

# employee plans news

PROTECTING RETIREMENT BENEFITS THROUGH EDUCATING CUSTOMERS

Internal Revenue Service  
Tax Exempt and Government  
Entities Division

A Publication of Employee Plans

[page 2](#)

Disaster Relief...

[page 2](#)

Filing and Funding Relief

[page 3](#)

EP Connections: Interview With Joseph Grant

[page 4](#)

Critical FewPoints...by Michael Julianelle

[page 4](#)

403(b) Prepared

[page 5](#)

PBGC Insights

[page 7](#)

The Corner of Forms & Pubs

[page 8](#)

Can You Tell? We're Related (Retirement News for Employers)

[page 8](#)

Web Spin

[page 9](#)

Quick Hits

[page 9](#)

Recap of the 2005 IRS Nationwide Tax Forums

[page 10](#)

Central and Mountain States Benefits Conference Recap

[page 11](#)

Employee Plans Published Guidance

[page 12](#)

DOL Corner

[page 14](#)

USC Benefits Conference

[page 14](#)

SWBA/IRS 16th Annual Employee Benefits Conference

[page 15](#)

2006 Los Angeles Benefits Conference

[page 15](#)

Calendar of EP Benefits Conferences

*"We are doing everything we can to help Hurricane Katrina victims rebuild their lives"*  
- IRS Commissioner Mark Everson.

## An Easy Way for Businesses and Employees to Help Hurricane Victims: Leave Donation

In this time of extreme need, the IRS is doing all that it can to help out. An innovative way to help the victims of Hurricane Katrina is the "[Leave Donation Program](#)." Employees who want to help their fellow citizens can ask their employers to convert their unused vacation, sick or personal leave into a cash donation to tax-exempt organizations providing relief to the citizens of the Gulf Coast.

The [IRS Leave Donation Program site](#) has lots of plain-language information dedicated to this initiative, including:

- Benefits for Employees;
- Benefits for Employers; and
- Program Guidelines.

You'll also find [Program FAQs](#) for employees and employers. There's also a [one-page overview](#) of how the program works.

Leave donation is easy and painless to do. Employees don't pay taxes on the value of the leave they forgo. Employers may deduct cash payments to a qualified tax-exempt organization as charitable contribution deductions or as business expense deductions.

Also, the [main IRS web site](#) has a [Hurricane Katrina page](#) featuring:

- Tax Relief for Hurricane Katrina Victims;
- How to Make Your Hurricane Relief Donations Count; and
- Federal Government Hurricane-related Web Sites.

**We encourage all of our subscribers to consider whether the Leave Donation Program works for their – and their clients' – situations.**

If you can help, please do. •

***See More Hurricane Relief Articles on Page 2.***

## Helping Hurricane Katrina victims: Innovative charitable contribution programs, streamlined rules for retirement plan distributions and loans, staffing emergency phone lines and more.



### Disaster Relief: Help From the IRS and Retirement Plans

In the aftermath of Hurricane Katrina, the IRS has been pitching in to help with efforts including IRS workers staffing phone banks for FEMA, easing the way for people to convert unused leave into charitable donations, and more.

Another piece of help was announced on September 15, when the IRS, Treasury and DOL provided – for the first time ever – broad-based relief to retirement plan participants affected by a major disaster.

#### Filing and Funding Relief

On September 8, the IRS **announced** that victims of Hurricane Katrina will have until January 3, 2006 to file any returns (including Form 5500), pay any taxes or make any deposits due.

In addition to the tax filing extension, the IRS, EBSA and the PBGC are providing relief in regard to minimum funding contributions and to funding waiver applications due to the damage in the Gulf Coast area caused by Hurricane Katrina.

**Notice 2005-60** provides relief for certain employee benefit plans in the affected parishes and counties declared disaster areas because of Hurricane Katrina. These plans will have until October 31, 2005 to make minimum funding contributions, or apply for waivers, if the deadline for such actions was from August 29, 2005 through October 30, 2005. For impacted Florida residents, the timeline starts August 24.

See the Notice for details on the affected plans and the relief provided. •

Participants in 401(k) plans, 403(b) tax-sheltered annuities, and certain 457 deferred-compensation plans may be eligible to take advantage of these streamlined loan procedures and liberalized hardship distribution rules. Though IRA participants are prohibited from taking out loans, they may be eligible to receive distributions under liberalized procedures.

“As in other areas, we are doing everything we can to help Hurricane Katrina victims rebuild their lives,” said IRS Commissioner Mark W. Everson. “This relief will make it possible for people to get their retirement money more quickly with a minimum of red tape.”

