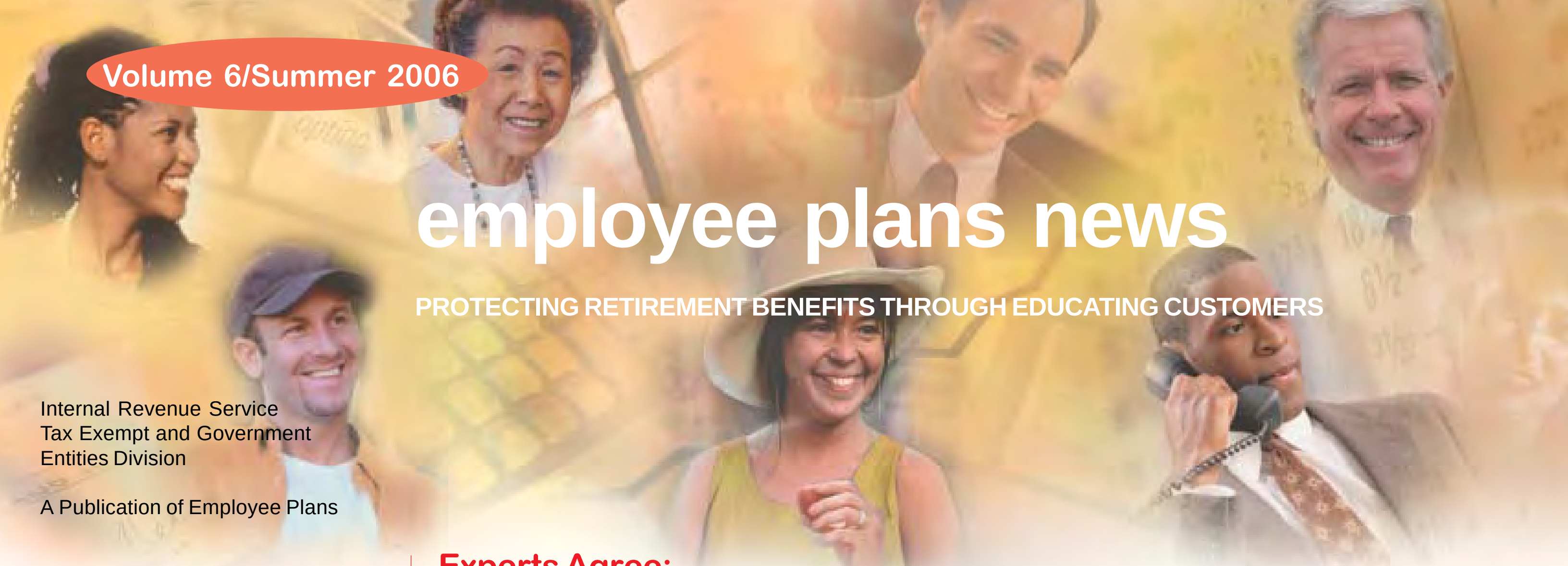

Volume 6/Summer 2006

employee plans news

PROTECTING RETIREMENT BENEFITS THROUGH EDUCATING CUSTOMERS

Internal Revenue Service
Tax Exempt and Government
Entities Division

A Publication of Employee Plans

Experts Agree: When it comes to plan mistakes, fix 'em now rather than later

On June 13, 2006, a panel of IRS officials and benefits practitioners got together on a Tax Talk Today program and discussed the advantages of fixing mistakes in retirement plans now rather than later. For just like a car requires regular maintenance, a retirement plan requires regular check-ups. The panel's consensus: The value of preventive maintenance far exceeds the increasing costs of waiting to correct plan mistakes.

The panel included:

- Michael Julianelle, Director, IRS Employee Plans Examinations
- Seth H. Tievsky, Partner, Ernst & Young LLP
- Joyce Kahn, Manager, IRS Employee Plans Voluntary Compliance
- Michael P. Coyne, President, Waldheger Coyne LPA

The panel discussed in detail the three levels of IRS Retirement Plan Correction Programs and addressed common mistakes, including exclusion of an employee in a 401(k) plan and applicable correction approaches and principles. The panel also discussed the new "Correcting Plan Errors" section of the Retirement Plans Community web page.

Panel members, from l to r: Mr. Julianelle, Mr. Tievsky, Ms. Kahn, Mr. Coyne, and Tax Talk Today Moderator, Les Witmer.

Mr. Julianelle stated, *"We (the IRS) think information sharing with the benefits community is a very important aspect of how we do our job and how we set up our systems. It helps them avoid mistakes and also helps them maybe not go down the abusive paths of some of the schemes and other transactions that are out there... Joyce and I and our teams work very closely on common issues. We try and get consistent as we can. We both have nationwide programs, so we're constantly looking for common solutions to the types of problems that we see throughout the audit process or throughout just pension maintenance, which we hope is a day-to-day thing for our benefits community."*

Tax Talk Today is a monthly, free live webcast program sponsored by the IRS with each program archived for up to 12 months. Go to www.TaxTalkToday.tv to view the recorded June 13th program, obtain a complete transcript of the program plus a list of program materials and resources.

Critical FewPoints...by Michael Julianelle (Director, EP Examinations)

We are also focusing our attentions on those who had the opportunity to come forward, but did not.

