



DRS Update

RETIREMENT SOLUTIONS FOR THE DIGITAL AGE

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YOUR COMPANY'S RETIREMENT PLAN — TIME FOR A CHECK-UP?

INSIDE THIS ISSUE:

- 1 Your Company's Retirement Plan — Time for a Check-up?
- 2 Build 401(K) Plan Participation By Adding Profit Sharing
- 2 Automatic Contribution Escalation
- 3 Paying Expenses Out of Plan Assets
- 3 Sell Your Employer Match
- 4 Dates & Deadlines
- 4 IRS Limits for 2009, 2010 and 2011 Tax Years
- 4 Contact Us

This newsletter and all supplements are meant to provide general information only. It should not be used as a supplement for legal advice or opinion in any specific case.

No question, keeping a retirement plan in compliance with tax and pension law requirements can be challenging for employers. Since mistakes in plan administration are not unusual — and can be costly if uncovered in a government audit — it's smart for employers to review their plan's operations regularly.

Common errors include:

Not covering the proper employees. Make sure that employees are given the opportunity to participate in the plan as soon as they become eligible under the plan's terms.

Not giving employees required information. All plan participants should receive a summary plan description, summary annual report, and, when changes are made, a summary of material modifications. (Deadlines apply.) Participants are entitled to examine copies of plan documents at the employer's principal office, and plans should respond to their written requests for documents and information within 30 days.

Not making timely deposits. Generally, employers must deposit participant contributions and loan repayments in the plan as soon as the amounts can reasonably be segregated from the employer's general assets.

"Small" plans with fewer than 100 participants can be assured of meeting this rule if contributions are deposited within seven business days of receipt or withholding.

Not limiting contributions to the proper maximum limits. Employee deferrals and employer contributions shouldn't exceed applicable tax law limits. It's also important to apply the appropriate plan definition of compensation when allocating contributions to participant accounts.

Not following the terms of the plan document. The document serves as a roadmap for proper plan administration and should be updated as necessary when there are changes in the law.

Correction Programs. The IRS has an Employee Plans Compliance Resolution System (EPCRS) that employers can use to fix many common operational errors. The Self-Correction Program (SCP) does not require employers to notify the IRS or pay a fee. Errors that cannot be resolved using the SCP often can be corrected (for a fee) under the Voluntary Correction Program. Additionally, the U.S. Department of Labor has a Voluntary Fiduciary Correction Program for certain fiduciary violations.

BUILD 401(K) PLAN PARTICIPATION BY ADDING PROFIT SHARING

Many a company has started a 401(k) salary deferral plan for non-tax as well as tax benefits. The most common non-tax benefits are to retain and attract qualified employees and to motivate present employees to improve their performance. But offering a plan with attractive features, such as matching contributions, investment options, and loan provisions, may not be enough to achieve the anticipated benefits. A low participation rate is a frequent 401(k) plan problem.

A Profit-sharing Feature Can Enhance the Attraction of Your Retirement Plan

According to the results of recent studies, the effect of profit sharing can be very positive on a company's competitiveness, profitability, and workers. Employer profit-sharing contributions to an existing 401(k) plan provide employees with a personal stake in the company's welfare. By making such contributions an employer can:

- Boost efficiency, because employees feel personally responsible for profits
- Avoid the losses and waste that discontent and carelessness can cause
- Help cut employee turnover through rewarding continued service
- Improve employees' job satisfaction
- Add more financial security for employees' retirement
- Emphasize management efficiency and encourage personal quality control
- Increase corporate profitability

Profit-sharing Essentials

A profit-sharing plan is a type of tax-qualified retirement plan that an employer establishes in order to allow employees to participate in company profits. The employer generally makes contributions to the participating employees' plan accounts from company profits using the method that the plan documents specify. The plan's trustee holds and invests any employer contributions until plan distributions are made.

A primary employer benefit of a profit-sharing plan is its flexibility. No contributions are required if there are no profits in a particular year. The plan may also be structured so that even when there are profits, the annual contribution depends on the employer's assessment of its ability to make the contribution. Moreover, a profit-sharing plan can permit higher plan contributions than just a 401(k) plan. The 2011 maximum total per-employee is \$16,500 for a 401(k), plus a catch-up

contribution of \$5,500 if the employee is age 50 or older. But the total "annual additions" maximum, including profit sharing, is \$49,000 per employee account or 100% of annual compensation, whichever is less, in 2011. The employer's maximum deduction for profit-sharing contributions is 25% of the compensation paid for the year to participating employees.

Relatively Simple To Add

Making the changes necessary to add profit-sharing contributions to an existing 401(k) plan isn't difficult. The major difference is that a combined plan would include all eligible employees, even those who don't participate in your present plan. It is possible that as a result of their participation in profit sharing, more of your employees will be aware of retirement planning and choose to make voluntary 401(k) contributions as well.

