

Retirement News for Employers

Tax Information for Sponsors of Retirement Plans
Internal Revenue Service Tax Exempt and Government Entities

Volume 7, Spring 2010

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401(k) Questionnaire Coming to 1,200 Employers

During the week of May 17th, IRS Employee Plans Compliance Unit (EPCU) will send a letter and instructions to 1,200 employers sponsoring 401(k) plans asking them to complete the [401\(k\) Compliance Check Questionnaire](#). The information gathered from the Questionnaire will provide a comprehensive view of 401(k) plans and will help EP maximize its resources for education, outreach, guidance and enforcement efforts while minimizing the burden to compliant plan sponsors.

EPCU will use a secure website to collect responses on the following topics:

- Demographics
- Participation
- Employer and employee contributions
- Top-heavy and nondiscrimination testing
- Distributions and plan loans
- Other plan operations
- Automatic contribution arrangements
- Designated Roth features
- IRS voluntary compliance and correction programs
- Plan administration

All plan sponsors will complete the same Questionnaire; however, some questions may only apply to plans with particular features. Failure to respond or provide complete information will result in further action or examination of the plan.

The Questionnaire was developed because of the critical role 401(k) plans play in our private retirement system. There are nearly half a million 401(k) plans in America covering over 50 million participants.

See the [EPCU](#) Web page for more information on the Questionnaire, which is the featured project on the page.

Upcoming 5500 Filing Deadline

Plan sponsors must file Form 5500-series returns on the last day of the seventh month after their plan year ends. When the deadline falls on Saturday or Sunday, it moves to the following Monday. For example, plans using a calendar year typically must file by July 31. In 2010, however, July 31 falls on a Saturday so the deadline becomes Monday, August 2, 2010. Plans can request an extension to file by submitting [Form 5558](#), *Application for Extension of Time to File Certain Employee Plan Returns*, by that plan's original due date.

Consider these important changes for [2009 Form 5500 filings](#):

- Paper copies of Form 5500 are no longer accepted. Plans must file the electronic version of [Form 5500](#) using the computerized ERISA Filing Acceptance System (EFAST2). Plans with fewer than 100 participants may be eligible to use the new [Form 5500-SF](#), *Short Form Annual Return/Report of Small Employee Benefit Plan*, which must also be filed using EFAST2. See the [Instructions for Form 5500-SF](#) as to whether you can file this form.
- Filers need certain credentials to sign and submit Form 5500 or Form 5500-SF. Obtain these at www.efast.dol.gov.
- Complete Form 5500 and Form 5500-SF by using the EFAST2 web-based filing system (IFILE) or software provided by [approved vendors](#).
- Form 5500 and many of its schedules have been modified, so review your submission carefully.
- Schedule E (Form 5500) has been eliminated.
- Do not file Schedule SSA (Form 5500) information with the Form 5500, even if the submission pertains to a filing year before 2009. SSA information must be filed directly with the IRS. More information will be available about filing the SSA data in the near future.

2009 Form 5500-EZ

Every "one-participant plan" that is required to file a 2009 annual return must file the [2009 Form 5500-EZ](#) (paper format) unless the plan is eligible and chooses to file its return electronically on 2009 Form 5500-SF. File Form 5500-EZ for 2009 with the IRS at the following address:

Department of the Treasury
Internal Revenue Service
Ogden, UT 84201-0020

A "one-participant plan," for purposes of the 2009 Form 5500-EZ, means a retirement plan not subject to the annual ERISA Title I reporting requirements that only covers the owner, or the owner and his or her spouse of a wholly-owned trade or business (whether or not incorporated), or partners, or partners and their spouses of a business partnership.

A plan is not a one-participant plan if the plan benefits anyone besides the owner (or owner and spouse) or partners (or partners and their spouses).

See [Instructions for the 2009 Form 5500-EZ](#) as to whether you must file an annual return for 2009 for a one-participant plan.

Certain retirement plans maintained outside the U.S. primarily for the benefit of nonresident aliens must also file Form 5500-EZ rather than Form 5500 or Form 5500-SF for the 2009 plan year. See the instructions for the 2009 Form 5500-EZ for more information.