Retirement plans can provide this relief to employees and certain members of their families who live or work in the disaster area. To qualify for this relief, hardship withdrawals must be made by March 31, 2006.

The IRS is also relaxing procedural and administrative rules that normally apply to retirement plan loans and hardship distributions. As a result, plans can make loans or hardship distributions before the plan is formally amended to provide these features. Plans can also ignore limits that normally apply to hardship distributions so that the money could be used for food and shelter. In addition, the six-month ban on 401(k) contributions that normally affects employees who take hardship distributions will not apply.

As a result, impacted participants can take a hardship distribution or borrow up to the specified statutory limits from their retirement plan to repair or replace a home or for some other purpose. It also means that a person who lives in another part of the country can take out a retirement plan loan or hardship distribution and use it to assist a family member or other dependent who lived or worked in the disaster area.

More information about this relief can be found in IRS **Announcement 2005-70**. Go to the **[main IRS web site](#)** for more Hurricane Katrina-related information. •

## EP Connections: Interview with Joseph Grant

*Joseph Grant is the new Director of Rulings and Agreements in Employee Plans. Prior to joining the IRS, Mr. Grant was with the PBGC where he served as Deputy Executive Director and Chief Operating Officer from 1996 to 2005. Before the PBGC, he served on the professional staff of the Committee on Ways and Means from 1984 to 1994 analyzing issues relating to pensions, Social Security, and Federal borrowing and debt management. During this time he was involved in the drafting and passage of the Single Employer Pension Protection Act of 1986, the Pension Protection Act of 1987, and the Retirement Protection Act of 1994. He also served on the personal staff of Rep. J. J. Pickle (D-Texas) from 1982 to 1984. Mr. Grant graduated from the University of Texas at Austin and received his Juris Doctor from the University of Texas School of Law.*

### **What interested you in this new position as Director of Rulings and Agreements?**

One of the most important challenges we face as a nation is making sure that workers have sufficient income in retirement to provide for their financial needs. For the past two decades I've had the opportunity to work in the area of traditional pension plans. Coming to EP gives me the chance to work in the area of individual account plans – the growth area in retirement plans.

### **What were your impressions of EP coming from the PBGC? How did that change once you got here?**

For the past five years the PBGC has experienced record workload growth due to the financial collapse of leading companies in the steel and airline industries. I anticipated that EP would be a more stable environment. My first day as Director was the day Hurricane Katrina struck. Two weeks later, Delta and Northwest Airlines filed for bankruptcy, citing, in part, the adverse impact that multi-billion pension shortfalls were having on their ability to survive in the highly competitive airline industry. I have been extremely impressed with the ability of EP to react quickly and effectively to meet these challenges.

### **What is your vision for Rulings and Agreements? What will you do to achieve that vision?**

I believe that Rulings and Agreements will play a critical role in ensuring that America's workforce has the opportunity to enjoy a financially secure retirement. This is a huge challenge because America is in the midst of enormous social and economic change. To paraphrase one automobile company's advertising slogan, "It isn't your father's retirement plan any more." If we are to succeed in this environment we too have to embrace change. We must stay current with public expectations and take advantage of improved technology. There are new software programs for our Determinations and Examinations staff – along with the staggered determination letter process – that are vitally important. These innovations will help us improve our efficiency which will, in turn, free up more resources for other critical mission areas such as increasing our enforcement presence.

### **What messages are you trying to project out to EP employees and to the public? How will you get your messages out to your audiences?**

An important message for EP employees and the public is that we are dedicated to delivering timely, accurate and responsive service to all of our customers, both internal and external. We can't always give people the answer they would like to hear. The law, the regulations and administrative reality make that impossible. But we should do our very best to give people prompt, courteous and informed responses. It has always been my experience that the overwhelming majority of people want to do the right thing. The field of employee benefits can be maddeningly complex. Even the most well-intentioned plan sponsor or pension professional can make a mistake, and the unscrupulous will seek to take advantage of the confusion. However, we can go a long way toward achieving the IRS's compliance goal through clear and continuous public communication. The key to successful communication is repetition and consistency. When our public statements match up with our formal guidance and with our determination letters and with our voluntary correction programs and with our exam positions, then we are hitting on all cylinders and we make real progress.

### **What are your priorities as you begin? What challenges do you face?**

On a personal level my priority is to work closely with Carol Gold, Michael Julianelle and Mark O'Donnell, as well as with all of the managers and staff of Rulings and Agreements, to make sure that we stay in step with the rest of EP. Because EP Rulings and Agreements is such a diverse organization with diverse functions and people all across the country, it will take me a little while to fully appreciate the entire range of services we provide. Toward that end, I look forward to meeting and working with everyone over the coming months.

