

# Retirement News for Employers – Summer 2010 Edition

The *Retirement News for Employers* is a periodic newsletter with retirement plan information for employers and business owners – and their tax advisors from Employee Plans (Tax Exempt and Government Entities (TE/GE) at the IRS).

1. **[Post April 30, 2010, Issues Impacting Adopting Employers Who Use IRS Pre-Approved Plan Documents](#)**  
Information for employers who failed to adopt an approved EGTRRA restated plan document (with links to the Voluntary Correction Program Submission Kit to resolve the failure) or failed to submit a determination letter application for their EGTRRA restated plan by April 30, 2010.
2. **[Pension Funding Relief](#)**  
New 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. **[What is an Actuary?](#)**  
Learn about different types of actuaries: pension, enrolled and IRS' s policy and field actuaries.
4. **[We're Glad You Asked!](#)**  
Q&As on employer matching contributions to SIMPLE IRA plans.
5. **Form 5500 Schedules Update:**
  - o Schedule SSA (Form 5500) has been eliminated beginning with returns for the 2009 plan year and has been replaced with Form 8955-SSA. The IRS will announce a special due date, expected to occur in 2011, for the 2009 Form 8955-SSA. See the [Form 5500 Corner](#) for more information.
  - o The final [2010 Schedule SB and Schedule MB with Instructions](#) are now available and can be used for filing.
6. **Revised Publications**  
Available at [irs.gov/ep](http://irs.gov/ep) by clicking on "Forms/Pubs/Products" or by calling 800-TAX-FORM (800-829-3676):
  - o [Publication 4483, 403\(b\) Tax-Sheltered Annuity for Sponsors](#)
  - o [Publication 4336, SARSEP for Small Businesses](#)
7. **Phone Forums**  
Earn CPE credits by attending EP's free phone forums covering a variety of retirement plan topics. Register for upcoming forums and find information on prior forums on our [Phone Forum Web page](#).
8. **Recurring Columns**
  - o [DOL News](#)
  - o [Desk Side Chat...With Monika Templeman](#)
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  - o [Mark Your Calendar](#)
  - o [Timing is Everything](#)

## Post April 30, 2010, Issues Impacting Adopting Employers Who Use IRS Pre-Approved Plan Documents

April 30, 2010, was the last day of the two-year period for adopting employers of EGTRRA pre-approved defined contribution (DC) plans to adopt an approved restated document and file for a determination letter application, as described in [Announcement 2008-23](#). Since then, the IRS has received numerous inquiries from adopting employers who failed to file a determination letter application with respect to a DC pre-approved plan by April 30, 2010, but would now like to do so. The inquiries relate to the following separate situations:

- The adopting employer failed to adopt the approved EGTRRA restated plan document by April 30, 2010; or
- The adopting employer timely adopted an approved EGTRRA restated plan document by April 30, 2010, but failed to submit a determination letter application for the plan to the IRS by April 30, 2010.

This article is separated into two parts. Part I discusses the actions that need to be taken if an EGTRRA pre-approved DC restated plan document was not timely adopted by April 30, 2010. Part II addresses determination letter processing issues that apply to Form 5307/5300 determination letter applications made after April 30, 2010, in regard to pre-approved DC plans.

### Part I - Adopting Employer Adopts EGTRRA Pre-Approved DC Plan Document After April 30, 2010

In general, under the six-year remedial amendment cycle rules described in [Revenue Procedure 2007-44](#), the failure of an adopting employer of a pre-approved DC plan to adopt the approved EGTRRA restatement of the plan document by April 30, 2010, will adversely affect the qualified status of the employer's plan. (See Part II of this article for a discussion relating to applicable amendment and submission timeframes, including the timeframes that apply to pre-approved "Cycle E" plans.)

The IRS has established a system of correction programs that permits employers to correct errors in and preserve the tax benefits of their retirement plans. This system, the Employee Plans Compliance Resolution System ([EPCRS](#)), is currently set forth in [Revenue Procedure 2008-50](#). The Voluntary Correction Program (VCP) is a component of EPCRS. Under VCP, an applicant may, for a reasonable fee, submit an application to the IRS, which identifies a plan's errors and proposes correction methods for those errors. If the correction methods are acceptable, the IRS issues a compliance statement to the applicant setting forth the agreement between the IRS and the applicant. VCP is available as long as the plan (or, in the case of a tax-exempt entity, the adopting employer) is not under examination by the IRS. See [Section 5.07 of Revenue Procedure 2008-50](#) for the definition of "under examination."