For additional information:

- DOL EFAST Help Line at 866-GO EFAST (866-463-3278)
- IRS Customer Account Services at 877-829-5500 (both are toll-free numbers)

Small Business Week

May 23-29, 2010, is “National Small Business Week.” The U.S. Small Business Administration will recognize the contributions of the estimated 27.2 million small businesses in America by holding the [SBA’s National Conference](#) May 23-25 in Washington, D.C.

IRS recognizes that many small business owners do not have a retirement plan or are having trouble running it correctly. The [Retirement Plans Community](#) website addresses this issue by educating small business owners about the benefits of having a retirement plan as well as how to keep the plan in compliance with the law. Small business owners will find resources such as:

- An [online “Navigator”](#) to help small businesses choose a retirement plan. Once a retirement plan is in place, the “Navigator” provides [resources](#) to maintain retirement plans and even correct plan mistakes.
- A [Forms and Publications](#) list that includes publications about IRAs and retirement plans.
- Retirement plan information for the [Plan Sponsor/Employer](#).
- [FAQs](#) on general taxability, rollovers, specific plan types, plan operations and plan documents.
- [Checklists](#) to remind small businesses of SEP, SIMPLE IRA, SARSEP and 401(k) plan rules.
- [Fix-It Guides](#) designed to provide real solutions to common problems by helping businesses find, fix and avoid common errors in their SEP, SIMPLE IRA, SARSEP and 401(k) plans.
- A [Correcting Plan Errors](#) page explaining the Self-Correction and Voluntary Correction Programs for small businesses.

Mark O’Donnell, Director of IRS EP Customer Education and Outreach, noted that the small business community is a vast market and, while large companies tend to have retirement plans administered by benefits practitioners, many small businesses do not. IRS EP CE&O is dedicated to providing small business owners the information they need to make informed decisions about retirement savings for themselves and their 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.

I have an extension to file my 2009 tax return. Can I deduct the salary deferral contributions I made to my company’s SIMPLE IRA plan on my Form 1040?

No, employee contributions to a SIMPLE IRA plan (or SARSEP) are not deductible by participants from their income on their Form 1040.

Employee salary reduction contributions (salary deferrals) up to the annual limit (for 2009 and 2010 it’s \$11,500 if under age 50, \$14,000 if 50 or older) to a SIMPLE IRA are not included in the “Wages, tips, other compensation” box of [Form W-2, Wage and Tax Statement](#), and are not reported as income on your Form 1040.

If you are a sole proprietor or partner, however, you would [deduct your own salary reduction contributions](#) and your own matching or nonelective contributions on Form 1040, line 28.

Don’t forget, you may be eligible for the “[Retirement Savings Contribution Credit](#)” (Saver’s Credit) for salary deferrals you made prior to January 1, 2010. See the [Employee Plans News, Winter 09](#) for eligibility details.

Additional Resources:

[Publication 560, Retirement Plans for Small Business \(SEP, SIMPLE, and Qualified Plans\)](#)

[Publication 590, Individual Retirement Arrangements \(IRAs\)](#)

[FAQs - SIMPLE IRA Plans](#)

[FAQs - SARSEP Plans](#)

[Retirement Savings Contribution Credit](#)

We're Glad You Asked! #2

Why are my 2009 SARSEP/SIMPLE IRA contributions reported on a 2010 Form 5498? My company mailed checks to my SIMPLE IRA trustee in 2010 stating that these were contributions for 2009. The trustee informed me that these contributions will be reported on my 2010 Form 5498, instead of my 2009 Form 5498. Does that imply these contributions are considered for 2010 instead of 2009?

No. The IRS requires that contributions to a SIMPLE or a SARSEP IRA be reported on the Form 5498 for *the year they are actually deposited* to the account, regardless of the year for which they are made.

This means that contributions made during 2010 will be reported on the 2010 Form 5498. Consequently, a 2010 Form 5498 would include contributions made in 2010 for 2009 and contributions made in 2010 for 2010, but would not include contributions made in 2011 for 2010.

Trustees and Form 5498 issuers are not responsible for reporting the year for which the contributions are to be applied or for determining deductibility of contributions. It is the plan sponsor's responsibility to keep accurate records of a participant's total annual contributions to that plan, and the participant's responsibility to track their own applicable [individual annual limits](#) with regard to all plans to which they contribute.