Finally, as a newcomer to the IRS, learning its culture, both the formal and informal ways of getting things done, is a challenge for me. In that regard, I must say how deeply I appreciate the warm welcome and great assistance I have received over the past several weeks. •

(Editor's Note: Go to the [Retirement Plans Community web page](#) to read the full text of Mr. Grant's Interview.)



## Critical FewPoints...by Michael Julianelle

Hello again everyone. Thanks for returning to what I hope is a valuable tool for you and your clients as I inform you about the direction our examination program is taking. Please note that I am always willing to hear your feedback and/or questions about this article or suggestions for future articles. You can do so by e-mailing me at [RetirementPlanComments@irs.gov](mailto:RetirementPlanComments@irs.gov).

Now, in the words of Jackie Gleason, "And away we go..."

### Critical Few – Update

In the last issue, I shared with you what was my current "Critical Few," or most important items. I want to share with you my updated "Critical Few."

- **Expand Focused Examination Concept**
- Expand Compliance Contacts
- Improve Examination Timeliness
- ATAT (Abusive Tax Avoidance Transactions)
- Monitor Pension Funding

This and future issues will expand on these areas of focus to give you my in-depth views and ideas.

### 403(b) Prepared

Ever since the proposed 403(b) regulations were issued, a popular question has been: Will the "years beginning after December 31, 2005" proposed effective date be changed to a later date?

Here's the answer: Entities sponsoring section 403(b) arrangements – including employers, insurance carriers, and mutual funds – will need a reasonable advance period before the proposed 403(b) regulations (including the related proposed regulations regarding controlled groups) go into effect. For example, insurers may need time to change their contract forms and have to follow state insurance law procedures for those revisions. *Accordingly, the final regulations will delay the effective date for another year.*

EP is actively working to evaluate the various recommendations we've received from the public about these proposed regulations and we're aiming to have the final regulations out in time for them to apply to years beginning after 2006. •

### Expand Focused Examination Concept

My philosophy here is to change the methodology and audit philosophy within EP Examinations from one that stresses a comprehensive approach, to a more limited process that concentrates on a framework of activities that are used to evaluate overall plan compliance. This philosophy will help me increase examination coverage and have my agents work more productively. What's in it for you? You will only have to gather records for the issues initially identified by the agent. Depending on the compliance level of the taxpayer after conducting an opening interview, reviewing internal controls and examining these few, key issues; the examination will be expanded or closed at that time. For compliant taxpayers this approach will save time and save your clients money.

Also, my agents will be spending less time on the examination, which provides you and your client a quicker closing letter.

Some of you may be aware of this concept as we performed a pilot late in 2004 through spring of this

year. Four groups across the country performed these focused examinations. Results indicate to me that this is a worthwhile concept.

By limiting our efforts to the 4-5 issues identified by using historical data by plan and industry type, and local knowledge, my agents will still perform a quality examination, determine if the issues warrant further investigation, and close the case in a more timely manner. Results indicate the agents spent less time on the examination and examinations closed sooner from start to finish. This, in turn, means less time you had to deal with an examination. And the quality of the examination was not hindered by focusing on only the key areas of the return.

My plan is to begin using this focused examination concept in January 2006. I intend to provide agents with training toward the end of this year and I will share my philosophy and goals for this concept with them as I have done with you here.

If you are one of the "lucky" (I guess you might prefer the term "unlucky") ones who gets selected for a focused examination and you would like to share your experiences with me, I would welcome your comments as well as ideas for improving the process. E-mail me at [RetirementPlanComments@irs.gov](mailto:RetirementPlanComments@irs.gov). •

## PBGC Insights

*This edition of PBGC Insights has news on disaster relief, e-filing, participant notices and much more.*

### Disaster Relief

When events warrant, PBGC issues Disaster Relief Announcements that waive certain penalties and extend certain deadlines in response to major disasters declared by the President of the United States, such as hurricanes or severe storms. Most recently, PBGC took such action in the aftermath of Hurricane Katrina to waive late premium filing penalties and to extend deadlines for certain required filings for sponsors of defined benefit pension plans in areas affected by the storm. For more information, click on “Disaster Relief Announcements” on the “Practitioners” page of [PBGC’s web site](#). In addition, PBGC has pledged swift replacement of lost benefit checks for victims of the hurricane. For more information, click [here](#).

PBGC generally issues a Disaster Relief Announcement whenever the IRS extends filing deadlines for Form 5500 series returns. Information on employee plan payment deadline extensions is available on the [IRS web site](#). PBGC provides disaster relief to any person responsible for meeting a PBGC deadline (for example, a plan administrator or contributing sponsor) that is located in a disaster area for which the IRS has provided relief, or who cannot reasonably obtain information or other assistance needed to meet the deadline from a service provider, bank or other person whose operations are directly affected by the disaster.

