Retirement News for Employers

Information for Sponsors of Retirement Plans

Internal Revenue Service — Tax Exempt and Government Entities

Volume 5, Summer 2008

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Also in this Issue

New Resource Helps Keep Your SEP Plan Compliant

Following the lead of our popular "401(k) Fix-It Guide," Employee Plans has created one for Simplified Employee Pension (SEP) plans. The ***SEP Fix-It Guide*** is an online resource for SEP plan sponsors and their tax advisors to help find, fix, and avoid common plan mistakes in SEP plans. The Guide provides tips and trends for five frequent mistakes that the IRS sees in the operation of SEP plans, including:

- plan document updates,
- employee eligibility,
- related businesses and coverage requirements,
- definition of compensation for determining SEP contributions, and
- excess contributions.

By selecting "More," the user is directed to additional information describing the law, guidance, and correction methods for each plan mistake. It also directs plan sponsors and practitioners to IRS correction programs to correct the mistake, if needed. Employers should consider this list of potential mistakes as they review their SEP plans' operation.

We will continue to update the "Fix-It Guide" with the latest SEP error trends – so, check back periodically for new information.

SEP Plan Fix-It Guide

Trends	Tips			
Potential Mistake	How to Find the Mistake	How to Fix the Mistake		How to Avoid the Mistake
		Corrective Action	Correction Program(s) Available	
1) Has your SEP been amended for current law? (More)	Determine if your Form 5305-SEP is the current revision (December 2004). (More)	EPCRS Adopt revised Form 5305-SEP. (More)	VCP Audit CAP (More)	Maintain regular contact with the company that sold you the plan. (More)
2) Are all eligible employees participating in the SEP? (More)	Review the section of your plan document concerning eligibility and participation. Check when employees are entering the plan. (More)	EPCRS Apply reasonable correction method that would place affected employees in the position they would have been in if there were no operational plan mistakes. (More)	SCP* VCP Audit CAP (More)	You should review the participation status of all employees at least once a year. (More)
3) Is the business that the SEP covers the only business that you own? (More)	You should identify any companies that you own or with which you have a financial relationship. (More)	EPCRS Corrective contribution. (More)	SCP* VCP Audit CAP (More)	Determine if you own any other businesses. (More)

See the **SEP Fix-It Guide** and the **401(k) Fix-It Guide** in their entirety by selecting the "Plan Sponsor/Employer" tab at the top of the **Retirement Plans Community** web page. *Coming soon...SIMPLE IRA Plan Fix-It Guide.*

Form 5307 Has Been Revised

The updated **Form 5307** (revised March 2008), *Application for Determination for Adopters of Master or Prototype or Volume Submitter Plans*, is now available and must be used beginning October 1, 2008. The revised form allows it to be optically scanned, thereby improving the Service's processing of determination letter applications. The Service will still accept applications filed with the prior Form 5307 (revised September 2001) through September 30, 2008.

The newly-revised Form 5307 is available online in a fillable format. Plan sponsors are encouraged to complete the form by downloading (along with Schedules 8717 and 8905), printing, and then submitting it to the IRS. The bar code at the bottom of the return will be optically scanned into our computer system. It is important that customers send in their printed copy of the return and not a photocopy. **Photocopies of the bar code will not scan properly.**

A limited number of paper copies of Form 5307 and Schedules 8717 and 8905, imprinted with bar codes for optical scanning, may be obtained by calling (800) TAX-FORM (829-3676) or via the Internet link **Forms and Publications by U.S. Mail**.

Practitioners may create their own version of the IRS bar-coded Form 5307 and Schedules 8717 and 8905, but must follow the procedures in *General Rules and Specifications for Substitute Forms and Schedules*, **Publication 1167**. Substitute versions of Form 5307 MUST mirror (exactly) the IRS Form 5307.

Desk Side Chat With Monika Templeman

Responsibilities to Employees

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**.

Many employers are establishing plans for their employees, but are not certain of the requirements or obligations they have to employees once they set up a plan. Can we discuss a few of them today?