Additional Resources:

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

[Publication 590](#), *Individual Retirement Arrangements (IRAs)*

[FAQs - SIMPLE IRA Plans](#)

[FAQs - SARSEP Plans](#)

Fixing Common Plan Mistakes:

Improper Forfeiture Suspense Accounts

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

The Issue

Many defined contribution plans require participants to complete a period of service before becoming fully vested in matching or nonelective employer contributions. If a participant leaves a company before completing the service required for full vesting, his or her non-vested account may be forfeited. Some plan administrators place these forfeited amounts into a plan suspense account, allowing them to accumulate over several years. The Internal Revenue Code does not allow this practice.

Find the Mistake

Forfeitures must be used or allocated in the plan year incurred. The Code does not authorize forfeiture suspense accounts to hold unallocated monies beyond the plan year in which they arise. Revenue Ruling 80-155 states that a defined contribution plan will not be qualified unless all funds are allocated to participants' accounts in accordance with a definite formula defined in the plan. This would preclude a plan from carrying over plan forfeitures to subsequent plan years, as doing so would defy the rule requiring all monies in a defined contribution plan to be allocated annually to plan participants. Revenue Ruling 84-156 states that forfeitures may be used to pay for a plan's administrative expenses and/or to reduce employer contributions. [Treasury Regulations §1.401-7\(a\)](#) notes that forfeitures must be used as soon as possible to reduce employer contributions.

The plan document's terms should have provisions detailing how and when a plan will exhaust plan forfeitures. A plan's failure to use forfeitures in a timely manner denies plan participants additional benefits or reduced plan expenses.

Common causes for this error include:

- The plan's sponsor and/or third party administrator fails to monitor the plan's forfeiture account to ensure that forfeitures generated in that plan year are used according to the plan's terms.
- The plan sponsor erroneously thinks that he or she has discretion over how and when forfeiture monies in the suspense account can be applied.
- Plan document terms are vague in describing how forfeitures are to be handled and results in the plan's document and operation being inconsistent with the holdings in Revenue Rulings 80-155, 84-156 and the Code.

Fix the Mistake

Generally, this failure can be corrected by reallocating all forfeitures in the plan's forfeiture suspense account to all plan participants who should have received them had the forfeitures been allocated on time. The plan sponsor should revise prior plan year allocation reports to reflect the forfeiture allocation and pay any amounts due to terminated participants. Depending on the plan terms or the facts and circumstances of a particular situation, it may be appropriate to take the non-current-year forfeitures and use them as employer contributions for the current plan year. Plan sponsors should apply the correction principles in [Revenue Procedure 2008-50, section 6](#) when making correction.

Plan sponsors can correct this mistake using the [Employee Plans Compliance Resolution System \(EPCRS\)](#). Using the Self-Correction Program, the mistake must generally be fixed within two years following the close of the plan year in which it occurred. Unless the failure can be classified as insignificant, the Voluntary Correction Program must be used after this time. VCP must also be used if the plan document terms are defective and need to be corrected retroactively by a plan amendment.

Avoid the Mistake

Plan sponsors and third party administrators need to monitor plan forfeitures. If a suspense account is used, then they must ensure that all forfeitures for a plan year are promptly used according to the plan's terms.

- No forfeitures in a suspense account should remain unallocated beyond the end of the plan year in which they occurred.
- No forfeiture should be carried into a subsequent plan year.
- For those plans that use forfeitures to reduce plan expenses or employer contributions, there should be plan language and administrative procedures to ensure that current year forfeitures will be used up promptly in the year in which they occurred or in appropriate situations no later than the immediately succeeding plan year.

IRS Employee Plans Videos - Helping Small Business Owners and Employees

IRS has videos to help small business owners and their employees meet their retirement goals. Video topics include choosing a retirement plan, keeping the plan updated and correcting plan mistakes. There is also information about IRAs and IRA-based plans.

Find the videos at <http://www.stayexempt.irs.gov/ep/index.html>.

Save the Date for Our Nationwide Tax Forums!

IRS is sponsoring six Nationwide Tax Forums this summer that:

- are educational events for the tax practitioner community;
- feature a variety of basic and advanced seminars;
- provide updates from IRS executives; and
- allow practitioners to meet and exchange ideas.

Employee Plans will be holding two seminars at each Forum:

1. Roth Conversions/Retirement Planning for Life Events

Information about the new 2010 Roth conversion rules and how “Life Events” such as job termination, hardships and retirement can impact retirement savings.