Hello everyone. Before I begin to discuss my thoughts for this issue, I want to remind you that I welcome suggestions for topics you would like me to discuss in these pages. It is very important to me that I cover the information you would like to see. Please e-mail your suggestions to **RetirementPlanComments@irs.gov**. I will do my best to cover your ideas or concerns in future articles.

In previous newsletters, I discussed with you the impact of abusive tax transactions and how they jeopardize and taint the private retirement system in America and promote tax evasion in the Retirement Plans Community. I think it's a good time for me to update you on where we are right now with these schemes.

Throughout the different functions within the IRS – EP, Small Business/Self-Employed (SB/SE), Large and Mid-Sized Business (LMSB) and more – there is a united stance on proactively deterring promoter schemes and abusive transactions. To encourage voluntary compliance, on October 27, 2005 the IRS issued **Announcement 2005-80**, the Global Settlement Initiative (known as GSI), which encompassed 21 different abusive transactions.

GSI offered significant reductions on the penalties for these cases in the hope that many affected taxpayers would volunteer to come in and inform us of their involvement.

Processing the applications submitted under the GSI in Announcement 2005-80 is a top priority. **And**, we are also focusing our attentions on those who had the opportunity to come forward, but did not.

For the ones that did not take advantage of the GSI, we will be setting up examination appointments.

If you'll recall, my last article mentioned the establishment of the Employee Plans Compliance Unit (EPCU). This group sent letters to taxpayers with identified abusive schemes eligible for the GSI. For the ones that did not take advantage of the GSI, we will be setting up examination appointments. We will be identifying other abusive situations and setting up examinations on those as well. The LMSB and the SB/SE Divisions are working with us in EP to identify and put a stop to these abusive schemes.

Plain and simple, the IRS is serious about addressing abusive cases that chose not to come in for GSI. Please visit the **Retirement Plans Community web page** to find additional information on this topic and what you should do if you know about one of these abusive schemes. Click on "Examinations/Enforcement" then select "EP Abusive Tax Transactions."

What's Next???

In the next issue, one topic I plan to cover is my policy on the "Place of Audit," the preferred location we would like to hold our examination. If you have thoughts about this topic you wish to convey so I can address them in the article, please e-mail them to **RetirementPlanComments@irs.gov** and type "Place of Audit Comments" in the subject line.

Thank you for reading and enjoy the remainder of your summer season.•

The Corner of Forms & Pubs

Welcome back to an expanded edition of the Corner of Forms & Pubs – the EP version of Hollywood & Vine. There have been some big goings-on going on recently in the Corner. The information here at the Corner is brief and topics needing further details will get their own full-length articles.

Revised Form 8717 Now Available.

The Retirement Plans Community is reminded that many user fees will increase on July 1, 2006. To accommodate these updated fees, the IRS announced the revision of **Form 8717**, *User Fee for Employee Plan Determination, Opinion, and Advisory Letter Request*.

The new fee schedule takes effect in two phases:

- Phase one, effective February 1, 2006, impacted the fees for EP letter rulings.
- Phase two, effective July 1, 2006, revises the fees for opinion and advisory letters and determination applications involving Forms 5300, 5307 and 5310.

continued on page 3

The Corner of Forms & Pubs *continued from page 2*

EP compliance fees and compliance correction fees under the Employee Plans Compliance Resolution System (EPCRS) are not included in this procedure and remain at their current levels.

For more information about user fees and a complete schedule, see Employee Plans User Fees Updated or Revenue Procedures 2006-1 and 2006-8.

Filing an extension for an EP return? Well, listen up pard'ner.

When it comes to inquiries about the signature requirements for the Form 5558, *Application for Extension of Time To File Certain Employee Plan Returns,* our phones have been ringing off the hook.

To help clarify:

1. A signature ***is not required*** if the extension is for Form 5500, *Annual Return/ Report of Employee Benefit Plan* or Form 5500-EZ, *Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan* (Box 1a on Form 5558).
2. A signature ***is required*** if the extension is for the filing of Form 5330, *Return of Excise Taxes Related to Employee Benefit Plans* (Box 1b on Form 5558).

The person who signs this form may be one of the following:

- Employer;
- Plan sponsor;
- Plan administrator;
- Disqualified person required to file Form 5330;
- Attorney qualified to practice before the IRS;
- CPA qualified to practice before the IRS;
- Person enrolled to practice before the IRS; or
- Person holding a power of attorney.

Although not yet ready for public consumption, the Form 5558 will be revised by Fall 2006 to better reflect this practice.

No strings attached

Beginning in 2005, the Instructions for Form 5500-EZ indicate that "Filers of Form 5500-EZ will not be required to file any schedules or attachments." Some customers are misinterpreting this item.

In a nutshell, Form 5500-EZ filers *no longer have to file* Schedule B or P with their Form 5500-EZ or submit any other attachments (e.g., actuarial reports) that they may have formerly been attaching to explain answers on their Form 5500-EZ.

If, however, a Form 5500-EZ is filed late, a copy of Form 5558, *Application for Extension of Time To File Certain Employee Plan Returns*, or a reasonable cause statement for late filing must be attached in order to request the waiving of any late filing penalties. **Note:** One-participant plans are automatically granted an extension of time to file Form 5500-EZ until the extended due date of the federal income tax return of the employer (and are not required to file Form 5558) if certain conditions detailed in the Form 5500-EZ Instructions are met.