For more information on profit sharing, 401(k), or combined retirement plans, please contact us.

AUTOMATIC CONTRIBUTION ESCALATION

SITUATION: We think adding an automatic contribution escalation feature to our 401(k) plan might help our employees save more for retirement.

QUESTIONS: How popular is this plan feature with other plan sponsors? Is there any data on plans using it?

ANSWER: According to a recent study of employer views on automatic plan features conducted by AARP,* just over a quarter (28%) of 401(k) plans have an automatic contribution escalation feature.

DISCUSSION: With automatic contribution escalation, a plan participant's deferral rate is gradually increased over time with no effort on the part of the employee. Employers must implement the increases according to a specified schedule. They also must notify employees of the amount of the deferral increases and when increases will occur. Employees have to be given the opportunity to opt out of increases.

Not surprisingly, a significantly greater percentage of employers in the study that automatically enroll employees in their plans had automatic contribution escalation (46% versus 14% of those that don't have automatic enrollment). Offering employer matching contributions also increased the likelihood of a plan having automatic contribution escalation. Thirty percent of plans with matching contributions offered the feature. Only 22% of plans with no employer match did.

For both employers that have automatic enrollment and those that don't, the top reasons they don't offer automatic contribution escalation are:

- Employees wouldn't like it.
- Employees would find it confusing
- The company is concerned about the cost of employer matching contributions.

Other reasons cited by respondents were concerns about administering the feature and the need for more information.

If you would like more information about automatic contribution escalation or automatic enrollment, please talk with us. We would be happy to go over the pros and cons of each and help you determine if adding automatic features to your plan would be right for you and your employees.

* *Automatic 401(k) Plans — Employer Views on Enrolling New and Existing Employees, AARP, June 2010*

PAYING EXPENSES OUT OF PLAN ASSETS

With the continued economic uncertainty, many companies are looking at ways to cut the costs of providing retirement benefits as a means of lowering overall business expenses. Some employers have reduced or suspended matching contributions. Some are charging more of the expense of maintaining a plan to the plan itself. Take care if you're thinking about combining these two cost-saving measures.

Not all plan-related expenses can be charged to the plan. It's important for all employers to know what can and cannot be paid by the plan. Otherwise, you run the risk that the payment could be deemed a prohibited transaction. Subject to certain exceptions, plan fiduciaries, including plan sponsors, may use plan assets only to provide benefits to plan participants and beneficiaries and to pay reasonable expenses of administering the plan.

Business or "Settlor" Expenses

Employers sometimes confuse plan-related business expenses — which aren't payable from plan assets — with plan administration expenses. The U.S. Department of Labor (DOL) has long held that costs incurred to design, establish, and terminate plans — so-called "settlor functions" — are not reasonable expenses of administering a plan. These expenses are incurred for the benefit of the employer and involve services the employer can reasonably be expected to pay in the normal course of its business operations.

Plan Amendments

While the costs of designing a plan can't be charged to the plan, fees related to maintaining the plan's tax-qualified status, including drafting amendments required by tax law changes, generally can be paid out of plan assets — with some exceptions. For example, if maintaining tax-qualified status involves the employer having to analyze and choose from several options for amending its plan, the expenses incurred in that analysis would be settlor expenses that cannot be paid out of plan assets.

What does this mean for employers that have amended or are considering amending their plan documents to reduce or suspend matching contributions? Because such an amendment benefits the employer and not the plan participants, these em-

ployers would be well advised to pay the costs of the amendment (and any other amendment that reduces employees' benefits) themselves and not out of plan assets.

Allowable Administration Expenses

So what expenses can the plan pay? Generally, plan assets can be used to pay these and similar administration expenses incurred in operating the plan:

- Fees paid to maintain a plan's tax-qualified status
- Trustee fees
- Annual accounting of trust assets
- Recordkeeping expenses
- Costs of valuing assets
- Certain investment management fees and expenses
- Employee communication expenses for participant disclosure statements
- Costs of computing participant benefits
- Fees for participant enrollment/election changes
- Fees for participant investment changes/elections
- Expenses for participant loan administration
- Costs of administering qualified domestic relations orders
- Certain legal fees

Ask Before Acting

If ever you are unsure about whether or not an expense can be paid out of the plan's assets, ask. DRS is happy to review your specific situation and make sure that what you are planning to pay out of the plan is allowable.

SELL YOUR EMPLOYER MATCH

Most 401(k) plan sponsors offer their employees some type of matching contributions. The most common match, according to the Profit Sharing/401(k) Council of America, is 50 cents for every dollar an employee contributes to the plan, up to 6% of compensation. The reason for offering this benefit is simple. The availability of matching contributions encourages employees to participate in their employer's plan and, in many cases, to contribute more to the plan — both of which can help at annual nondiscrimination testing time.