2. A SIMPLE Solution for Finding and Fixing SIMPLE IRA Mistakes

A case-study presentation explaining how to find, fix and avoid common mistakes in SIMPLE IRA plans.

Locations and dates for the 2010 Tax Forums are:

Atlanta, GA	June 22-24
Chicago, IL	July 13-15
Orlando, FL	July 27-29
New York City, NY	August 10-12
Las Vegas, NV	August 24-26
San Diego, CA	August 31- September 2

Visit [Nationwide Tax Forum Information](#) for additional information and registration.

New Profit Sharing Publication

Profit Sharing Plans for Small Businesses, [Publication 4806](#), is a new publication for small employers interested in starting a profit sharing plan. It discusses:

- the benefits of having a profit sharing plan;
- how to establish a profit sharing plan;
- basic operating rules;
- the employer’s fiduciary responsibilities;
- reporting requirements for IRS and Department of Labor;
- notices the plan must provide to participants; and
- terminating a profit sharing plan.

Some of the benefits of having a profit sharing plan are: retaining qualified employees, having discretion over the amount of annual contributions and plan design features, and, best of all, providing retirement savings for you and your employees.

The Filing Cabinet

Forms – you can't live with them; you can't live without them. Just like you use forms when running your business – everything from spreadsheets to receipts and invoices – you also use forms when dealing with a retirement plan.

New Publications

- [Publication 4721](#), *Adding Automatic Enrollment to Your 401(k) Plans*, presents a basic look at why small business owners may want to add the automatic enrollment feature to their 401(k) plans.
- [Publication 4806](#), *Profit Sharing Plans for Small Businesses*, contains basic information for establishing and operating a profit sharing plan. (See *related article on page 6.*)

Both of these publications were created in cooperation with the U.S. Department of Labor's Employee Benefits Security Administration (EBSA).

Revised Publications

- [Publication 3066](#), *Have You Had Your Check-Up This Year? for Retirement Plans*
- [Publication 3125](#), *The IRS Does Not Approve IRA Investments*
- [Publication 4284](#), *SIMPLE IRA Plan Checklist*
- [Publication 4286](#), *SARSEP Checklist*
- [Publication 4482](#), *403(b) Tax-Sheltered Annuity for Participant*
- [Publication 4484](#), *Choose a Retirement Plan for Employees of Tax-Exempt and Government Entities*

These publications are available at www.irs.gov/ep by clicking on "Forms/Pubs/Products" or by calling 800-TAX-FORM (800-829-3676).



Desk Side Chat... With Monika Templeman

Who Can Represent a Plan Sponsor During an Employee Plans Examination?

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.

Monika, there seems to be a lot of confusion about which forms to use and how to complete them to represent a plan sponsor.

This issue continues to confuse taxpayers and unenrolled pension professionals. With the successful implementation of the [Enrolled Retirement Plan Agent \(ERPA\) Program](#), third party administrators and benefits consultants are no longer disenfranchised because of RRA'98 (when the Power of Attorney Form 2848 was revised to exclude unenrolled preparers). The ERPA Program allows third party administrators and benefit consultants who maintain and administer plans to have limited practice before the IRS under Circular 230 on retirement plan matters, while increasing accountability through examination, enrollment, renewal procedures and continuing education requirements. These pension professionals are now able to become ERPAs and represent clients on issues involving IRS Employee Plans programs (excluding actuarial forms or schedules). The IRS has revised Form 2848 to include the ERPA designation and is strictly enforcing the procedures and rules that distinguish Form 2848 from Form 8821. I hope this article will reduce confusion for plan sponsors.

Why is it important to clarify these procedures?

It's important because, for IRS to request retirement plan records or discuss issues with any of the three distinct taxpayers in an EP examination, we must obtain separate powers of attorney for each. The three separate taxpayers in an EP examination are: the plan sponsor, the trust (defined as an accumulation of assets held in the name of the plan participants) and the participant/beneficiary. The concern is that improper completion of these forms increases the risk of violating third party contact requirements and disclosure rules. We must not violate a taxpayer's confidentiality during our examinations.

Can you please explain the forms used for providing representation?

