



**How Are You Doing?**

**Did you know?**

**We have recently started our "green" movement—recycling our paper, cardboard and cans. We've also started to provide our plan documents and participant statements electronically.**

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The current economic and financial markets crisis has touched everyone. Sadly, we've seen our clients reduce matching contributions, terminate their plans and even be forced to go out of business. Unfortunately, we can't solve the crisis, but we might be able to help you weather the storm.

Are you thinking about reducing your employer contributions? It seems that every week there is another story about how a national company has cut back on their employer contributions. However, a recent article by Plan Sponsor magazine indicated that 74% of firms participating in the survey had not changed their 401(k) match in reaction to the recent economic crisis. Whatever you decide, make sure to contact us first. Your plan document may have language that requires the match and will need to be amended so that you are not in violation of the terms of the plan document. And remember, having a match does

keep deferral participation rates higher. We'll need to consider the effect of the match on your deferral testing. We'll also need to notify the participants.

Do you have a plan with a "safe harbor" contribu-

tion? If so, you'll absolutely need a plan amendment to suspend contributions to the plan. Safe harbor contributions are guaranteed to the participants and a 30 day notice must be provided before the contribution can be stopped. In fact, up until last month, a plan with a safe harbor 3% contribution (often called a QNEC) could not discontinue their safe harbor contribution without plan termination. Luckily, new

guidance from the IRS will permit an employer suffering a "substantial business hardship" to suspend the 3% safe harbor contribution during the plan year provided the employer timely amend the plan and notify the affected participants.

Want to take a "wait and see" approach? It might be possible to stop contributions now and tell participants that you'll assess the situation at the end of your corporate tax year. This provides you with the maximum flexibility and allows you to measure your financial situation at tax time to see if a

contribution makes sense. Whatever you decide, please contact us to discuss your options. We are aware of your needs to save money and will work with you to find the best solution. If we are preparing your EGTRRA document, this is also a great time to discuss what the future looks like for your plan. We can help you to choose the best course of action for your future.



## 2009 Required Minimum Distributions

On December 23, 2008, the President signed the Worker, Retiree and Employer Recovery Act of 2008 (WRERA) into law. As you may know, WRERA waived the requirement that your Plan issue minimum distributions (RMDs) for the 2009 calendar year. This means that any participant over age 70 ½ who would normally be required to take a minimum distribution does not have to take that distribution this year. There will be no tax or penalty assessed if the distribution for the 2009 calendar year is not taken. The law was passed in order to protect participants from being required to withdraw money from any of their retirement plans during this downturn in the markets. This is good news for participants who are normally forced to withdraw part of their retirement savings each year.

We sent a mailing to any plan where we processed a Required Minimum Distribution in 2008. The mailing included an election form for any participant who would like to take their RMD this year. If we do not receive the election forms back in our office prior to December 1, 2009 then no distribution will be processed. If you would like us to send a copy of the form for your plan, please let us know.

If a participant elects to withdraw their RMD for 2009, the distribution may be eligible to be rolled over to another plan or IRA. The participant should check with their tax or financial advisor for information regarding the tax consequences of receiving the RMD in 2009.

For now, we are not aware of any plans to extend this beneficial tax treatment into 2010. As far as we know, RMDs will once again be required next year.



## Looking to save time and money?



- You know we need census information in order to properly complete the testing for your plan. We understand that it can be a painful process. So, we will be looking for ways to brainstorm with you about how to better collect your census data.
- We currently charge data entry fees for information that is submitted to us in a paper format. Please let us work with you to eliminate these charges. We can provide you with an Excel spreadsheet to enter your information or even allow you to upload the information to our website.
- One of our best practices is that we provide mid-year compliance testing if we are provided with census data on every payroll processed. This will also allow us to update your vesting on every participant statement and provide distribution paperwork in a timely manner.
- Please work with your administrator to provide us with comprehensive payroll information (and YTD information) with every payroll. It can usually be automated, making life easier for you!

## Enrollment Services

Tired of having to communicate your plan to new participants? We have the solution! Sign up for our enrollment services and we will send a package to your new participants that includes:

- All necessary enrollment forms
- A booklet covering information about retirement plans and investing
- Summary Plan Description and other required information

Interested? Call your administrator for more information!!!