I would be happy to discuss the responsibilities an employer who sponsors a plan has to his or her employees. As a matter of fact, protecting plan participants and helping plan sponsors to understand and comply with the law are key priorities in EP. First, I would like to emphasize that it is imperative that employers ensure the retirement plan their employees count on is in good running order. This way, they can keep the promise they made in setting up the plan as a qualified retirement vehicle. To stay qualified, the provisions in the plan document must satisfy the requirements of the Internal Revenue Code and those provisions must be followed. All eligible employees need to be covered by the plan and the plan assets must be managed with the best interests of the plan participants in mind.

By adopting a plan for employees, an employer is making a commitment to the workforce by providing them an opportunity to save for their retirement. An employer's responsibility does not end once the plan is set up. In addition to being responsible for keeping the plan qualified, a plan sponsor must ensure the plan participants have the information they need to make good choices.

Is there an overall responsibility?

Yes. Keeping the plan in compliance in form and in operation would be the overall responsibility. If the plan is not in compliance, then the other items I am about to discuss will not be relevant and the employees' retirement benefits could be lost. Many of the items that I have previously discussed in these **chats** assist plan sponsors in keeping their plans compliant.

Let's suppose we have a plan sponsor who is doing everything to keep the plan in compliance. What should a participant be receiving from the plan sponsor?

The first item the plan sponsor must provide is a **Summary Plan Description**, often referenced by its acronym, SPD. This is a synopsis of the plan document and other important plan information in an easier-to-understand format than the plan document.

What kind of information?

When employees begin to participate in the plan, the type of contributions that can be made to the plan, the vesting (ownership) schedule of the contributions an employee receives, and the timing of retirement benefits are some of the provisions in the SPD.

What if a participant wanted to see the plan document?

The employer is required to provide the plan upon a written request from the participant. The employer may charge the participant the cost of copying the plan document.

You mentioned earlier that the plan sponsor must keep the plan compliant in form. Should a participant receive updates when there are changes made to the plan?

Yes, the plan administrator must provide the updated information via an updated SPD or through a **Summary of Material Modifications** document.

Are there any other mandatory items the plan sponsor must provide?

Each participant should receive a yearly summary regarding the financial information of the plan, which is referred to as a **Summary Annual Report**, or SAR.

For 401(k) plans, participants must be informed in advance when a blackout period of three days or longer occurs. Blackout periods sometimes occur when investment options or recordkeepers are changing. This would affect the participant's ability to direct investments or to apply for loans, for example. Therefore, a **blackout period notice** must be given stating that there will be a temporary shutdown so the participants can plan ahead.

You have not mentioned anything specific to the participants' individual accounts. In other words, how do they know how much money they have saved for retirement?

With regard to individual account plans that permit participants to direct the investment of assets in their account, the plan sponsor must give a **benefit statement** at least once each calendar quarter. Plans that do not permit participants to direct their investments must provide a statement at least once each calendar year at no cost to the participant.

Employers have many responsibilities to the employees. Do you have any tips on resources to assist plan sponsors?

Yes, we have a wealth of information available to help plan sponsors and plan participants on our EP web site at **www.irs.gov/ep**. If hands-on assistance is needed, there are many capable practitioners available to assist plan sponsors. While sponsoring a plan does come with many responsibilities, its benefits are worth it in the long run. The reasons for establishing and maintaining a retirement plan include significant tax advantages, increased employee morale and retention, and protecting the retirement future for yourself and your 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.

One of our retired 401(k) plan participants turned 70½ in 2008 and must begin taking his required minimum distributions (RMDs) by April 1, 2009. During 2008 he requested that his entire plan account balance be sent to his IRA by direct rollover and assured us that he will take his RMD by April, 1, 2009. As plan administrator, can we send his entire account balance to the IRA?

No. Assuming the retired plan participant has not already taken his RMD for the first required distribution year (2008 in this example), any amounts distributed from the plan in 2008 are deemed to be the RMD for that year until an amount sufficient to satisfy that year's RMD has been distributed. An RMD is not eligible for rollover, either by 60-day rollover or by direct rollover. After you have calculated and distributed this participant's 2008 RMD, his remaining account balance can be rolled over in 2008 to his IRA.

The plan trustee issues two Forms 1099-R:

- one for the RMD amount paid to the plan participant, and
- a second for the direct rollover paid to the IRA.

A plan participant still employed who does not own more than 5% of the employer may delay taking RMDs until April 1 following the year of retirement, in which case, the same rule as explained above applies: RMDs must first be distributed and are ineligible for rollover to an IRA or to any other eligible retirement plan.