There are three forms. The first is [Form 2848, Power of Attorney and Declaration of Representation \(instructions\)](#), which authorizes an individual to represent the plan sponsor before the IRS. The individual authorized must be a person eligible to practice before the IRS. Remember, individuals who represent the taxpayer as unenrolled return preparers must have prepared the Form 5500 for the year being examined and their representation is limited. The next is [Form 8821, Tax Information Authorization](#) (instructions are below the form), which authorizes any individual, corporation, firm, organization or partnership the plan sponsor designates to inspect and/or receive confidential information in any office of the IRS for the type of tax and the years or periods listed on the form. The final one is [Form 56, Notice Concerning Fiduciary Relationship](#) (instructions are below the form), which the fiduciary uses to notify the IRS of the creation or termination of a fiduciary relationship. For retirement plans, the form lists the trustee(s) of the plan.

It appears Forms 2848 and 8821 are similar. True?

The forms are similar in their preparation, but not in their use. Allow me to quote from the Form 8821 instructions:

Form 8821 does not authorize your appointee to advocate your position with respect to the federal tax laws; to execute waivers, consents, or closing agreements; or to otherwise represent you before the IRS. If you want to authorize an individual to represent you, use Form 2848, *Power of Attorney and Declaration of Representative*.

If someone other than the plan sponsor is going to participate in the examination, that individual must be qualified to complete the Form 2848 and do so properly. Only individuals listed on that form can represent the taxpayer. Also note, one name on the form does not automatically include all other members of that firm. This is a frequent situation encountered by my examination agents.

Who is a taxpayer for purposes of Form 2848 and Form 8821?

For purposes of conducting a 5500 examination, Item 1 (Taxpayer Information) is the plan name and number (if applicable) and the plan sponsor's name, address and EIN. The plan and trust are two separate legal entities. Therefore, unless

the employer is also the trustee, it is possible that a second Power of Attorney for the trust will be necessary if the examination includes trust assets.

Line 3 on Forms 2848 and 8821 requests “Tax Matters” information. What is contained here?

This area has shown the most errors during our reviews. The type of tax shown on Form 2848 or Form 8821 depends on the examined entity. The plan couldn't, under any circumstances, produce a tax liability so the only valid entry under “Type of Tax” would be “N/A.” The “Tax Form Number” would be “5500” and the “Year(s) or Period(s)” would be the plan years under examination. For the trust, however, the “Type of Tax” would be “income” and the “Tax Form Number” would be “Form 1041.” The Internal Revenue Code states the calendar year is always the tax year of the 1041 when properly completing the “Year(s) or Period(s)” area of either form. It might be necessary to list multiple tax years to cover the period under examination.

What if a bank or other entity is the trustee?

In this situation, the appropriate signatory is an officer having authority to bind the bank or other entity and that individual must certify that he/she has such authority. Since this is a representation of the trust, this would include completion of both Forms 2848 and Form 56.

How do examination agents handle “pen and ink” changes to these forms?

I instruct my examination agents to take the conservative approach and secure a new form. It is IRS Counsel's position that initialed “pen and ink” changes are not an adequate remedy for an incorrect form. The same situation applies where a member of the law firm other than the person listed on the form arrives for the examination. The requirement for my agents is to secure a new valid form.

Plan sponsors may have questions after reading your article. Where can they go to get these questions answered?

We have made this process easy. They can e-mail their questions to RetirementPlanQuestions@irs.gov. When you send us your question, it is important to include your name and phone number in the e-mail because we respond to questions by phone. I will be participating in a phone forum on this subject on June 1, 2010. (*See article below.*)

IRS Summer Phone Forums

IRS Employee Plans will host two phone forums in June.

Form 2848 vs. Form 8821 - June 1, 2010

A discussion of the proper use and completion of Form 2848, *Power of Attorney and Declaration of Representative*, vs. Form 8821, *Tax Information Authorization*, for conducting EP examinations. Learn the rules that EP must enforce when dealing with a taxpayer's representative. This discussion also highlights the benefits of the ERPA designation vs. being “unenrolled.”

Join Monika Templeman, Gale Moore and Harry Tober, from IRS EP Examinations, and Vickie Surguy, from EP Rulings and Agreements, for this 90-minute presentation.

ESOP Update Phone Forum - June 24, 2010

A discussion of ESOP issues such as “qualified participant” and “qualified election period” described in Code §401(a)(28)(B), the repurchase of employer security under §409(h)(2)(B)(i) and issues related to the transfer of employer security and cash between plan accounts.

Join Robert Gertner, Tax Law Specialist in EP Technical Guidance and Quality Assurance, and Clare Diefenbach, Tax Law Specialist in EP Technical Branch, for this 90-minute presentation.