Important: *This change does not eliminate the requirement to both perform an annual valuation and maintain the funding standard account for all plans subject to the minimum funding requirements of IRC section 412.* If Schedule B is required, as is the case with a defined benefit plan (or a money purchase plan with a minimum funding waiver), the filer must still collect and retain ***completed and signed copies*** that must be produced if requested.

A completed and signed Schedule P should also be retained by the filer.

One more time...

As introduced in Rev. Proc. 2005-66, the new Form 8905, *Certification of Intent To Adopt a Pre-approved Plan*, has been released and is now available. This form is filed by an adopter of an individually-designed plan or pre-approved plan (not otherwise entitled to the six-year remedial amendment cycle) requesting to convert their five-year remedial amendment cycle under Part III of Rev. Proc. 2005-66 to the six-year remedial amendment cycle under Part IV.

All of the forms discussed here and in **The Corner of Forms & Pubs** are available on the Retirement Plans Community web page by clicking on "EP Forms & Publications" under the "Retirement Plans Community Topics" section. Paper copies can be requested by calling (800) TAX-FORM (829-3676).

HERO Act

President Bush has signed into law the Heroes Earned Retirement Opportunities Act, H.R. 1499. The HERO Act lets members of the armed forces include their combat zone compensation (otherwise excludable from gross income) in their calculation of earned income for purposes of determining tax deductions for contributions to retirement savings plans. The Act is retroactive to tax years beginning after December 31, 2003.

Form 5500 Filing Tips – Do You *Really* Have a Multiemployer Plan?

The Employee Plans Multiemployer Compliance Planning Group consists of specialists in multiemployer law that promotes quality examinations and enhances customer education, with the goal of achieving the highest level of pension law compliance with the multiemployer community. During their recent analysis of **Form 5500**, *Annual Return/Report of Employee Benefit Plan*, data, the group found error trends on these returns. The group found that there are three common errors being made when completing Form 5500 as they relate to multiemployer issues and all three errors involve completion of Part 1: Annual Report Identification Information.

Common Error #1: Sponsors say they have a Multiemployer Plan when they really don't

This mistake is due to a misunderstanding of the term "multiemployer." Some employers who have more than one employer in their plan sponsorship, such as Controlled Groups or Affiliated Service Groups, think the term "multiemployer" applies to them. Let's look at the definition of what a Multiemployer Plan is in the instructions for Form 5500:

> ***"Box A(1). Multiemployer Plan.*** *Check this box if the Form 5500 is filed for a multiemployer plan. A plan is a multiemployer plan if:* ***(a)*** *more than one employer is required to contribute,* ***(b)*** *the plan is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer, and* ***(c)*** *an election under Code section 414(f)(5) and ERISA section 3(37)(E) has not been made. Participating employers do not file individually for these plans. See 29 CFR 2510.3-37."*

For the criterion labeled (**a**) above, remember that all members of either a controlled group of corporations under Code section 414(b), partnerships or proprietors under common control under 414(c) or an affiliated service group are treated as a "single employer" for purposes of reporting on Form 5500. If this is the case, then the related employers adopting the plan are actually a "single employer" and the multiemployer box should not be checked. To be a Multiemployer Plan, the plan must be adopted by more than one "employer."

The criterion labeled **(b)** above is the one that most of those plan sponsors who are making this error do not meet. The compliance planning group finds many Form 5500 returns indicating plans sponsored by doctors, lawyers, car dealerships, etc. that may have more than one employer, but are not subject to a collectively bargained agreement. These plan sponsors are incorrectly identifying their plans as a Multiemployer Plan.

Common Error #2: Sponsors who *do* have Multiemployer Plans, but don't check the box

This situation is the exact opposite of Error #1 and is most likely due to oversight or to a lack of expertise in filling out Form 5500. Quite simply, if your plan meets the criteria in the definition above, then you should be checking the box indicating a Multiemployer Plan exists. In most cases, this box is checked by plans sponsored by a union such as for plumbers, carpenters, electrical workers, painters, etc. that have more than one employer making contributions.

Common Error #3: Plans that are for the benefit of employees who are subject to a Collective Bargaining Agreement yet the sponsors don't indicate such

Again, this error is most likely due to oversight or a lack of expertise in filling out Form 5500. Let's look at the instructions for Form 5500 regarding which plans need to check box C to indicate that the employees covered by a plan are subject to a collective bargained agreement:

> ***"Box C.*** *Check box C when the contributions to the plan and/or the benefits paid by the plan are subject to the collective bargaining process (even if the plan is not established and administered by a joint board of trustees and even if only some of the employees covered by the plan are covered by a collectively bargained unit that negotiates contributions and/or benefits). The contributions and/or benefits do not have to be identical for all employees under the plan."*

Here again, in most cases, this box is checked by plans whose participant contributions and/or benefits are normally subject to a collective bargaining agreement, such as those sponsored by unions representing plumbers, carpenters, electrical workers, painters, etc.

If you still are unsure about completing these items correctly, visit **www.irs.gov/ep**. Go to the "Examinations/ Enforcement" section for more information on Compliance Trends and Tips and also the Form 5500 Corner.

DOL Corner

EBSA In The 21st Century

The Department of Labor's Employee Benefits Security Administration (DOL/EBSA) announced new guidance, relief and tools to assist plan sponsors and practitioners in complying with ERISA. You can subscribe to **DOL/EBSA's web site** as well as the **Compliance Assistance page** for notice of updates posted on the web site.