A Disaster Relief Announcement generally waives late premium filing penalties (but not applicable interest charges) and extends deadlines for termination filings and issuances, Participant Notices, post-event notices of reportable events, requests for reconsideration, and appeals.

A Disaster Relief Announcement typically does not grant specific disaster relief for all filings. For example, it typically does not provide relief for certain filings that involve particularly important or time sensitive information where there may be a high risk of substantial harm to participants or the PBGC insurance program, such as notices of large missed contributions (Form 200), advance notices of reportable events or annual financial and actuarial information reports under ERISA section 4010.

PBGC also may provide case-by-case relief in situations that are not covered by a Disaster Relief Announcement. For general Disaster Relief information, please call our toll-free practitioner number, (800) 736-2444 and select the “premium” option. To request case-by-case relief, contact Problem Resolution Officer Diane Morstein at (800) 736-2444, extension 4136, or (202) 326-4136 (for TTY and TDD, call (800) 877-8339 and request connection to (202) 326-4136). You may also send an e-mail to [practitioner.pro@pbgc.gov](mailto:practitioner.pro@pbgc.gov); or write to Diane Morstein, Pension Benefit Guaranty Corporation, Suite 610, 1200 K Street NW, Washington, DC 20005-4026.

### Update on Electronic Filing of PBGC Premiums

PBGC currently allows electronic premium filing via My Plan Administration Account (My PAA), PBGC’s e-filing application. On March 9, 2005 (70 FR 11592), PBGC proposed to make electronic filing of premiums mandatory for large plans (those with 500 or more participants for the prior plan year) for plan years beginning in 2006 and for smaller plans beginning in 2007. This proposed rule and the comments PBGC received on it are available on PBGC’s web site and may be viewed by clicking [here](#). PBGC currently is preparing a final rule that responds to the public comments received on the proposed rule and expects the final rule to be published later this year. In the meantime, PBGC encourages premium filers to prepare and submit both filings and payments electronically for plan years beginning in 2004 and 2005 via [My PAA](#).

PBGC has recently added a number of enhancements to My PAA to make it easier and simpler to use, including:

- Premiums may now be paid by paper check or electronic funds transfer outside the My PAA structure. These alternatives are in addition to the payment options of electronic check, Automated Clearing House (ACH) funds transfer, and credit card currently available within My PAA for submission along with the premium filing.

- Users of private-sector software may submit their 2005 premium filings to PBGC electronically through My PAA if the software is capable of saving the information in a PBGC-compatible XML file format. This alternative requires one responsible person to certify the premium e-filing created in private-sector software. The responsible person may be either the plan administrator or the enrolled actuary or, if neither, must be at an appropriate level of authority.
- Starting with 2005 filings, the My PAA data entry and editing screens automatically perform many mathematical calculations for variable-rate premium payers that filers must currently perform manually. Where more than one way of performing a calculation is currently permitted, My PAA automatically performs the calculation to result in the lowest premium. In addition, the variable-rate premium screens are tailored to the filer's circumstances. For example, filers using the general rule do not see data fields applicable only to those using the alternative calculation method.
- For all plan year filings created via the My PAA data entry and editing screens, more data fields are now "pre-populated" with information taken from the plan's previous filing—information that typically does not change from year to year. This reduces the data entry time and allows filers to edit the information if it has changed since the last filing. In addition, the "overpayment screen" (which asks how an overpayment should be handled) is displayed only if there is an overpayment.
- When the My PAA data entry and editing screens are used, a filer may have more than one filing in process for a plan at the same time—one filing for each plan year beginning with the 2004 plan year, the first year that My PAA became available.

For detailed information on My PAA or to set up an account, click [here](#) or go to [PBGC's web site](#) and click on the link "Online Premium Filing (My PAA)" on the "Practitioners" page. For more information about My PAA, call the agency's practitioner toll-free number at (800) 736-2444 (select the "premium" option). Note: TTY/TDD users may call the federal relay service toll-free at (800) 877-8339 to be connected.

### **PBGC e-4010 Initiative Deemed Successful**

Section 4010 of ERISA requires reporting of actuarial and financial information by controlled groups with significantly underfunded plans or that have missed substantial amounts of required contributions. This reporting provides PBGC with timely information on plans representing the largest exposure to the pension insurance system and helps PBGC focus its resources on situations that pose the greatest risks to participants and premium-payers.