Phone Forum	Date	Register	Time	Access Code
Forms 2848/8821	6-01-10	Register	2:00EST	482652
ESOP	6-24-10	Register	2:00EST	369691

Register:

- For each forum separately.
- 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:

- Dial in 15 to 20 minutes before the scheduled time toll-free at 866-216-6835.
- 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 Credits:

- Enrolled Agents and Enrolled Retirement Plans Agents may earn one CPE credit if he or she listens to the presentation for 50 minutes. Other professional group members should consult their respective licensing agencies regarding acceptability of credit.
- To receive credit, each participant must register individually and use his or her own PIN on an individual phone line.
- About a week after the forum, a Certificate of Completion will be e-mailed to participants who meet the above requirements.

If you have question(s), please contact us at ep.phoneforum@irs.gov. Also, visit our [Phone Forums](#) Web page for information on recent forums including handouts and transcripts, if available.

Contributors to this Issue:

Anita Bower, Craig Chomyok, Kathy Davis, James Flannery, Janice Gore, Ann Junkins, Paul Hogan, Roger Kuehnle, Mark O'Donnell, Nancy Payne, Sharon Perkins, Bonnie Schaumberg, John Schmidt, Brenda Smith-Custer, Monika Templeman, Harry Tober, Mikio Thomas, Kathy Tuite, Rob Walsh, Karl Zoric.





UNITED STATES DEPARTMENT OF LABOR

Employee Benefits Security Administration

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 website homepage](#) for updates.

Target Date Funds

On May 6, DOL/EBSA and the U.S. Securities and Exchange Commission issued [guidance](#) to assist investors and plan participants to better understand the operations and risks of target date fund investments. Target date funds, also known as life cycle funds, are designed to provide a convenient way to invest for retirement by automatically reallocating funds from higher to lower risk investments over time as the fund's target date approaches. There can be significant differences in how target date funds invest and how they reallocate assets between equity and fixed income investments up to and through the target date of the fund. This guidance helps in assessing the benefits and risks associated with target date funds and the appropriateness of including such investments as part of a retirement portfolio.

Investment Advice

After review, DOL/EBSA decided to propose a revised rule limited to the implementation of the PPA statutory exemption relating to investment advice. The [proposed rule](#) was published on March 2.

The proposed regulation allows investment advice to be given under the statutory exemption in two ways. One is through the use of a computer model certified as unbiased. The other way is through an adviser compensated on a "level-fee" basis (i.e., fees do not vary based on investments selected by the participant).

Several other requirements also must be satisfied, including disclosure of fees the adviser is to receive. The regulation contains some key safeguards and conditions, including:

- Requiring that a plan fiduciary (independent of the investment adviser or its affiliates) select the computer model or fee leveling investment advice arrangement.
- Imposing recordkeeping requirements for investment advisers relying on the exemption for computer model or fee leveling advice arrangements.
- Requiring that computer models must be certified in advance as unbiased and meeting the exemption's requirements by an independent expert.
- Establishing qualifications and a selection process for the investment expert who must perform the above certification.
- Clarifying that the fee-leveling requirements do not permit investment advisers (including its employees) to receive compensation from affiliates on the basis of their recommendations.
- Establishing an annual audit of investment advice arrangements, including the requirement that the auditor be independent from the investment advice provider.
- Requiring disclosures by advisers to plan participants.

The comment period has closed. [Comments](#) are available online.

Reporting and Coverage for 403(b) Plans

On February 17, DOL/EBSA issued [Field Assistance Bulletin \(FAB\) 2010-01](#) to answer many frequently asked questions from the 403(b) community on the new Form 5500 reporting requirements.

DOL/EBSA also created a dedicated [403\(b\) Plan Reporting and Coverage](#) Web page. The Web page includes guidance and educational materials including a new publication, [Getting Ready for Changes in Filing Your Plan's Annual Return/Report Form 5500](#). This is part of DOL's effort to assist employers, plan officials and service providers with the changes in the 2009 Form 5500 and the filing process. Like administrators of 401(k) plans, 403(b) plan administrators now must file basic financial and other compliance information annually with the government on a Form 5500 or Form 5500-SF (a simplified report that many small 403(b) plans can use). Large plans (generally those with 100 or more participants) must include a report of an independent qualified public accountant with their Form 5500. All Form 5500s beginning with the 2009 plan year must be filed electronically using DOL/EBSA's new EFAST2 system.