To assist adopting employers who wish to make a VCP submission to resolve this qualification failure, the IRS has developed a Voluntary Correction Program Submission Kit, which provides detailed instructions for those adopting employers who wish to make a VCP submission to resolve the failure to adopt plan amendments timely.

An individual determination letter application in regard to the pre-approved DC plan is not required to be submitted to the IRS in connection with the VCP filing. An employer adopting a pre-approved plan is usually entitled to rely on the opinion or advisory letter issued with respect to the plan. However, if an adopting employer desires to obtain an individual determination letter with respect to its plan, then, after receiving an executed compliance statement from the IRS, the adopting employer may make an off-cycle determination letter application to the IRS as discussed in Part II of this article.

## Part II - Post April 30, 2010, Form 5307/5300 Determination Letter Application Filings For Plan Sponsors Who Use Pre-Approved DC Plans

Except as otherwise provided below, applications for pre-approved DC plans submitted after April 30, 2010, will be treated as off-cycle filings. This means that the application will be placed in suspense and generally will not be worked by the IRS until on-cycle applications have been reviewed. For post April 30, 2010, off-cycle applications that have already been submitted, the IRS will contact the adopting employers and offer them the right to withdraw such applications. If such withdrawal request is made, the IRS will refund any user fees that have been paid.

### *Exceptions to Off-Cycle Treatment*

Post April 30, 2010, applications for individual determination letters for pre-approved DC plans in the following categories will be considered on-cycle and will be worked in order with other timely submitted on-cycle applications.

1. An application that is submitted on or before January 31, 2011 for:
  - a. A plan maintained by a non-governmental employer with an Employer Identification Number (EIN) ending in a 5 or 0 - the EINs that correspond to Cycle E;
  - b. A plan maintained by a non-governmental employer with an EIN ending in 4 or 9 whose first plan year beginning on or after January 1, 2009 and ends on or after February 1, 2010 (see section IV of [Notice 2008-108](#)); or
  - c. A plan maintained by a governmental employer (see [Revenue Procedure 2009-36](#)).

Although the six-year EGTRRA remedial amendment cycle for pre-approved DC plans under Revenue Procedure 2007-44 ended on April 30, 2010, the five-year EGTRRA remedial amendment cycle for plans described in a. through c. above ends on January 31, 2011. Determination letter applications that are filed for these plans on or before that date will be considered to be on-cycle.

2. An application received by July 30, 2010, if the employer and its plan qualify for the special relief in [Notice 2010-48](#). This Notice extended the deadline for adopting and submitting a DC pre-approved plan to July 30, 2010, for plans affected by certain recent federally declared disasters.

If a plan described in categories one or two above is submitted on Form 5307, the plan will be reviewed on the basis of the 2004 Cumulative List. If the plan is submitted using Form 5300, the plan will be reviewed on the basis of the [Cumulative List](#) in effect on the date the application is submitted, unless the Form 5300 is submitted solely because the adopting employer is requesting a determination regarding partial termination, affiliated service group status or leased employees (see [Announcement 2008-23](#)).

An adopting employer submitting a determination letter application for a plan, which meets one of the two categories for on-cycle treatment should indicate which category the plan is eligible for in the cover letter to the application.

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## 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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## **What is an Actuary? - A Brief Overview**

In general, actuaries assess the financial consequences of risks and use mathematics, statistics and financial theory to analyze and determine the financial impact of uncertain future events.

Pension actuaries suggest methods to eliminate or reduce damage to parties if a future event occurs. They are primarily concerned with the payment of benefits, including death benefits, from a pension plan. Pension actuaries also calculate the required amount of an employer's annual contribution to a defined benefit plan to ensure that current and future plan benefits are available to the participants.

### **Enrolled Actuaries**

Many pension actuaries are Enrolled Actuaries - individuals who have satisfied the standards and qualifications of the Joint Board for the Enrollment of Actuaries and have been approved by the Board to perform actuarial services required under ERISA. These individuals have fulfilled knowledge and experience requirements related to pension laws and regulations, including:

- ERISA;
- the Internal Revenue Code;
- Treasury Regulations;
- IRS Revenue Rulings and IRS Notices;
- PBCG Premium Payment Instructions, Regulations and Technical Updates; and
- Department of Labor Regulations and Bulletins.