On March 9, 2005, PBGC published a [final regulation](#) in the *Federal Register* requiring 4010 filings to be electronically submitted. Filers making submissions for years ending on or after December 31, 2004, and before December 31, 2005, had the choice of (1) using a specially designed secure web-based application or (2) submitting the information via e-mail. The web-based application is mandatory for plan years ending on or after December 31, 2005.

More than 50 percent of the filers used the web-based application. Feedback on the application was overwhelmingly positive. Filers reported the software was user-friendly, well-organized, and intuitive. They also found many aspects of the software to be very helpful, such as the error-checking feature and the capability to print data in forms.

Plans are underway to further improve the application. Most notable would be the ability to use and/or modify information entered for a prior year's filing. For example, instead of manually entering identifying information for next year's filing, information submitted using the web-based application this year would be displayed and the filer would simply modify it as needed. PBGC is also looking into the feasibility of allowing more than one ID/Password per filing. For example, filers would be able to assign a particular actuary to the filing. That actuary would have an individual ID/Password and would be able to enter actuarial information directly into the filing (for the filer's review). PBGC plans to have the enhancements in place early in 2006.

## 2005 Participant Notice Guidance

**Technical Update 2005-1:** 2005 Participant Notice (September 14, 2005), is now available. The Technical Update describes the rules governing the requirement to issue a 2005 Participant Notice under section 4011 of ERISA. The Technical Update includes a worksheet to help plan administrators determine whether they must issue a 2005 Participant Notice and a summary of interest rates to be used for various plan years in making that determination. The Technical Update also updates the Model Participant Notice for 2005. •

---

## The Corner of Forms & Pubs

Welcome back to the Corner of Forms & Pubs – the EP version of Hollywood & Vine. The information here at the Corner is brief and topics needing further details will get their own full-length articles.

### We've Got You Cornered

Filers of **Form 5330**, *Return of Excise Taxes Related to Employee Benefit Plans*, can now find helpful information, including a list of common mistakes at our newly created **Form 5330 Corner**. The 5330 Corner can be found on the **Retirement Plans Community web page** by clicking on "EP Forms & Publications" under the "Related Topics" section.

### What's That on The Horizon?

Ever undaunted in our attempts to supply basic information on different types of retirement plans, we're happy to announce the impending release of five new publications. The first is a continuation in the series of joint IRS/DOL publications highlighting IRA-based retirement plans. Two of the publications deal specifically with 403(b) annuities, while another is devoted to retirement plans that can be adopted by various tax-exempt organizations. Finally, we have developed a brochure that highlights all the products and resources available to help a small business owner in the selection, establishment and operation of a retirement plan.

- **Publication 4333**, *SEP Retirement Plans for Small Businesses*, is a joint effort with the U.S. Department of Labor and is designed for small business owners and tax practitioners with clients that may be able to start or already have a SEP. It provides guidance on the establishment and operation of these plans.
- **Publication 4482**, *403(b) Tax-Sheltered Annuity for Participant* is directed at participants in a 403(b) annuity who are interested in learning more about the basic provisions and requirements in the operation of their plan, along with pitfalls common with many 403(b) annuities.
- **Publication 4483**, *403(b) Tax-Sheltered Annuity Plan for Sponsor* is directed at plan sponsors/employers who are interested in learning more about a 403(b) plan, the operational mistakes common to many of these plans and how to avoid and correct them.
- **Publication 4484**, *Choose a Retirement Plan for Employees of Tax-Exempt and Government Entities (schools, hospitals churches, charities)* is designed for plan sponsors/employers of tax-exempt organizations and government entities who are interested in establishing a retirement program for their employees. It contains a chart that highlights the different types of plans available and key features specific to each plan.
- **Publication 4460**, *The Retirement Plan Products Navigator* is designed for small business owners and tax practitioners with clients that may be able to sponsor a retirement plan or need additional information on a specific type of plan. It "maps out" resources that would help in the selection, establishment and maintenance of the *right* retirement plan.

### How to Subscribe to Employee Plans News

*Employee Plans News* is issued only through IRS e-mail. For your free subscription, please go to the Retirement Plans Community web page at [www.irs.gov/ep](http://www.irs.gov/ep) and register on-line by selecting "Newsletters" under the "Related Topics" section and then selecting "Employee Plans News." All editions of the *Employee Plans News* will be archived at [www.irs.gov/ep](http://www.irs.gov/ep).

For your convenience, we have included Internet links to referenced materials throughout the electronic version of *Employee Plans News*. These links are identified on the paper version by the underlined text. The electronic version may be found at [www.irs.gov/ep](http://www.irs.gov/ep). •



## The Corner of Forms & Pubs *continued from page 7*

All five of these new publications will be available by October 31, 2005. You will find them on the [Retirement Plans Community web page](#) by clicking on “EP Forms & Publications” under the “Related Topics” section or ordered by calling (800) TAX-FORM.