For additional information, see:

Pub 590, *Individual Retirement Arrangements (IRAs)*

Pub 575, *Pension and Annuity Income*

Form 1099-R Instructions, *Instructions for Forms 1099-R and 5498, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc. & IRA Contribution Information.*

SARSEP Plans Examination Trends

Employee Plans' recent review of SARSEP plans has revealed error trends that could have adverse tax consequences for both the employer/plan sponsor and its employees. Plan sponsors should perform diligent reviews of their plans in order to avoid these errors.

SARSEP plans have a number of tests that need to be run and passed every year in order for them to maintain their eligibility for contributions. These include:

25 or Fewer Employees Rule - If the employer had more than 25 eligible employees at any time during the prior year, the plan cannot accept employee salary deferrals in the current year.

50% Deferral Rule - At least 50% of all eligible employees must elect to make deferrals to the plan in any year, or all deferrals in that year are disallowed.

Deferral Percentage Test - The deferral percentage test for SARSEP plans compares the deferral percentage of *each* highly compensated employee (HCE) with the average of the deferral percentages of all other employees, *not* the average of the deferral percentages of all HCEs with the average of all other employees (as in a 401(k) plan).

Top-Heavy Minimum Contribution Requirement - Most SARSEP plans, including all Model SARSEPs (**Form 5305A-SEP**), require top-heavy contributions. In general, the employer is required to make a 3% minimum top-heavy contribution for each eligible non-key employee. Non-key employees are generally employees who are not owners or high-paid officers.

Examination findings show that some employers are not running the annual tests in order to make certain that the plan is eligible for employer contributions and salary deferrals. As a consequence, many SARSEP plans are not eligible plans. When the plan loses its eligibility and employees made salary deferrals to these ineligible SARSEP plans, those employees with salary deferrals must include them in income. Also, employers who made discretionary contributions and deducted them, lose the deduction. Some SARSEP plans have been terminated as a result of our examinations and employers are replacing them with other types of plan arrangements. **SIMPLE IRA plans** are designed to permit salary deferrals and contain safe harbor features that do not include annual testing. SARSEP plan sponsors may want to consider adopting this type of plan after terminating their SARSEP plan.

Because SARSEP plans were grandfathered in 1996 by the Small Business Jobs Protection Act, plans in existence before 1997 may continue, but no new SARSEPs may be established after December 31, 1996. Currently, there are an estimated 30,000 SARSEP plans. Find more information on **SARSEPs Trends and Tips** on our web page.

Have a HEART for Our Heroes

The **Heroes Earnings Assistance and Relief Tax Act of 2008** (HEART) P.L. 110-245 was signed into law on June 17, 2008. HEART provides benefits for members of the Armed Forces of the United States. Retirement plan provisions include:

Death Benefits – Survivors of a plan participant who dies while performing qualified military service are entitled to any additional benefits that the plan would provide if the participant resumed employment and then died, such as accelerated vesting, ancillary life insurance benefits, or other survivor benefits that are contingent on the participant's death while employed. This provision is effective with respect to deaths occurring on or after January 1, 2007.

Benefit Accruals – For plan benefit accrual purposes under the Uniformed Services Employment and Reemployment Rights Act, employers *may* amend their plans to provide that if a participant dies or becomes disabled while performing qualified military service he or she will be treated as having returned to employment on the day before death or disability and then terminated on the date of death or disability. If an employer chooses to provide such benefits, it may choose to provide either partial or full benefits, but whichever option is chosen, it must be applied to all similarly situated individuals in a nondiscriminatory manner. This provision is effective with respect to deaths and disabilities occurring on or after January 1, 2007.

Elective Deferrals – For purposes of the preceding paragraph, to determine the amount of matching contributions in a plan that matches an employee's elective deferrals, the individual is treated as having made deferrals based on his or her average deferrals for the 12 months immediately prior to qualified military service.

Differential Wage Payments – Beginning January 1, 2009, an individual receiving differential wage payments from an employer shall be treated as employed by that employer and the employer's plan may provide benefits to the individual based on the differential wage payments. However, such benefits must be provided to all similarly situated individuals in a nondiscriminatory manner. In addition, differential wage payments are treated as compensation for purposes of making IRA contributions.