**IRS Employee Plans Actuaries** may either work as a:

- Policy Actuary in Rulings and Agreements, or
- Field Actuary in Examinations.

*Policy Actuaries:*

1. Review private letter ruling requests about topics such as waivers of the Code §412 minimum funding standard, approvals of a plan's change in its funding method or assumptions and correct interpretation and application of ERISA and the Code;
2. Work on field agents' technical advice cases to produce a Technical Advice Memorandum on issues such as the correct application of a general Code §401(a)(4) nondiscrimination test on Form 5300-Demonstration 6 attachment;
3. Assist in drafting and reviewing regulations, revenue rulings, revenue procedures, notices and announcements;
4. Respond to taxpayers' questions;
5. Provide expert reports and testimony in a court of law; and
6. Assist with special projects (for example, cash balance moratorium cases, promoter investigations (life and annuity insurance) and voluntary compliance cases.)

*Field Actuaries:*

1. Assist with retirement plan audits and attend related meetings with pension plan representatives;
2. Support revenue agents who work on determination letter applications by reviewing demonstrations, plan documents and answering technical questions;
3. Draft responses to information requests and review documents submitted to revenue agents;
4. Have expertise in topics including 403(b) arrangements, fully insured plans, governmental plans, employee plans team audits, multiemployer plans and PPA funding and benefit restriction issues; and
5. Assist with guidance projects such as developing new regulations.

In addition to these roles, both policy and field actuaries teach new and current IRS employees. They also speak at other professional seminars across the country. Sometimes policy and field actuaries work together on large teams for IRS projects.

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## **We're Glad You Asked! - SIMPLE IRA Plan Matching Contribution**

### **My business revenues have decreased. Can I suspend or reduce the amount of matching contributions to our SIMPLE IRA plan for this year?**

Unfortunately, you cannot suspend or modify your employer matching contributions mid-year. Also, you cannot terminate a SIMPLE IRA plan in the middle of the year. You must maintain the plan for a full calendar year, except in the year you first establish a SIMPLE IRA plan, in which case the plan can be established up to October 1 of that year. You must make the contributions that you promised your employees in the [SIMPLE IRA plan notice](#).

### **What happens if I don't make the matching contribution to the SIMPLE IRA plan?**

A SIMPLE IRA plan must satisfy [certain rules](#) to obtain favorable tax benefits. Failure to satisfy these rules, for example, by not making required matching contributions, can result in the loss of favorable tax benefits for the employer and all participants.

An employer can, however, correct certain SIMPLE IRA plan failures under the IRS's Employee Plans Compliance Resolution System (EPCRS). For additional information, review our [SIMPLE IRA Plan Fix-It Guide](#) and visit the [Correcting Plan Errors Web page](#).

### **We reduced our matching contribution to our SIMPLE IRA plan from 3% to 1% beginning January 1, 2010, because of the bad economy. Conditions have now improved and we would like to resume contributing at the 3% level. Can we do that retroactively to January 1, 2010?**

No, you cannot change the contribution amounts mid-year. When you amend your SIMPLE IRA plan, the amendments become effective only at the beginning of the next calendar year and must conform to the content of the plan notice for that calendar year. If your plan's notice to employees stated 1%, you must continue to contribute 1% for the remainder of 2010. The earliest effective date that you can change the matching contribution back to 3% is January 1, 2011.

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## 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 homepage](#) for updates.*

### **Hearing on Specific Issues Related to Lifetime Income Options for Retirement Plans**

On August 5, DOL/EBSA and the Department of the Treasury [announced](#) a joint public hearing on September 14, and, if necessary, on September 15. The participants will listen to testimony on several specific issues relating to lifetime income and other arrangements that provide a stream of post-retirement income for workers in employer-sponsored retirement plans. The hearing will begin at 9:00 a.m. in the Labor Department's auditorium, 200 Constitution Avenue, N.W. in Washington, D.C.

The Departments received approximately 780 public comments in response to the request for information (RFI) published in the Feb. 2, 2010 *Federal Register*. The purpose of the hearing is to gather additional information on discrete technical issues and proposals raised in the RFI submissions.

Witnesses will address issues relating to:

- Certain specific participant concerns affecting the choice of lifetime income relative to other options;
- Information to help participants make choices on the management and spend down of retirement benefits;
- Disclosure of account balances as monthly income streams;
- The fiduciary safe harbor for selection of lifetime income issuers or products; and
- Alternative designs of in-plan and distribution lifetime income options.