Updated Voluntary Fiduciary Correction Program

On April 19, 2006, DOL/EBSA published in the Federal Register an expanded and simplified Voluntary Fiduciary Correction Program (VFCP) to help employers and their professional advisors voluntarily correct violations of the law for employee benefit plans.

The update to the VFCP reflects public comments and includes:

- Expansion and simplification of eligible transactions;
- Streamlined documentation and clarified eligibility requirements;
- A model application form;
- Clarification of what constitutes "under investigation" allowing more entities to qualify for the program, and
- Relief from civil penalties for transactions involving health and welfare plans.

The class exemption was amended to add the sale of illiquid assets and certain settlor expense violations.

Under the program, employers may voluntarily correct specific violations of ERISA. Applicants must fully correct any violations, restore to the plan any losses or profits with interest, and distribute any supplemental benefits owed to the eligible participants and beneficiaries. A "no action" letter is given to plan officials who properly correct violations.

Both the updated program and the amended class exemption were effective on May 19.

For further information, see the **updated program** and the **amended class exemption**. Additional information will be posted on a dedicated web page for the VFCP.

Guidance on Distributions of Mutual Fund Late Trading and Market-Timing Settlement Proceeds

On April 20, 2006, DOL/EBSA released guidance on the allocation and distribution to employee benefit plans and their participants of the proceeds of certain settlements between the Securities and Exchange Commission (SEC) and various mutual fund companies. As a result of SEC enforcement matters, funds are available for distribution to investors, including retirement plans that were affected by alleged late trading and market timing activities.

The guidance, issued as Field Assistance Bulletin (FAB) 2006-01, indicates that the proceeds will not be considered plan assets under ERISA until distributed from the settlement fund and received by the appropriate plan fiduciaries. In addition, the FAB describes various processes that may be used by fiduciaries for the allocation and distribution of the proceeds to plans and participants.

For further information, see the **FAB**.

Expanded Exemption for Interest-Free Loans to Employee Benefit Plans

On April 7, 2006, DOL/EBSA published in the Federal Register a final amendment to the class exemption on interest-free loans.

Prohibited Transaction Exemption (PTE) 80-26 is a class exemption that permits certain interest-free loans to plans from a party in interest (e.g., from the employer that sponsors the plan) in instances where the plan faces a temporary cash shortage. This exemption was previously used following Y2K-induced computer problems and when the markets closed after the September 11, 2001 terrorist attacks. The interest-free loans facilitated by the exemption allow plans facing liquidity problems the ability to continue to pay benefits and for other purposes necessary for the ordinary operation of the plan.

continued on page 6

DOL Corner *continued from page 5*

The amendment removes the three-day limitation that previously applied to certain loans described in the exemption. Based on its experience, DOL/EBSA decided that removing the three-day limitation would facilitate these interest-free, unsecured loans that are beneficial to plans, without diminishing any of the safeguards to protect plans.

For more information, see the **final amendment to the class exemption**.

Standing (or perhaps, sitting) by Now!

Available for your – or your clients' – pleasure: the other member of the *Employee Plans News* family of newsletters, the *Retirement News for Employers*.

The *Retirement News for Employers* is filled with retirement plan news and articles designed primarily for many of your clients: members of the small-business community. Subscribership to the *RNE* continues to grow. So act now, don't delay: join the thousands of satisfied subscribers who have signed up for the funnest thing to hit the internet since viral videos.

The **Spring 2006 Edition** featured stories on such topics as:

- EPCRS;
- A double-shot of Product Profiles on two Tax-Sheltered Annuity publications;
- The Fix is In: Common Plan Mistakes – "Simple" Retirement Arrangements; and
- The latest "Timing is Everything" flyer.

It's easy to subscribe: Just go to the **Retirement Plans Community web page**, select "Newsletters," and click on "Retirement News for Employers." Virtual operators are standing – or sitting – by!

New Mailing Addresses for Delinquent Filer Voluntary Compliance Program

On March 21, 2006, DOL/EBSA announced new addresses for the submission of penalty payments and annual report copies (Form 5500) under DOL/EBSA's Delinquent Filer Voluntary Compliance Program (DFVC). The new addresses are now effective. The new addresses are:

By mail:	By private delivery service:
DFVC Program – DOL PO Box 70933 Charlotte, NC 28272-0933	DFVC Program – DOL QLP Wholesale Lockbox NC 0810 Lockbox #70933 1525 West WT Harris Blvd Charlotte, NC 28262

For more information, see materials on the **program** or call (202) 693-8360 (not a toll-free number).

Final Rules on Abandoned 401(k) Plans

On April 21, 2006, DOL/EBSA published in the Federal Register final rules and a class exemption that allow financial institutions to take responsibility for abandoned 401(k) plans and distribute the plans' assets to covered workers and their families. DOL/EBSA estimates that 1,650 401(k) plans, covering 33,000 workers, are abandoned by their sponsors every year.

DOL/EBSA currently deals with abandoned plans on a case-by-case basis, often with the involvement of the courts.

The final rules provide standards for determining when a plan is abandoned and establishes a process for winding up the affairs of the plan and distributing benefits to workers. The final rules were effective May 22, 2006.

For more information, DOL/EBSA has a **fact sheet** as well as the **final regulation** and **class exemption**. DOL/EBSA also has posted the model notices in an easily downloadable format on a dedicated abandoned plan web page and will post additional information on that page in the future.