Distributions of Salary Deferrals from 401(k), 403(b), and Eligible 457(b) Plans – Beginning January 1, 2009, an individual performing service in the uniformed services while on active duty for at least 30 days will be treated as having severed from service for purposes of receiving a distribution of salary deferrals from a 401(k), 403(b), or eligible 457(b) plan. In the case of such a distribution, the individual may not make salary deferral contributions until six months after the date of distribution.

Qualified Reservist Distributions – Prior to the HEART Act, favorable tax rules applied to "qualified reservist distributions" made to individuals ordered to active duty after September 11, 2001, and before December 31, 2007. For example, a distribution from a salary deferral account in an employer-sponsored plan or from an IRA is exempt from the additional 10% tax on premature plan withdrawals and the amount of the distribution can be contributed to an IRA when the active duty ends. The HEART Act removed the "and before December 31, 2007" limitation so that the favorable tax treatment now applies whenever the individual is ordered to active duty, as long as it is after September 11, 2001.

Plans do not have to be amended for HEART until the last day of the 2010 plan year. Governmental plans have different amendment dates.

Things to Remember - 2007 Forms 5500/5500-EZ

Assuming you're on a calendar-year basis, your Forms 5500 or 5500-EZ for 2007 were due July 31, 2008, unless you filed for an extension. Below are some things to remember when you do file your return:

Form 5500:

Under the Pension Protection Act of 2006 (PPA), a new simplified reporting option is available for eligible plans with fewer than 25 participants, as of the beginning of the plan year. The simplified reporting option limits the required filing to:

1. The entire Form 5500;
2. Schedule A for any insurance contract for which a Schedule A is required under current rules, completing lines A, B, C, D, and the insurance fee and commission information in Part I;
3. The entire Schedule B;
4. The entire Schedule I;
5. Schedule R identifying information and Part II; and
6. The entire Schedule SSA.

See the instructions for the "Voluntary Alternative Reporting Option for Certain Plans with Fewer Than 25 Participants," on page 8 of the 2007 **Form 5500 Instructions** describing this reporting option and its eligibility requirements.

Form 5500-EZ:

Plans established on or before December 31, 2006, for which a Form 5500-EZ was required to be filed, will not need to continue filing the Form 5500-EZ, unless their total plan assets (for one or more one-participant plans, separately or together) exceed $250,000 at the close of the plan year beginning on or after January 1, 2007.

All one-participant plans **must** file a Form 5500-EZ for their **final** plan year even if the total plan assets have always been less than $250,000. The final plan year is the year in which the distribution of all plan assets is completed. (This would include rollovers to IRAs or transfers to other plans.) Check the "final return" box in Part I, Line A of **Form 5500-EZ** and zero assets should be indicated on line 11a(b), assets at the end of the year.

Remember that for the 2005 plan year and later, filers of 5500-EZ are no longer required to file any schedules with the form. Defined benefit plan filers are still required to collect and retain a completed and signed Schedule B, but are not required to file them with their Form 5500-EZs. Schedules are still required to be filed for all years prior to 2005.

Other Items to Note:

Notice 2002-24 suspended the filing requirement for fringe benefit plans. Fringe benefit plans include §125 cafeteria plans, §127 educational assistance plans, and §137 adoption assistance plans. ***Note**: Notice 2002-24 suspended the filing requirements for fringe benefit plans. It did not change the filing requirements for welfare plans.*

Welfare benefit plans required to file must use a Form 5500 and cannot use Form 5500-EZ. (See Form **5500 Instructions** under "Welfare Benefit Plans.")

If you need assistance completing your Form 5500/5500-EZ, would like to confirm the receipt of forms you submitted, or have related questions, call the EFAST Help Line at (866) 463-3278 (toll-free) and follow the directions as prompted. The EFAST Help Line is available Monday through Friday from 8:00 a.m. to 8:00 p.m., Eastern Time.

Recent Guidance

T.D. 9418 73 Fed.Reg. 43860 (July 29, 2008)
Relates to Code §408A and provides guidance on the tax consequences of converting a non-Roth IRA annuity to a Roth IRA. The regs. affect individuals establishing Roth IRAs; beneficiaries under Roth IRAs; and trustees, custodians, and issuers of Roth IRAs, and are effective July 29, 2008. They are applicable to any Roth IRA conversion where an annuity contract is distributed or treated as distributed from a traditional IRA on or after August 19, 2005.