Written requests to testify at the hearing and topical outlines should be submitted by August 16. The request to speak at the hearing and an outline of the main points to be discussed regarding the specified issue(s) should be submitted by to [e-ORI@dol.gov](mailto:e-ORI@dol.gov) or by mail to the Office of Regulations and Interpretations, Employee Benefits Security Administration, 200 Constitution Ave., N.W., Washington, D.C. 20210. Although reasonable efforts will be made to accommodate requests to testify, it may be necessary to limit the number of those testifying to adhere to the hearing's format. The hearing agenda will be available from both agencies by August 26.

### **Disclosure of Fees and Conflicts of Interest Affecting 401(k) and Other Retirement Plans**

On July 16, DOL/EBSA published an [interim final rule](#) that will enhance disclosure to fiduciaries of 401(k) and other retirement plans. The rule will assist fiduciaries in determining both the reasonableness of compensation paid to plan service providers and any conflicts of interest that may impact a service provider's performance under a service contract or arrangement.

The interim final rule follows significant Congressional effort to improve the current disclosure system.

The interim final rule will enhance disclosure to pension plan fiduciaries by requiring the disclosure of the direct and indirect compensation certain service providers receive in connection with the services they provide. The rule applies to plan service providers expecting to receive \$1,000 or more in compensation and who provide: certain fiduciary or registered investment advisory services; make available plan investment options in connection with brokerage or recordkeeping services; or otherwise receive indirect compensation for providing certain services to the plan.

Written comments on the interim final regulation should be addressed to the Office of Regulations and Interpretations, Employee Benefits Security Administration, Room N-5665, U.S. Department of Labor, 200

Constitution Ave., NW, Washington, DC 20210, Attention: 408(b)(2) Interim Final Rule. The public also may submit comments by e-mail to [e-ORI@dol.gov](mailto:e-ORI@dol.gov) or through the federal rulemaking portal at <http://www.regulations.gov>.

## **Electronic Filing Update – New E-signature Option**

On May 13, DOL/EBSA announced a new e-signature option for the EFAST2 electronic filing system for Forms 5500 and 5500-SF annual reports. The option is designed to simplify the electronic filing process, especially for small businesses using service providers to complete and file their annual reports.

Effective January 1, 2010, retirement and welfare plans required to file an annual Form 5500 or 5500-SF must file electronically using DOL/EBSA's new EFAST2 electronic filing system.

Under the new e-signature option, service providers who manage the filing process for plans can get their own signing credentials and submit the plan's electronic Form 5500 or 5500-SF. The service provider must confirm that it has specific written authorization from the plan administrator to submit the plan's electronic filing. In addition, the administrator must manually sign a paper copy of the completed filing and the service provider must attach a PDF copy of the manually signed Form 5500 or 5500-SF as an attachment to the electronic filing submitted to EFAST2.

The service provider must communicate to the plan administrator any inquiries received from EFAST2, DOL/EBSA, the IRS or the PBGC regarding the filing, and inform the plan administrator that, by electing to use this option, the image of the plan administrator's manual signature will be included with the rest of the annual return/report posted by DOL/EBSA on the Internet for public disclosure.

The additional e-signature option is available in the government-sponsored IFILE application. Filers using EFAST2 approved software to complete and file the Form 5500 or 5500-SF should contact their software vendors for information regarding the availability of this new e-signature option as part of their software.

The [EFAST2 frequently asked questions](#) have been updated (see Q&A 33a), and a [new fact sheet](#) and set of [frequently asked questions](#) were developed to help small businesses understand this new option. Assistance with the EFAST2 system and the Forms 5500 and 5500-SF is also available toll-free at 866-463-3278.

In addition, the archive of DOL/EBSA's June 3 webcast on "[Getting Started with EFAST2 and Preparing Your 2009 Form 5500](#)" is available.

## **Online Index for Individual Prohibited Transaction Exemptions**

On August 2, DOL/EBSA launched a [new online index](#) for locating individual exemptions granted under ERISA. The new online index lets people search by subject matter for individual exemptions granted from 1996 through 2010.