Upcoming Compliance Assistance Events

- Fiduciary Education Seminar: July 13 in Minneapolis, MN.
- Voluntary Fiduciary Correction Program Workshops: August 22 in Charlotte, NC.

Visit DOL/EBSA's web site at **www.dol.gov/ebsa** for registration brochures for these seminars and for the announcement of additional seminars around the country.

Protecting America's Pensions

PBGC Changes Standard Termination Audit Sampling Methodology

Section 4003(a) of ERISA requires the PBGC to audit a statistically significant number of plans that end as standard terminations. Each audit must include a statistically significant number of participants and beneficiaries. To meet this requirement, the PBGC divides terminated plans into different strata according to plan size and selects plans from each stratum. The number of audits can vary from year to year, depending on the number of completed standard terminations.

The PBGC recently changed its method for selecting terminated plans to audit. Previously, plans were divided into two strata and all plans with a participant count of 500 or more participants were audited. Plans with a participant count of less than 500 were randomly selected for audit. Starting with plans that submitted post-distribution certifications in the first quarter of 2006, the PBGC will audit all plans with more than 300 participants. Plans with a participant count of 300 or less will continue to be randomly selected for audit. Plans may also be selected for audit when there is an indication of a problem: for example, when a complaint is received from a plan participant or practitioner.

The PBGC will continue to select plans to audit on a quarterly basis—in April, July, October, and January of each year—from plan terminations completed in the preceding calendar quarter.

How to Subscribe to *Employee Plans News*

The *Employee Plans News* is issued only through IRS e-mail. For your free subscription, please go to the Retirement Plans Community web page and subscribe online by selecting "Newsletters" under "Retirement Plans Community Topics." All editions of the *Employee Plans News* are archived there.

For your convenience, we have included Internet links to referenced materials throughout the *Employee Plans News*. These links are identified by blue and underlined text.

Mandatory Premium E-Filing Approved

The PBGC's final rule on mandatory premium e-filing will take effect on July 1, 2006. The final rule (published in the Federal Register on June 1, 2006) requires that:

- Large plans (those with 500 or more participants for the prior year) e-file starting July 1, 2006, for plan years beginning on or after January 1, 2006.
- All plans e-file for plan years beginning on or after January 1, 2007.

The PBGC offers three electronic filing options via its e-filing application called My Plan Administration Account (My PAA):

- Filing Option 1: Use My PAA data entry and editing screens to create and submit premium filings.
- Filing Option 2: Use My PAA to "import" one or more premium filings created with updated private-sector software that meets the PBGC's requirements. The imported data is transferred into My PAA's data entry and editing screens for completion and submission to the PBGC.
- Filing Option 3: Use My PAA to "upload" one or more premium filings created with private-sector software that has been updated to meet the PBGC's requirements.

The PBGC urges premium filers to sign up and e-file well before being required to do so. For detailed information, or to set up a My PAA account, go to the **PBGC web site**, select the Practitioners page, and then click on the link "Online Premium Filing (My PAA)." The My PAA page describes how to begin the process, demonstrates filing methods and answers frequently asked questions. If you have additional questions about My PAA, send an e-mail to **premiums@pbgc.gov** or call the PBGC's toll-free practitioner number at (800) 736-2444 and select the "premium" option. TTY/TDD users may call the Federal Relay Service toll-free at (800) 877-8339 and ask to be connected to the PBGC's toll-free number.

PBGC Must Receive Copies of All Multiemployer Plan Annual Funding Notices

Federal law now requires all multiemployer defined benefit pension plans to provide an annual notice to participants, beneficiaries and other interested parties, including the PBGC, about the plans' funding status. On January 11, 2006, the Department of Labor published in the *Federal Register* its final regulation implementing the notice requirement of section 101(f) of ERISA, *as amended*. See the **DOL/EBSA web site** for a description of the rules for this notice and a copy of the model notice.

continued on page 8

PBGC Insights *continued from page 7*

For plans with calendar plan years, the first notice must be provided by September 30, 2006, unless the plan receives an extension to file the Form 5500.

A copy of this Annual Funding Notice for a Multiemployer Defined Benefit Pension Plan must also be submitted to the PBGC. Copies for the PBGC should be sent to: **PBGC, 1200 K Street NW, Suite 930, Washington, DC 20005-4026 ATTN: Multiemployer Data Coordinator**. The PBGC will also accept an electronic copy e-mailed to **Multiemployerprogram@PBGC.gov**.

What's New for Practitioners

Don't forget to check out **"What's New"** on the **PBGC web site**. This section highlights recent developments and information of interest to pension plan administrators and other practitioners. To find "What's New" on the web site, select the Practitioners page and then click on the "What's New" link in the upper right corner of the page.

PBGC Issues Final Rule on Employer Liability When Closing a Facility

On June 16, 2006, PBGC published a **final rule** modifying 29 CFR parts 4062 (Liability for Termination of Single-employer Plans) and 4063 (Withdrawal Liability; Plans under Multiple Controlled Groups). The rule, which may be found on the Final Rules page of **PBGC's web site**, specifies how to calculate the liability that arises when an employer ceases operations at a facility and, as a result, more than 20 percent of the employees covered by its defined benefit pension plan separate from employment. The effective date of the rule is July 17, 2006. The new rule codifies the method the PBGC has used on a case-by-case basis to assess the liability, and therefore will have little or no effect on calculation of the liability amount.