Announcement 2008-44, 2008-20 I.R.B. 982
Provides that individuals who have payments made by direct deposit under the Economic Stimulus Act of 2008 to their IRAs or certain other tax-favored accounts may remove them without incurring adverse tax consequences.

Revenue Procedure 2008-50, 2008-35 I.R.B.
Updates the comprehensive system of correction programs, called EPCRS, for sponsors of retirement plans that are intended to satisfy the requirements of Code §§401(a), 403(a), 403(b), 408(k), or 408(p), but that have not met these requirements for a period of time.

ERPA Contract Awarded - Testing to Begin in January 2009

On August 1, 2008, the IRS awarded, through a competitive bid process, the American Institute of Retirement Education, LLC (AIRE) the contract to conduct the examinations for the Enrolled Retirement Plan Agent (ERPA) program. ERPA tests are slated to begin in January 2009. ERPA candidates may apply to take the ERPA test beginning October 23, 2008.

The IRS Restructuring and Reform Act of 1998 placed limitations on retirement plan professionals to represent their clients before the Service. As a result, based on recommendations from the Advisory Committee on Tax Exempt and Government Entities, **Circular 230** was revised establishing a new classification of practitioner called an ERPA.

An ERPA is limited to representation with respect to issues involving the:

- Employee Plans Determination Letter program;
- Employee Plans Compliance Resolution System (EPCRS); and
- Employee Plans Master and Prototype and Volume Submitter programs.

In addition, ERPAs are generally permitted to represent taxpayers with respect to Form 5300 and 5500 series returns, but not with respect to actuarial forms or schedules.

Don't expect to see any ERPAs signing the **Form 2848**, *Power of Attorney and Declaration of Representative*, quite yet! To become an ERPA, a candidate must demonstrate competency in retirement plan matters by passing the two-part ERPA Special Enrollment Examination, each having approximately 75 questions. Then the candidate must apply for enrollment with the IRS, satisfying professional and ethical standards of conduct. Thereafter, an ERPA must follow continuing education requirements and renewal procedures.

For more information on the ERPA program, see our **ERPA** web page. In addition, AIRE has established **www.ERPAEXAM.org** for further information on the testing process.

DOL News

Department of Labor's Employee Benefits Security Administration (DOL/EBSA) announced new guidance and tools to assist plan sponsors in complying with ERISA, including those featured below. You can subscribe to DOL/EBSA's web site **homepage** or **PPA page** for updates.

Proposed Regulation to Improve Disclosure of Fees and Expenses to Participants

On July 23, DOL/EBSA published a **proposed rule** that would provide workers in 401(k)-type plans with useful summary information, including fee and expense information, for investment options available in their plans.

The centerpiece of the proposed regulation is the required provision of investment-related information in a comparative chart or similar format. DOL/EBSA has developed a **model chart** for complying with this requirement, while giving fiduciaries the flexibility to design their own charts or comparative formats. Fiduciaries are also required to disclose basic information about the plan and its investment options, such as what options are available, how to give investment instructions, investment returns and fees and expenses, and how to obtain more detailed information. This information would be given to participants on a regular and periodic basis. When finalized, the regulation would be effective for plan years beginning on or after January 1, 2009.

Comments on the proposed regulation can be submitted on or before September 8, 2008, electronically to **e-ORI@dol.gov** or mailed to the U.S. Department of Labor, Employee Benefits Security Administration, Room N-5655, 200 Constitution Avenue, NW, Washington, DC 20210, Attn: Participant Fee Disclosure Project.

Guidance on 2009 Form 5500 Schedule C

On July 14, DOL/EBSA issued **guidance** to help plan administrators and service providers comply with the new requirements for reporting service provider fee and compensation information applicable to Form 5500 Annual Returns/Reports filed for plan years beginning on or after January 1, 2009.

DOL/EBSA released 40 frequently asked questions (FAQs) on the new Schedule C requirements. The FAQs cover such issues as the alternative reporting option for eligible indirect compensation, electronic disclosure of fee information by service providers, fee reporting for brokerage window options in participant-directed plans, and reporting on gifts, entertainment and other non-monetary compensation.