## **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.

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## **Desk Side Chat...With Monika Templeman- 401(k) Questionnaire-Why It's Important to Every 401(k) Plan Sponsor**

*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](mailto:RetirementPlanComments@irs.gov).*

### **The last issue of this [newsletter](#) announced the release of the [401\(k\) Compliance Check Questionnaire](#) Project. Why is the IRS doing this project?**

401(k) plans, the fastest growing retirement plan market segment, have a huge impact on the health of the private retirement system in America. These plans have far surpassed defined benefit plans as the preferred retirement vehicle for a significant majority of employers. Plan sponsors avoid a potential funding burden with 401(k) plans since a major portion of the plan is funded through employee contributions. In an EP baseline study of 79 market segments, we found that 401(k) plans have many compliance issues. When we learn the compliance errors found in 401(k) plans and the reasons why they occur, we are able to better direct our outreach efforts and product development.

### **Would you change the 401(k) plan web products that you have?**

We currently have a [401\(k\) Checklist](#) and the [401\(k\) Fix-It Guide – Common Problems, Real Solutions](#). Another reason for this project is to determine how these tools are working. Based on the results of the Questionnaire, we will enhance our current tools and possibly develop new ones to help plan sponsors use good internal controls in effectively maintaining their plans.

### **Do you have any tips for the 1,200 sponsors who received the request to complete the Questionnaire?**

I would recommend that they visit the [EPCU page](#) and print a copy of the [Questionnaire](#) and the [glossary](#) of terms. I would also suggest reading the [FAQs](#). Then, complete the Questionnaire online as instructed within the 90-day period. The Questionnaire recipients can use it to discover and voluntarily correct errors in their plans. Because this compliance check is not an audit, they can use the Self-Correction and Voluntary Correction Programs to correct plan mistakes.

### **Are you receiving completed Questionnaires?**

To date, we've received nearly 500 completed Questionnaires. This rate of return is as expected.

### **Can the employer request an extension of time to complete the Questionnaire?**

Yes. Just contact the person on your letter and provide a valid reason for the extension of time.

### **What tips do you have for plan sponsors who did not receive the Questionnaire?**

I highly recommend that all plan sponsors print and complete the [Questionnaire](#) and use it as a self-audit tool.

**Large employers have internal resources to perform this and other self-audits. Do you have any suggestions for small business owners who may not have these resources?**

I appreciate the struggles that many small business owners face and applaud the ones who chose to establish retirement benefits for their employees. It's important to maintain these plans so the benefits will be there at retirement. Small business owners should invest the time and money to ensure their plans are running properly. An employer who is not comfortable relying on the tools I mentioned earlier has the option of hiring a benefits professional. It's important to find plan mistakes early because the impact of non-compliance left unchecked can be very costly.

**Many small business owners assume that the financial institution that sold them their plan will also maintain the plan. Is this true?**

Generally, that is an incorrect assumption. It is best for the employer to perform a self-audit, or hire someone to perform it.

**Will you share the results of the project with the retirement plans community?**

We plan to post our findings on the EPCU Web page by September 30, 2011. The Questionnaire results will help us identify areas needing additional education, outreach, guidance and compliance activities.

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## **Employee Plans Recent Published Guidance**

### **Regulations**

**[T.D. 9484, 75 Fed. Reg. 27927 \(May 19, 2010\)](#)**

Final regulations on Code §401(a)(35) investment diversification requirements for most defined contribution plans with publicly traded employer securities.

### **Notices**

**[Notice 2010-55, 2010-33 I.R.B. 253](#)**

Guidance on the newly added Code §430(c)(2)(D) special funding rules for single-employer defined benefit plans for a plan year for which the Form 5500 (and Schedule SB) has been filed and a description of anticipated future guidance for plan sponsors on the election to use these rules.

**[Notice 2010-56, 2010-33 I.R.B. 254](#)**

Guidance on the newly added Code §431(b)(8) special funding rules for multiemployer defined benefit plans for a plan year for which the Form 5500 (and Schedule MB) has been filed and a description of anticipated future guidance for plan sponsors on these rules.

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## Mark Your Calendar

Here are some important dates for operating your retirement plan in the upcoming months. Please note that the filing dates are for calendar-year end plans and taxpayers. Noncalendar-year end plans must adjust their dates.

**August 24 - 26:** [IRS Nationwide Tax Forum](#) – Las Vegas, NV.

**August 31 - September 2:** [IRS Nationwide Tax Forum](#) – San Diego, CA.

**September 15:** Deadline for making final minimum required contribution for 2009 for money purchase and defined benefit plans.