In general, the liability that may arise from a facility closure is a portion of the unfunded benefit liabilities under the employer's plan, calculated by multiplying the total unfunded benefit liabilities by a fraction whose numerator is the number of plan participants separated as a result of the cessation and whose denominator is the total number of current employees (as determined immediately before the cessation) who are plan participants. This amount is placed into escrow for the benefit of the plan. If the plan terminates within five years, the payment is treated as a plan asset. If the plan does not terminate within that time, the payment is returned to the employer. In lieu of the liability payment, the contributing sponsor may be required to furnish a bond to the PBGC to be held for the benefit of the plan.

This Way to the Forums

The 2006 IRS Nationwide Tax Forums will be held in six locations across the country starting this week. The EP seminars are **"Accessing Money from a Retirement Plan"** and **"Roth 401(k) and Tips." "Accessing Money"** presents highlights of minimum required, early, and hardship distributions; loans and prohibited transactions; and the distinction between withdrawals from traditional accounts and Roth accounts. **"Roth 401(k)"** features the latest information on the new Roth 401(k) accounts as well as tips on avoiding common pit-falls discovered in examination projects conducted on SIMPLE IRA, SEP, and traditional 401(k) plans. In addition, EP and EO will sponsor a booth in the exhibit hall where you can pick up our products or speak with an EP or EO specialist.

The locations and dates are:

Anaheim, CA	June 27 – June 29
Chicago, IL	July 11 – July 13
Atlanta, GA	July 25 – July 27
Orlando, FL	August 1 – August 3
Las Vegas, NV	August 22 – August 24
New York, NY	August 29 – August 31

To get additional information about the Tax Forums, visit **www.irs.gov** and then go to "Tax Professionals," and select "IRS Nationwide Tax Forums." You can register online at **www.taxforuminfo.com**.

Employee Plans Published Guidance
(April 2006 – June 2006)

Regulations

T.D. 9256, 71 Fed. Reg. 14798	Rules on the disclosure of the relative values of optional forms of benefit under section 417(a)(3).

Revenue Procedures

Rev. Proc. 2006-27, 2006-22 I.R.B. 945	Modifies and supersedes Rev. Proc. 2003-44 on EPCRS.

Notices

Notice 2006-44, 2006-20 I.R.B. 889	Provides a sample amendment that may be adopted by the end of the plan year beginning after December 31, 2005 for Roth 401(k) accounts.

Quick Hits

Welcome back to Quick Hits. Recently, EP issued the long-anticipated EPCRS update and a revision of the user fee form. EP has also experienced the departure of some well-known employees.

- **The New EPCRS: As Easy as ABC:** There was palpable excitement in the Retirement Plans Community in early May as the new EPCRS revenue procedure was unveiled. Featuring new correction methods for improper exclusions of participants from 401(k) plans, plan loan failures, and failure to obtain proper spousal consents, the new procedure also provides more streamlined submission processes and enhanced compliance fee flexibility. For details on this ever-popular EP program, go to the new EPCRS section – Correcting Plan Errors – on the Retirement Plans Community web page or check out the May 5 Special Edition.

- **The 1st of July:** The clock is ticking down till the new, increased user fees kick in for determination letter requests and for opinion and advisory letters. As a result of the new fee schedule, EP revised the Form 8717. Take a look at the June 23 News Flash for more info.

- **Au Revoir:** In our Summer 2005 Edition, we had an article, "Actuary Extraordinaire," that presented the story of one of EP's most remarkable employees: Paulette Tino. Madame Tino came to the United States from France via Canada and started her career with the IRS when ERISA was enacted in 1975. Mind you, she was age 51 at the time she started her government service. A strong proponent of the Joint Board, Paulette was also an integral player in the formulation of many significant funding rules. Last year, Paulette received the Robert J. Myers Public Service Award from the American Academy of Actuaries. Paulette retired and bid EP a fond "adieu" early this June.

- **Goodbye and Hello:** Sarah Hall Ingram, Deputy Commissioner of TE/GE since July 2004, is now the Chief of Appeals. The new Deputy Commissioner is Chris Wagner. Mr. Wagner comes to TE/GE from the Taxpayer Advocate Service, where he served as Deputy National Taxpayer Advocate. He started with the IRS in 1977 as a revenue agent and has held a variety of positions throughout the IRS during his career.

EP Senior Leadership

Carol D. Gold – Director
(202) 283-2100
carol.d.gold@irs.gov

Michael D. Julianelle – Director Examinations
(410) 962-4092
michael.d.julianelle@irs.gov

Joseph Grant – Director Rulings and Agreements
(202) 283-9660
joseph.h.grant@irs.gov

- **Joyce Kahn – Manager Voluntary Compliance**
  (614) 280-8737
  joyce.i.kahn@irs.gov

- **Robert P. Bell – Manager Determinations**
  (513) 263-3610
  robert.p.bell@irs.gov

Mark O'Donnell – Director Customer Education & Outreach
(202) 283-9532
mark.f.o'donnell@irs.gov

2006 Great Lakes Benefits Conference

The IRS, ASPPA and additional cooperating sponsors held the annual Great Lakes Benefits Conference in Chicago, May 15-16, 2006. The conference gave attendees from the private and public sectors a chance to meet and interact and to discuss key employee benefit issues. It was well attended by pension professionals including lawyers, pension consultants, certified employee benefit specialists, actuaries, and IRS employees. Attendees participated in technical sessions and were able to earn continuing professional education (CPE) credit.