In response to concerns expressed by service providers trying to make changes to their recordkeeping and information management systems in order to provide their clients with fee and compensation information required for 2009 reports, DOL/EBSA announced that plan administrators will not be required to report service providers on the Schedule C as failing to provide fee and compensation information if the service provider provides the plan administrator with a written statement that (i) the service provider made a good faith effort to make any necessary recordkeeping and information system changes in a timely fashion, and (ii) despite such efforts, was unable to complete the changes for the 2009 plan year.

Plan Filing Update Webcast

Visit EBSA's **Webcast** page for the archived version of EBSA's recent webcast with the IRS on common filing errors, selecting an auditor for your plan, 403(b) plan filing preparation, blackout notices, and voluntary correction programs, among other issues.

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**.

Fixing Common Plan Mistakes:

Participant Loans in a 401(k) Plan

Each issue of the *RNE* looks at a common error that occurs in retirement plans and provides information on fixing the problem and lessening the odds of it happening again.

The Problem:

A 401(k) plan permits participants to take loans. The plan sets forth the loan limits of Code §72(p)(2) so that a loan to a plan participant will not be treated as a distribution to the participant. Thus, the plan provides for the appropriate dollar limit on loans, for level amortizations over no longer than five years (longer if the loan is used to purchase a principle residence), and for payments to be made at least quarterly. If a loan does not satisfy the Code's requirements, then the loan is deemed to be a taxable distribution to the participant. This can happen if the participant does not make the payments required under the terms of the loan.

Example: On June 1, 2007, Jane took a $10,000 loan from her employer's 401(k) plan. The interest rate on the loan was 8%. Her loan was for a five-year period and required monthly payments of $203. Her loan payment was to be made by payroll withholding. The plan did not provide for a "cure period" for missed installments. Paychecks are issued at the beginning of the month. Jane's loan information was not forwarded to the payroll department and, as a result, no payments were withheld in 2007. The problem was discovered on December 15, 2007, during an annual review of the plan's records. July 1, 2007 is considered to be the first missed payment, and her outstanding loan balance of $10,067 (loan plus accrued interest) is treated as a deemed distribution. Jane is required to report $10,067 in income on her 2007 Form 1040.

Finding the Mistake:

At the beginning of each month, the plan should reconcile the aggregate payroll deposits to the plan (employees' elective contributions and loan repayments), with the payroll amounts that should have been deposited to the plan, including Jane's in the above example. If there are gaps, then payroll records, election forms, and loan documents should be analyzed on an individual basis to determine whether the correct amounts (including loan repayments) were withheld from the employees' paychecks and deposited into the plan.

Fixing the Mistake:

A loan's outstanding balance will be a deemed distribution to the participant if the plan does not receive a required loan payment by its due date. To remedy this, the employer may request and obtain relief from the IRS under its Voluntary Correction Program (VCP). In order to obtain relief, the mistake must be corrected. In the example, if the failure was corrected on January 1, 2008, the plan administator could have asked Jane to:

(1) make a lump sum payment of $1,245 for the six missed installments (adjusted for interest at 8%) and continue making the $203 installment payment for the remaining period of the loan;

(2) reamortize the outstanding balance of the loan, resulting in increased installment payments of $230 per month for the remainder of the loan period; or

(3) make a partial lump-sum payment (an amount less than $1,245 - the six missed payments, adjusted for interest) and reamortize the outstanding balance of the loan, resulting in a monthly payment that is higher than $203 per month but less than $230 per month.

Correction Program Available:

In appropriate cases, under VCP, the plan may correct certain participant loan failures and obtain relief from reporting the loans as deemed distributions under §72(p) (for details, see section 6.07 of **Revenue Procedure 2008-50**). SCP and Audit CAP are not available for the purpose of obtaining relief from reporting a defaulted participant loan as a deemed distribution.

Avoiding the Mistake:

(1) Require transmittal of loan information to payroll before making the loan.

The plan should institute procedures that would include evidence of receipt of the loan information by the payroll department, before a check is issued for the loan. For example, procedures could provide that an application form that has been reviewed and approved by the plan administrator must be initialed by an authorized individual in the payroll department, before a check for the loan is issued.

(2) The plan could permit a cure period.