## PLAN DOCUMENT CORNER

We've been talking about the coming EGTRRA (the Economic Growth and Tax Relief Reconciliation Act of 2001) document restatements for a couple of years now and we have now gotten our approved document and are ready to go!

As we've discussed in prior newsletters, the law now requires that most plans be restated every five to six years. Most plan documents will need to be completed prior to April 2010. Since our busiest time of year is January through March, we hope to have all of our documents completed prior to December 31, 2009.

We are providing all plan documents on a memory stick (that fits into a USB port) and are optionally providing the plan document on paper in a three ring binder for an extra charge. We are providing all of the required signature pages on paper to

make it easier for you to process. We are also providing you a paper copy of any forms you need to process.

Every plan needs to be restated for EGTRRA. Even terminating your plan will not take away this requirement. The law states that when a plan terminates, it must be updated with the most current law. So, unfortunately, there is no way to avoid this restatement.

If you fail to meet the deadline for amending or restating your plan, the IRS can disqualify the plan and remove all of the tax benefits associated with the plan. This means that all of the contributions made to the plan would cease to be deductible to the company and the participants. The participants in the plan would have to include them in income immediately. If you do miss the deadline, you may be able to apply to an IRS correction program and the sanction can vary depending on the circumstances. Obvi-

ously, it's better to adopt your plan in a timely manner.

This is a great time to consider whether your plan currently meets all of your goals and the goals of your employees. In order to be efficient and reduce costs, now is a great time to make changes to your plan. Expect a call from your plan administrator to review your plan choices and make suggestions for a more successful plan!

Another point to consider is that each participant will need to be supplied with a Summary Plan Description (SPD) for the new plan document. We'd be happy to help you to distribute the new SPD—just let us know!

Qualified plans are one of the best ways to provide retirement security to you and your employees. While restating your plan can be an inconvenience, we are here to guide you every step of the way!

**EGTRRA  
Restatements  
are finally  
here!**

## Electronic Form 5500 Filing (EFAST2)

Beginning with the 2009 plan year, the Department of Labor (DOL) will require retirement and welfare plans to file their annual reports (Form 5500) electronically. Although these are forms for the 2009 plan year, they will not be filed until 2010. Along with the change in the electronic filing, the forms themselves will change to modify and eliminate certain schedules.

Plan sponsors will have two choices on how to transmit their data: 1) Transmit the Form 5500 filing to the Department of Labor (DOL) using a third party software system via the internet; or, 2) enter the data into a web-based system. Once the data is entered, the employer will also need to enter the Signer ID and PIN code which must be applied for earlier. The DOL will instantly indicate if the filing is accepted or if it has errors.

There are many hoops to jump through to make electronic filing a reality. We will keep you informed of each action you need to take. Please feel free to call us with any questions! (Note: Form 5500-EZ filers do not need to file electronically.)



**5500 Forms will  
be required to  
file electronically  
in 2010.**

Quarter 2, 2009



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## Top Ten Things to do in 2009

Employee Benefit News recently published an article listing the 10 things retirement plan sponsors should do for 2009:

- 1) Determine how much participants are paying in investment and plan administration fees (we've provided that information in our new participant statements and disclosures)
- 2) Confirm that all investments funds in the lineup are appropriate (see your investment advisor)
- 3) Review the effectiveness of employer contributions (we can help!)
- 4) Determine if target maturity funds are appropriate for your plan population (if included in your plan— see your investment advisor)
- 5) Ascertain how effective your communication strategy is with plan participants (we can help!)
- 6) Confirm that you are ready to comply with DOL disclosure regulations once they are finalized (we've got you covered!)
- 7) Review and revise your plan's investment policy statement (see your investment advisor)
- 8) Review administrative procedures to ensure legal compliance (we always work to keep you in compliance with the law)
- 9) Consider plan options to provide participants with an opportunity to manage their retirement income (see your investment advisor)
- 10) Restate your plan document for the EGTRRA provision (if you've authorized us to complete your document— then we are working on it right now!)

We're dedicated to making your plan the best it can be! Please feel free to call us to address any of these issues.