### Not Really New but Definitely Improved Forms & Pubs

The following forms were revised in August 2005 and are currently available:

- **Form 5304-SIMPLE**, *Savings Incentive Match Plan for Employees of Small Employers (SIMPLE) – Not for Use With a Designated Financial Institution.*
- **Form 5305-SIMPLE**, *Savings Incentive Match Plan for Employees of Small Employers (SIMPLE) – for Use With a Designated Financial Institution.*

The following joint IRS/DOL publications are in the process of being updated and should be available by October 31, 2005:

- **Publication 3998**, *Choosing A Retirement Solution for Your Small Business.*
- **Publication 4222**, *401(k) Plans for Small Businesses.*

All four of these revised forms and publications are either currently or soon to be available on the [Retirement Plans Community web page](#) by clicking on “EP Forms & Publications” under the “Related Topics” section or ordered by calling (800) TAX-FORM.

### To be Continued...Not

The IRS intends to discontinue Package X, *Informational Copies of Federal Tax Forms* (a 3-volume set of reference forms) later this year. The decision to discontinue this product reflects the IRS transition to electronic media and communications. The IRS noted that all of the forms are available on its [web page](#). This move will save the agency nearly \$2 million in production and distribution costs.

In addition, the Publication 1796, *IRS Tax Products* (a CD-ROM equivalent to Package X), is available for purchase from the superintendent of documents under the [Government Printing Office](#) and the [National Technical Information System](#).

## Can You Tell? We're Related

Last month, EP posted the Summer 2005, Volume 2, of the *Retirement News for Employers*, the sister publication of the *Employee Plans News*.

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. Thanks to word-of-mouth and the internet, subscribership to the *RNE* continues to grow and grow. So – if you haven't already signed up – sign up now and get the good *News* for yourself and for your clients.

The [Summer 2005 Edition](#) featured stories on such topics as:

- The new look for the Retirement Plans Community web page;
- SIMPLE IRA Plan publications and news;
- Choosing a Tax Professional;
- Critical FewPoints for plan sponsors;
- The Fix is In: Common Plan Mistakes – Vesting Errors in DC Plans; and
- Much more.

It's easy to subscribe: Just go to the [Retirement Plans Community web page](#), select “Newsletters,” and click on “Retirement News for Employers.”

Get your *News* and read all about it!•

## Web Spin (?) – The Retirement Plans Site

We're back – albeit in an abridged form – **Web Spin**, just a singular “Spin” this time around as we've already covered the most of the many additions to the [Retirement Plans Community web page](#) in other columns and articles in this edition of the *News*. But we've saved one nugget of pure gold for this edition's column:

- **Examine Nation** – The EP Examinations section of the [Retirement Plans Community web page](#) has a new look and along with new and reformatted content. Just click on “Examinations/Enforcement” and you'll discover new topics including “Critical Few” - EP Examination Priorities/Goals, Monitoring Compliance (Risk Assessment) and EP Compliance Trends and Tips. For example, when you go to the Trends and Tips section, you'll find the results of our examinations of SIMPLE IRA Plans. Check it out because what you don't know *can* hurt you.•



## Quick Hits

Welcome back to Quick Hits. Late summer was a busy time for IRS and Treasury regulators. There are new rules and guidance on a variety of EP topics. Here are the highlights:

- **Stagger Lee:** The new and improved (and brighter and fresher, too!) Determination Letter Program is getting closer and closer to operation. In the [August 2005 Special Edition](#), we told you about [Rev. Proc. 2005-66](#) and the guidance it contains on the staggered remedial amendment cycles. The procedure also provides a 90-day extension from October 31, 2005 to January 31, 2006 for certain M&P and Volume Submitter plans. The [Retirement Plans Community web page](#) also features more information and details on the new submission process.
- **Hear Ye! Hear Ye!** There will be a public hearing on December 6 for comments on [final and proposed regulations](#) on the anti-cutback rules of Code section 411(d)(6). EP asks that comments be submitted before November 10. To read more on the background of these regulations – including the impact of the Heinz case – go to the [Retirement Plans Community web page](#).
- **The LRMs Have Landed (With One Exception):** The LRMs (List of Required Modifications) for defined contribution plans are now available for viewing on the [Retirement Plans Community web page](#). There's just one hold out: the LRM for cross-tested profit-sharing plans (#25B). But if you like, there's a draft of that LRM for your review and it's also available on the web page. •

---

## Recap of the 2005 IRS Nationwide Tax Forums

The 2005 IRS Nationwide Tax Forums just concluded. The forums were held in six locations across the country throughout the summer. Each seminar ran for three days and had a variety of sessions designed for tax professionals. Topics included:

- Enforcement Update
- Retirement Plans
- The New Form 1023
- Political and Legislative Activity by Section 501(c)(3) Organizations

Each Forum also featured an exhibit hall.