General Sessions included:

- Washington Legislative and Regulatory Update;
- Update on DOL/ESBA;
- Circular 230 and the ERPA Proposal; and
- EP Examinations Update.

Breakout Sessions included:

- Final 409A Regulations;
- Eliminating Optional Forms of Benefits;
- Cross Testing with a Safe Harbor 401(k) Plan Design;
- Local IRS Hot Topics – the Agent's Perspective;
- Mergers and Acquisitions – Are You Exercising Due Diligence;
- Restricted Distributions and Other (Under) Funding Issues; and
- What's New with 403(b).

Michael Julianelle, Director, EP Examinations, was the keynote speaker at the luncheon on May 15. He gave a global perspective of EP Examinations and described how one of the key components to future success is a strong partnership with the private sector to enhance voluntary compliance. The luncheon speaker on May 16 was Derrin Watson, SunGard Corbel, who gave an entertaining, comic overview of retirement plan topics.

The distinguished list of government speakers at this year's conference was also noteworthy. In addition to Michael Julianelle, government speakers included:

- Martin L. Pippins, Manager, EP Technical Guidance and Quality Assurance;
- Marjorie Hoffman, TE/GE, Office of Chief Counsel;
- Monika A. Templeman, EP Area Manager, Great Lakes, Chicago, IL;
- Robert Architect, Senior Tax Law Specialist, IRS;
- Craig Chomyok, Manager, IRS;
- Steven Haugen, Deputy Regional Director, Chicago Regional Office, DOL; and
- Janice Gore, Manager, IRS.

IRS employees staffed a booth with tabletop exhibits covering procedural and technical areas such as EPCRS, Section 403(b) Tax-Sheltered Annuities, 401(k) plans, and Multiemployer plans.

CONTACTING EMPLOYEE PLANS

The *Employee Plans News* welcomes your comments about this issue and/or your suggestions for future articles.

Send comments/suggestions to:

EP Customer Education & Outreach
SE:T:EP:CEO
1111 Constitution Avenue, N.W., PE-4C3
Washington, D.C. 20224

or FAX (202) 283-9525

or E-Mail: RetirementPlanComments@irs.gov

For **EP Taxpayer Assistance:**

For retirement plans technical and procedural questions:

Please call (877) 829-5500

Or visit the EP Customer Account Services section at www.irs.gov/ep.

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

Please call (800) 829-1040

For further **Employee Plans Information:** Go to www.irs.gov/ep.

A Virtual Small Business Tax Workshop DVD

Publication 1066C is now available for viewing online or ordering a DVD copy by visiting www.irs.gov, go to "Businesses" and select "Small Business Products Online Ordering." A Virtual Small Business Tax Workshop DVD is an innovative DVD designed to help new and existing small business owners understand and meet their federal tax obligations. The workshop provides information and resources in an interactive format and features ten lessons. One of the lessons is entitled "How to set up a retirement plan for yourself and your employees."

Timing *still* Everything

Our collection of the new retirement plan tool for employees, "Timing is Everything," continues to grow.

Each "Timing is Everything" is a one-page flyer that employers can share with their employees and provides plain-language, bullet-point information about retirement. Each flyer is part of the ***Retirement News for Employers*** electronic newsletter designed for the small-business owner.

Employers can print the "Timing" flyer and include it in their employees' pay envelopes or post it on a bulletin board – and the flyer looks good whether it's printed in color or in black & white. Employers can even use the flyer in company e-mails or newsletters.

Each "Timing" flyer will have important tips for employees on retirement issues. So far, we've had information on contribution limits for different plans in 2006, how much and when to contribute to an IRA, and how to save more for retirement.

We have an online archive of "Timing" flyers where viewers can click on linked items in each flyer and find additional info. You'll find the archive in both the "Plan Sponsor/Employer" and "Plan Participant/Employee" sections of the **Retirement Plans Community web page**.

2006 Mid-Atlantic Employee Benefits Conference Recap

The 2006 Mid-Atlantic Employee Benefits Conference was held on May 8-9, 2006, at the Marriott Philadelphia Downtown in Philadelphia, PA. This annual conference was jointly-sponsored by the IRS and ASPPA. The conference attendees were pension practitioners including actuaries as well as CPAs, enrolled agents and attorneys from private industry, public practice, and the federal government.

The conference featured panel discussions with public- and private-sector participants and also provided a unique opportunity for attendees to meet and discuss common areas of interest with government representatives. The conference used an interactive panel format and there was also a special pre-conference panel discussion/Q&A session held on Sunday evening, May 7.

The conference featured discussions on:

- Current legislative and regulatory changes;
- Department of Labor issues and updates;
- 409A executive compensation packages;
- Circular 230 and client relationships;
- Current IRS initiatives; and
- Roth 401(k) and automatic enrollment.

Interactive Tables were offered again this year that allowed attendees to meet informally for one-on-one discussion with EP specialists in EPCRS, Examinations, 401(k) plans, Abusive Tax Transactions, EP Customer Education & Outreach, 403(b)/457 plans, and more. The Department of Labor also staffed an Interactive Table.