Lifetime Income Options for Retirement Plans

On February 2, DOL/EBSA and the Department of the Treasury published in the *Federal Register* a [request for information \(RFI\)](#) soliciting public comments to assist the agencies in determining what steps, if any, to take to enhance retirement security for workers in employer-sponsored retirement plans through lifetime annuities or other arrangements that provide a stream of income after retiring.

The RFI sought comments on a broad range of topics, including:

- The advantages and disadvantages of distributing benefits as a lifetime stream of income both for workers and employers, and why lump sum distributions are chosen more often than a lifetime income option;
- The type of information participants need to make informed decisions in selecting the form of retirement income;
- Disclosure of participants' retirement income in the form of account balances as well as in the form of lifetime streams of payment; and
- Developments in the marketplace that relate to annuities and other lifetime income options.

The comment period has closed. [Comments](#) are available online.

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.

Employee Plans Published Guidance

[Notice 2010-43](#)

Department of the Treasury and IRS invite the public to comment on recommendations for the 2010-2011 Guidance Priority List. The list will establish guidance that they intend to publish July 1, 2010 – June 30, 2011.

[Announcement 2010-20, 2010-15 I.R.B. 551](#)

Notes that the IRS will soon issue opinion and advisory letters for pre-approved defined benefit plans that have been restated for EGTRRA and the guidance on the 2006 Cumulative List.

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.

Mark Your Calendar

Stay on top of your retirement plan’s mandatory deadlines! Here are some important dates for the upcoming months. Please note that the filing dates below are for calendar-year plans. Non-calendar-year plans must adjust these dates.

June 30: 401(k) or 403(b) plans with an eligible automatic contribution arrangement (EACA) must distribute excess contributions and excess aggregate contributions by this date for failed ADP and ACP tests or be subject to Code §4979 10% excise tax.

July 15: Second employer contributions are due for defined benefit plans.

August 2: “Form 5500 Day” – *Note:* July 31, 2010, falls on a Saturday.

File with DOL/EFAST2:

- 2009 Form 5500, *Annual Return/Report of Employee Benefit Plan*, or
- Form 5500-SF, *Short Form Annual Return/Report of Employee Benefit Plan*, or

File with IRS:

- Paper [Form 5500-EZ](#), *Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan*, or
- [Form 5558](#), *Application for Extension of Time to File Certain Employee Plan Returns*, to request an automatic 2 ½ -month extension (October 15, 2010).

For a list of all upcoming EP Educational Events, visit the [Retirement Plans Community](#) Web page.



Timing Is Everything

Some helpful retirement tips for employees from the IRS...

Invest in Your Retirement

Does your company have a retirement plan?

There are [lots of benefits](#) of participating in a retirement plan! For example, by participating in your company's retirement plan, you can:

- increase your retirement savings; and
- decrease your taxable income for 2010 by making [pre-tax salary deferral contributions](#) (if allowed by the plan).

Not participating in your company's retirement plan?

Enroll as soon as you can! Many retirement plans have quarterly or semi-annual entry dates. Contact your employer to find out when you can participate and consider joining on the next entry date.

Already participating in your company's retirement plan?

You may want to review the amount you are contributing to the plan. The maximum annual salary deferral contributions allowed for 2010 are:

- 401(k) or 403(b) plans - \$16,500
- SIMPLE plans - \$11,500

If you are 50 or older at any time by the end of 2010, your retirement plan may allow you to make additional [catch-up contributions](#):

- 401(k) or 403(b) plans - \$5,500
- SIMPLE plans - \$2,500

Did you get a tax refund?

Consider contributing your tax refund to a traditional or Roth IRA. Generally, for 2010, you can [contribute](#) up to \$5,000 to either a traditional or Roth IRA (plus \$1,000 if you are 50 or older by the end of 2010). The amount that you can contribute to a Roth IRA depends on your income and filing status and the amount of deductible contributions you can make to a traditional IRA depends on the amount of your income and whether you or your spouse are covered by a plan at work. See [Publication 590](#), *Individual Retirement Arrangements (IRAs)*, for complete details.

For more retirement tips, visit www.irs.gov/ep, select "Plan Participant/Employee" and click on "Timing is Everything."