**September 15:** Last day to elect (or change a standing election) for single-employer defined benefit plans to:

- use funding balances to offset the minimum required contribution for the 2009 plan year,
- credit excess contributions for the 2009 plan year to the plan's prefunding balance, and
- revoke a previous election to use a funding balance to offset the minimum required contribution for the 2009 plan year, to the extent the election exceeded the full minimum required contribution for the year (only for plans with valuation dates that are not the first day of the plan year).

**September 15:** Last day to set up a SEP plan for 2009 if you file a Form 1120 business tax return and have an extension of your March 15, 2010 due date.

**September 30:** Last day for sponsors of single-employer defined benefit plans to obtain AFTAP certification from the plan's enrolled actuary to avoid triggering benefit restrictions under Code §436 through (at least) the end of 2010.

**October 1:** Sponsors of single employer defined benefit plans that have not received a certified AFTAP from the plan's enrolled actuary should review benefit restrictions under Code §436 to determine whether additional restrictions apply or if other action is required.

**October 15:** File 2009 (if you filed for a 2-1/2 month extension prior to August 1):

- [Form 5500](#), *Annual Return/Report of Employee Benefit Plan*,
- [Form 5500-SF](#), *Short Form Annual Return/Report of Small Benefit Plan*, or
- [Form 5500-EZ](#), *Annual Return of One-Participant (Owners and Their Spouses)* .

**October 15:** Last day for sponsors of single-employer defined benefit plans to reinstate a standing election made earlier to use funding balances to offset minimum required contributions and/or to add excess contributions to the prefunding balance if the enrolled actuary signing the 2009 Schedule SB is not the same as the actuary named in the earlier election.

**October 15:** Deadline for making third quarter contributions for 2010 to calendar-year defined benefit plans.

**October 15:** Last day to set up a SEP plan for 2009 if you file a Schedule C with your Form 1040 tax return and have an extension of the April 15, 2010 due date.

**November 2:** Last day for employers with SIMPLE IRA or SIMPLE 401(k) plans to notify eligible employees of their 2011 salary reduction rights and whether their required contributions will be matching or nonelective contributions.

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

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## Timing Is Everything - Plan Disclosure Documents: Understanding Your Employer's Retirement Plan

Your first step to saving for retirement is to understand how your employer's retirement plan works. Most employer-sponsored retirement plans that receive favorable tax treatment must operate under a written document. Your employer must follow all plan provisions or risk losing the plan's tax benefits. For most plans, your employer must give you plan disclosure documents explaining eligibility, contributions, vesting and other plan provisions. Some plans (for example, 401(k) plans) are required to provide you a [Summary Plan Description \(SPD\)](#) within 90 days of becoming a plan participant. The SPD is a plain language summary of important features in your retirement plan. There are similar notice and disclosure requirements for SEP and SIMPLE IRA plans. Here is a brief overview of the basic concepts the plan's disclosure documents must cover.

### Eligibility to Participate

You are eligible to participate in your employer's retirement plan when you have met the plan's required conditions. The law permits each plan type to have different participation requirements. Some allow you to participate immediately, while others may require that you work for a specific amount of time. Review the general eligibility requirements for the following common types of retirement plans:

- [SEP](#)
- [SIMPLE IRA plan](#)
- [Qualified plan](#) (for example, 401(k), profit-sharing, defined benefit)
- [403\(b\) plan](#)

For specific eligibility requirements of your plan, ask your employer or check your plan's disclosure documents.

### Contributions

All retirement plans allow [contributions](#) up to certain annual limits. The type of retirement plan you have determines who can contribute to it and the maximum amounts that can be contributed. Some plans allow only employer contributions, others allow only employee contributions and some may allow both. Your plan's disclosure documents will state who can contribute to your plan.

### Vesting

[Vesting](#) means ownership. You are always 100% vested in any contributions that you make to your retirement plan, even if you leave your employer. However, depending on your type of retirement plan, vesting of employer contributions may be immediate or may take up to seven years. Your plan's disclosure documents will contain the specific vesting schedule.

## **Distributions**

Normally you can only take money out of your retirement plan when you retire or leave your job, except in the case of IRA-based plans (SEPs and SIMPLE IRA plans). However, depending on the type of plan you have, it may allow distributions for specific events such as hardship or disability. The plan's disclosure documents will explain if and under what conditions these "in-service" distributions" are allowed.

Visit the [Plan Participant/Employee Web pages](#) to find more retirement plan information.