But many employees, particularly lower paid employees, fail to take full advantage of this important benefit. By some estimates, as many as two thirds of the lowest paid employees may not be contributing enough to receive the full company match. What can you do to get all of your employees on board?

Show Them the Money

To start, look at your enrollment and educational materials to see how matching contributions are explained. Many employers find that a "free" money approach, pointing out that the employer is giving employees extra money for retirement, is effective. Also helpful are illustrations showing the difference matching contributions can potentially make in their plan account balance at retirement.

Target Education

Also consider reviewing your plan data to determine which participants are not taking full advantage of your matching contributions. You might want to target these employees with payroll stuffers or e-mail communications pointing out the benefits of matching contributions. Or, if employees who are not taking advantage of your match seem to be concentrated in certain departments, you may want to post matching contribution posters in those areas. Another idea is to briefly talk about your 401(k) plan and your match program at the performance/pay reviews of select — or perhaps all — employees.

DATES AND DEADLINES:

October 17, 2011

Final Filing Deadline for 2010 5500 Tax Return if extension was filed prior to July 31, 2011*

November 24, 2011

DRS Closed for Thanksgiving Holiday

November 30, 2011

Deadline to Distribute Safe-Harbor Notice to Participants for Plans Seeking Safe Harbor Protection starting January 1, 2012*.

December 26, 2011

DRS Closed for Christmas Holiday

January 2, 2012

DRS Closed for New Year's Holiday

January 21, 2012

DRS Closed for Martin Luther King Jr. Holiday

January 31, 2012

Mailing Deadline for participant copy of 2011 1099-R's

January 31, 2012

DRS Year-End Information Packet and Census Data Due*

February 20, 2012

DRS Closed for President's Day Holiday

February 29, 2012

Filing Deadline for 2011 1099-R's and 1096

March 15, 2012

Deadline to Correct Excess Deferral and Match for 2011 Plan Year without IRS Penalties*

April 6, 2012

DRS Closed for Good Friday Holiday

May 28, 2012

DRS Closed for Memorial Day Holiday

July 4, 2012

DRS Closed for Independence Day Holiday

July 31, 2012

Initial IRS 2011 5500 Tax Return Filing Deadline or Deadline for filing Extension (5558) *

September 3, 2012

DRS Closed for Labor Day Holiday

*assumes 12/31 Plan Year End

IRS LIMITS FOR 2009, 2010 AND 2011 TAX YEARS

The Internal Revenue Service has announced Pension Plan Limitations for 2011. Listed below are the limits for 2011, as well as, the limits for 2009 and 2010. All limits remain unchanged for 2011.

Annual Limits:	2009	2010	2011
Annual Compensation Limit [401(a)(17)/404(l)] :	\$245,000	\$245,000	\$245,000
Annual Deferral Limit [402(g)(1)] :	\$16,500	\$16,500	\$16,500
Annual Contribution Limit [415(c)(1)(A)] :	\$49,000	\$49,000	\$49,000
HCE Threshold [414(q)(1)(B)] :	\$111,000	\$110,000	\$110,000
Catch-Up Contributions [414(v)(2)(B)(i)] :	\$5,500	\$5,500	\$5,500

Annual Compensation Limit - Compensation which is used to calculate benefits and contributions under a qualified retirement plan. **\$245,000**

Annual Defined Contribution Limit - Generally includes employer contributions, employee contributions, and forfeitures allocated to a participant's account under a defined contribution plan. **\$49,000**

Highly Compensated Threshold - An individual is considered highly compensated for IRS non-discrimination testing if the employee owns at least 5% of the company or if in the prior year the employee's compensation was more than the HCE threshold. For example, to be considered an HCE in 2010, a participant will have had to make more than \$110,000.00 in 2009.

Income Subject to Social Security - The maximum amount of earnings subject to social security taxes. **\$106,800**

Please update this information with your payroll department. If you have any questions regarding these limits or how they affect your plan, please feel free to contact our Helpdesk at 303-485-9000 or helpdesk@drs401k.com for assistance.

Don't Forget

DRS has an integrated payroll solution to help take some of the burden off your hands. Simplify transfer of payroll information and eliminate year end reporting requirements by letting Peak Payroll Solutions take over your payroll processing. To learn more about how we can help, please contact helpdesk@drs401k.com or call us at 888-377-4015. We'd be happy to answer any questions or provide you with a free, no hassle, quote for services.

And, for a limited time, DRS customers can get up to a 50% discount off of Peak Payroll Solutions' fees - guaranteed for two years.

CONTACT INFO

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To submit your payroll files:
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yearend@drs401k.com

For audit support, tax forms, and testing inquiries:
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For questions about payroll services:
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