EP presented two sessions entitled “About Your Retirement” and “Retirement Toolbox.” “About Your Retirement” helped practitioners assist their clients in choosing the retirement plan that best suits their business needs. The presentation included a real life example of the maximum contribution available under the different types of retirement plans. “Retirement Toolbox” provided practitioners with the tools that are available from EP to assist their clients in keeping their retirement plans in compliance. The EP sessions were very well attended and folks were glad to get a better understanding of the considerations involved in selecting the right retirement plan and the available tools to keep those plans healthy.

Exempt Organizations (EO) presented two seminars at each Forum location: “The New Form 1023” and “Political and Legislative Activity by Section 501(c)(3) Organizations.” The “Form 1023” seminar provided an overview of the November 2004 changes in the form. The “Political” seminar provided an overview of the rules for section 501(c)(3) organizations with emphasis on political and legislative activity. EO also presented a two-hour hands-on workshop twice at each location: “Form 990 Information Return Workshop.” The workshop covered the major sections of the form with emphasis on its accurate completion. The EO sessions were also very well attended – so much so that there were folks lined up to get inside if room allowed.

## Recap of... Tax Forums *continued from page 9*

Other operating divisions of the IRS also participated, as did other government agencies, among them the Department of Labor. EP and EO session attendees ranged from those with a wealth of retirement plan or non-profit experience to those who were retirement plan novices or had never set up a non-profit or charitable organization.

At the IRS Tax Forum Exhibit Hall, practitioners had the opportunity to pick up their "Retirement Toolkit" and other EP and EO publications and forms, as well as interact with TE/GE employees. Many of the questions answered at the TE/GE booth concerned 401(k) plans, SEPs, SIMPLEs, and the full scope of tax exempt issues. Practitioners stopping by the TE/GE booth also took advantage of the opportunity to pick up IRS publications, forms and promotional items. Attendees had favorable feedback on both the presentations and the booth.

The Tax Forum audiences are a group of practitioners that EP has been reaching out to for the past several years. Traditionally, EP has worked closely with the practitioners in the benefits and retirement area. In contrast, attendees of the Tax Forums are predominantly general tax practitioners (i.e., enrolled agents and small CPA firms).

For further information about the IRS Nationwide Tax Forums and to view a copy of the EP presentations, go to [www.irs.gov/ep](http://www.irs.gov/ep), select "More Topics" under the "Related Topics" section and click on "Retirement Plans for Small Businesses."

## Central and Mountain States Benefits Conference Recap

The 3rd annual Central and Mountain States Benefits Conference was recently held at the Denver Marriott City Center in Denver, Colorado. The two-day event was co-sponsored by the IRS, American Society of Pension Professionals and Actuaries (ASPPA) and the Western Pension and Benefits Conference. The program focused on current regulatory, legislative, administrative and actuarial topics. Panelists from the IRS, DOL, Treasury, ASPPA and other benefits experts discussed topics including:

- Washington Update
- 403(b) Plan, Welfare Benefit Plan and Benefits Litigation Updates
- EP Examination and Enforcement Activities
- Plan Amendments
- Code Section 409A
- Recent Guidance on DB Plans
- 2-part sessions on Roth 401(k), 401(k) Regulations, Prohibited Transactions and EPCRS including case studies.

Luncheon speakers were Sylvester Schieber, US Director of Benefits Consulting, Watson Wyatt, Washington, DC; Denver Mayor John W. Hickenlooper; and Al Lewis, columnist for the *Denver Post*.

The IRS offered an exhibit booth where conference attendees were given the opportunity to have one-on-one discussions with EP specialists and pick up IRS publications, forms and promotional items.

For further information on the Central and Mountain States Benefits Conference as well as other IRS co-sponsored Benefits Conferences, go to the [Retirement Plans Community web page](#), click on "Educational Services" under the "Related Topics" section and then select "Benefits Conferences Calendar."