19th Annual Cincinnati Employee Benefits Conference Review

The 19th Annual Cincinnati Employee Benefits Conference jointly-sponsored by the IRS, the Department of Labor and the Cincinnati Bar Association, was held at Paul Brown Stadium (home of the Cincinnati Bengals) in Cincinnati, Ohio on June 15 and 16, 2006. Other contributing organizations were ASPPA, Dayton Employee Benefits Group, Louisville Benefits Conference, and Midwest Benefits Conference.

The conference agenda featured top government officials from the IRS, DOL, PBGC and leading private industry experts, including Sal Tripodi speaking about qualified retirement plan issues.

Featured government speakers included:

- Joseph Grant, Director, EP Rulings & Agreements;
- Martin Pippins, Manager, EP Technical Guidance & Quality Assurance;
- Michael Julianelle, Director, EP Examinations;
- Amy J. Turner, Senior Health Law Specialist, Office of Health Plan Standards and Compliance Assistance, DOL/EBSA;
- Vince Snowbarger, PBGC, Deputy Executive Director;
- Milo S. Atlas, IRS Pre-Approved Plans Program Coordinator;
- Angelo C. Noe, IRS Pre-Approved Plans Program Coordinator;
- Andrew D. Auerbach, Deputy Director, Office of Labor - Management Standards, DOL; and
- Stephen Tackney, IRS Office of Chief Counsel, TE/GE.

continued on page 12

Cincinnati Employee Benefits Conference *continued from page 11*

There was an IRS Booth where attendees could ask questions of EP specialists with specific knowledge in the areas of EPCRS, Volume Submitter plans, Technical Screening, EP Examinations, Customer Education and Outreach, and Customer Service. The Department of Labor and other vendors were also represented.

This conference is an essential learning and interactive experience for serious pension practitioners. Answers to questions raised at the conference will be posted to the **Retirement Plans Community web page** in the near future (look for an article in an upcoming *Employee Plans News*).

For more information on this and future conferences, contact the CLE Department, Cincinnati Bar Association at (513) 381-8213.

IRS employees contributing to this edition of the *Employee Plans News* are:

Doug Jordan,
Michael Julianelle,
Peter McConkey,
Todd Newman,
Mark O'Donnell,
Nancy Payne,
Sharon Polo,
Wiley Ransom,
Mike Rubin,
Bonnie Schaumberg,
John Schmidt,
Brenda Smith-Custer,
and
Mikio Thomas

Northeast Employee Benefits Conference Review

The Northeast Employee Plans Office of the IRS, in association with the Northeast Area's Pension Liaison Group and ASPPA, held the annual Northeast Employee Benefits Conference on June 7 in Tarrytown, NY and June 8 in Boston, MA.

The two sites provide pension professionals from New York and New England the opportunity to attend a conveniently located conference.

The annual conference educated attendees about current regulatory, legislative and administrative topics. The conference also provided participants an opportunity to discuss employee benefit issues with colleagues as well as representatives from the IRS and Department of Labor. This year, participating IRS executives and managers included Carol Gold, Director of EP; James E. Holland, Jr., Manager, Employee Plans Technical; Martin Pippins, Manager, EP Technical Guidance and Quality Assurance; Bob Henn, Northeast Employee Plans Area Manager; and Stephen Tackney, Senior Technical Reviewer, Office of Division Counsel/Associate Chief Counsel, TE/GE.

This year's agenda included panel discussions on:

- Current IRS Projects & Enforcement Initiatives;
- 401(k) "Wonderama";
- Washington Update: Retirement in the 21st Century;
- Department of Labor Issues and Initiatives: What You Don't Know Can Hurt You;
- Latest Guidance and Correction Methods Under EPCRS;
- Nonqualified Deferred Compensation Arrangements Under IRC 409A;
- Ups and Downs of Defined Benefit Funding;
- Domestic Partner/Same Sex Marriage Issues in Qualified Plans; and
- An Open Q&A Session.

Each afternoon was structured with a series of two breakout sessions going concurrently, which afforded attendees the opportunity to select the subject matter they were most interested in. In addition to the presentations, personnel from EP and DOL/EBSA were on hand throughout the day to answer questions and discuss issues with attendees.

Calendar of EP Benefits Conferences

UPCOMING EVENTS...

Name	Date(s)	Location	Co-Sponsor(s)	For Further Information, Please Contact
SWBA/IRS 17th Annual Employee Benefits Conference	11/15/06-11/16/06	Dallas, TX	Southwest Benefits Association (SWBA)	www.swba.org
Los Angeles Benefits Conference	01/25/07-01/26/07	Los Angeles, CA	ASPPA, NIPA, WPBC and other cooperating sponsors	www.asppa.org

RECENT EVENTS...

Name	Date(s)	Location	Co-Sponsor(s)	For Information, See
Mid-Atlantic Benefits Conference	05/08/06-05/09/06	Philadelphia, PA	ASPPA	*EP Benefits Conferences Calendar* at www.irs.gov/ep
Great Lakes Benefits Conference	05/15/06-05/16/06	Chicago, IL	ASPPA & other cooperating sponsors	
Northeast Benefits Conference (2 Locations)	06/07/06-06/08/06	Tarrytown, NY & Boston, MA	ASPPA & NE Area Pension Liaison Group	
19th Annual Cincinnati Employee Benefits Conference	06/15/06 06/16/06	Cincinnati, OH	Cincinnati Bar Association	