for Employers

Retirement News for Employers (*RNE*) 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.

Mark Your Calendar

Operating a retirement plan can be time-consuming. There are deadlines, not just for reports and forms but also for making contributions. There are conferences and seminars, and then there is information you need to give to participants.

So to help navigate the retirement plan timeline, here is a look at some of the important dates in the months to come. Please note that all filing dates listed below are for calendar-year plans – adjust the dates for noncalendar-year plans:

Dec. 2: Deadline to provide safe harbor notice for Safe Harbor 401(k) plans for 2009 plan year.

Dec. 2: Deadline to give eligible employees Automatic Enrollment Notice.

Dec. 31: Deadline for: making 2008 required minimum distributions; and distributing 2007 401(k) excess contributions (including income or losses) without jeopardizing a plan's tax-qualified status.

Jan. 15: Fourth quarterly contribution due date for 2008 defined benefit plans.

Jan. 28: DOL's Fiduciary Education Seminar – **New Orleans, LA**.

Feb. 2: Deadline for: filing **Form 945**, *Annual Return of Withheld Federal Income Tax*; and giving recipients of 2008 retirement plan distributions **Form 1099-R**, *Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.*

Feb. 12: DOL's Fiduciary Education Seminar – **Melville, NY**.

See our web page for a complete list of upcoming IRS's **EP Education Events** on various retirement plan topics.

IRS Department of the Treasury
Internal Revenue Service
Publication 4278 (11-2008)
Catalog Number 37968B
www.irs.gov

Timing is Everything

Some helpful retirement planning tips from the IRS…

Employee Notices – At certain times, an employer is required to give notices to employees regarding your retirement plan. Here is information on some of the more common notices.

When You Start in Your Plan

- **Summary Plan Description**: The summary plan description contains information on what the plan benefits are and how they will be provided. You should receive a summary plan description within 90 days after becoming a participant.
- **Salary Deferral Election Form**: The salary deferral election form lets you designate how much money (either a percentage of pay or a certain dollar amount) to withhold from your future salary/wages to be deposited into the trust, if the plan provides for salary deferrals.
- **Beneficiary Designation Form**: The beneficiary form lets you designate who will receive benefits if you die before receiving all of your benefits. If you fail to complete this form before your death, the plan will pay benefits as described in the plan document.

When You Contribute to Your Plan

- **Individual Benefits Statement**: An individual statement reflecting your accrued benefit and vested pension amount. It may also identify benefits that may be forfeited upon your termination. It should be given to you at least once each quarter for individual account plans that permit participants to direct their investments and at least once each year, for individual account plans that do not permit participants to direct their investments.

When You Stop Working

- **Rollover Notice**: The notice, commonly known as a §402(f) Notice, generally explains the rollover rules, including the automatic 20% withholding. The plan administrator must provide it within a reasonable period of time but no less than 30 days and no more than 90 days before the distribution is to be made. The participant may waive the 30-day period.
- **Automatic Rollover Notice**: If your account balance is over $1,000, then the law requires your plan to automatically roll it over to an IRA unless you say otherwise. The plan administrator must first notify you (either separately or as part of the §402(f) Notice), that your account will be rolled over to an IRA unless you elect otherwise.

Ask your employer or visit **www.irs.gov/ep** for additional information on these items.

IRS Department of the Treasury Internal Revenue Service

Publication 4278 (11-2008) Catalog Number 37976B

www.irs.gov