A plan may provide that a loan does not become a "deemed distribution" until the end of the calendar quarter *following* the quarter in which the payment was missed. A cure period gives the plan administrator time to take corrective action without negative consequences. In the example, if the plan administrator followed such a procedure, then upon discovery on December 15, 2007, the plan administrator would have had the opportunity to secure the missed payments from Jane and prevent the loan from being treated as a deemed distribution (the first missed payment that was due on July 1, 2007, could have been secured by December 31, 2007).•

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Retirement News for Employers

Retirement News for Employers (*RNE*) is a free, quarterly newsletter aimed at keeping employers informed about retirement plan sponsorship. *RNE* is prepared by the IRS's Employee Plans (Tax Exempt and Government Entities) office.

For your convenience, *RNE* includes Internet links – identified by the blue underlined text – to referenced materials.

How to Subscribe

RNE is distributed exclusively through IRS e-mail. Sign up for your free subscription by going to the **Retirement Plans Community** web page and selecting "Newsletters" in the left pane. Prior editions of the *RNE* are also archived there.

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E-Mail: **RetirementPlanComments@irs.gov**

Have a Question?

For taxpayer assistance with retirement plans technical and procedural questions:

Please call (877) 829-5500 or visit the "Contact EP/Services" section at **www.irs.gov/ep**.

For questions relating to retirement income, IRAs, Roth IRAs, educational IRAs, medical savings accounts, and §125 cafeteria plans:

Please call (800) 829-1040.

Mark Your Calendar

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

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

August 26 - 28: **IRS Nationwide Tax Forum** – New York, NY.

September 9 - 11: **IRS Nationwide Tax Forum** – San Diego, CA.

September 11: EBSA Seminar: **Fiduciary Education Workshop** – Boston, MA.

September 15: Deadline for making final required minimum contributions for 2007 calendar-year end plans.

September 24: EBSA Seminar: **Fiduciary Education Workshop** – Wichita, KS.

September 30: Summary Annual Report due to participants for 2007 calendar-year end plans.

October 15: File **2007 Form 5500**, *Annual Return/Report of Employee Benefit Plan,* or **Form 5500-EZ**, *Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan,* with DOL/EFAST if you filed for a 2-1/2 month extension prior to August 1.

October 15: Deadline for making third quarter contributions to 2008 calendar-year defined benefit plans.

October 20: EBSA Seminar: **Fiduciary Education Workshop** – Pittsburgh, PA.

November 1: Last day for employers with SIMPLE IRA and SIMPLE 401(k) plans to notify eligible employees of their 2009 salary reduction rights and whether the employer's required contributions will be matching or nonelective contributions.

For a comprehensive list of upcoming EP Educational Events, visit the Retirement Plans Community web page, select "Plan Sponsor/Employer," then "Questions: Where to Get Answers," and click on "Upcoming EP Educational Events."

IRS Department of the Treasury Internal Revenue Service
Publication 4278 (08-2008)
Catalog Number 37968B
www.irs.gov

Timing is Everything

Some helpful retirement tips for employees from the IRS…

National Save for Retirement Week

Congress has designated October 19 - 25, 2008, as "**National Save for Retirement Week**" in an effort to increase awareness of the need to save adequate funds for retirement.

The Internal Revenue Service also supports the goal and has information and resources to educate employees about retirement savings.

Did You Know...

- Retirement can last for 30 years or more?
- Retirees may need up to 80% of their annual income today to retire comfortably?
- The average amount paid monthly by the Social Security Administration in the form of a benefit is $1,083?

Why Participate in a Retirement Plan?

Saving through an employer retirement plan is one of the easiest ways for employees to save. Recent tax law changes have increased the contribution amounts that are deductible for 401(k) plans and IRAs, for example. Participants age 50 or older can save additional amounts to help catch up on their savings as they near retirement.

Other employee benefits include: tax on employee contributions is deferred until distributed, investment gains in the plan are not taxed until distributed, retirement assets can be carried from one employer to another, contributions can be made easily through payroll deductions, Saver's Credit is available, and better financial security is available upon retirement.

Future Retirement Savings Value

Monthly Savings, 6%	5 Years	15 Years	20 Years
$50	$3,489	$14,541	$23,102
$200	$13,954	$51,164	$92,408
$500	$34,885	$145,409	$231,020

How We Can Help

The Internal Revenue Service is committed to working to assist employees by providing publications, web site resources (**www.irs.gov/ep**), outreach, and telephone assistance ((877) 829-5500) to help in understanding federal retirement plan law.