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

**Bob Architect,**  
**Barbara Bagay,**  
**Joseph Grant,**  
**Michael Julianelle,**  
**Roger Kuehnle,**  
**Teresita Laureano,**  
**Peter McConkey,**  
**Todd Newman,**  
**Greg Nix,**  
**Mark O'Donnell,**  
**Nancy Payne,**  
**Marty Pippins,**  
**Donna Prestia,**  
**Mike Rubin,**  
**Bonnie Schaumberg,**  
**John Schmidt,**  
**Brenda Smith-Custer,**  
and

**Mikio Thomas**

## Employee Plans Published Guidance

(July 2005 – September 2005)

### Regulations

#### [REG-138362-04, 70 Fed. Reg. 40675](#)

Proposed regulations on the use of electronic media in providing employee benefit notices and transmitting employee benefit elections and consents.

#### [T.D. 9219, 70. Fed. Reg. 47109](#)

Final regulations under Code sections 411(d)(6) and 4980F.

#### [REG-156518-04, 70 Fed. Reg. 47155](#)

Additional proposed regulations under Code section 411(d)(6) relating to defined benefit plans.

#### [T.D. 9220, 70. Fed. Reg. 48868](#)

Temporary regulations on the tax consequences of converting an annuity in a traditional IRA to a Roth IRA.

#### [REG-133578-05, 70 Fed. Reg. 49897](#)

Proposed regulations on the deductibility of dividends paid on stock held by an ESOP in controlled group situations. Also clarifies that a payment in redemption of employer securities held by an ESOP is not deductible under section 404(k).

#### [T.D. 9223, 70. Fed. Reg. 50967](#)

Final regulations on insurance, endowment and annuity contracts and Code sections 402(a), 79 and 83.

### Revenue Rulings

#### [Rev. Rul. 2005-55, 2005-33 I.R.B. 284](#)

Addresses whether certain profit-sharing plans that are designed to make distributions to reimburse medical expenses will fail the vesting requirements of Code section 401(a)(7).

#### [Rev. Rul. 2005-60, 2005-37 I.R.B.](#)

Addresses the interaction of Code section 420 and section 101 of the Medicare Prescription Drug, Improvement and Modernization Act of 2003.

### Revenue Procedures

#### [Rev. Proc. 2005-66, 2005-37 I.R.B.](#)

Details the new staggered remedial amendment determination letter process for qualified plans.

### Notices

#### [Notice 2005-58, 2005-33, I.R.B. 295](#)

Describes the tax treatment of section 457(b) plans of federal credit unions pending the issuance of future guidance.

#### [Notice 2005-60, 2005-39, I.R.B.](#)

Provides relief for certain employee benefit plans in the affected parishes and counties declared disaster areas because of Hurricane Katrina.



## DOL Corner

The Department of Labor's Employee Benefits Security Administration (DOL/EBSA) announced new guidance and education to assist plan sponsors and practitioners in complying with ERISA. In addition, DOL/EBSA worked with the IRS and PBGC to provide relief to plan officials and participants impacted by Hurricane Katrina.

### Relief for Those Impacted by Hurricane Katrina

- DOL/EBSA and the IRS announced guidance for employers and plan officials to help victims of Hurricane Katrina obtain hardship distributions and loans through 401(k) and similar employer-sponsored plans. The guidance extends the circumstances under which workers are able to gain access to their retirement funds and eliminates the need for certain documentation.
- DOL/EBSA announced that the agency will not seek enforcement action against plan fiduciaries in the hurricane-affected regions unable to comply with certain DOL regulations, while urging the fiduciaries to use their best efforts to comply with the law.
- Along with the IRS, DOL/EBSA used the Secretary's existing authority to extend a number of deadlines related to health plan coverage, enabling affected workers more time to make critical decisions regarding health coverage and giving affected employers more time to comply with certain notice requirements.
- DOL/EBSA announced an extension of the deadline for filing the Form 5500 and Form 5500 EZ annual report/returns for the effected counties in Louisiana, Mississippi, Alabama and Florida due to property damage and destruction from Hurricane Katrina.

The extension applies to plan administrators, employers and other entities located in the areas directly affected, as identified by the Federal Emergency Management Agency. The extension also applies to firms located outside the affected areas who are unable to obtain the necessary information from service providers, banks or insurance companies whose operations were directly affected by the hurricane.

The agencies – EBSA, IRS and PBGC – realize that, due to this natural disaster, there may be instances when full compliance may not be possible. The guiding principle must be to ensure that appropriate efforts are made to act reasonably, prudently and in the interest of the workers and their families who rely on their health, pension and other benefits for their physical and economic well-being.

Additional information on this guidance and relief is available on DOL/EBSA's [web site](#).

### Electronic Filing of Form 5500 Annual Reports

As part of its continuing effort to update and streamline the annual reporting process, DOL/EBSA published in the Federal Register on August 30, 2005, a proposed regulation that would require plans to file the Form 5500 Series report electronically beginning with plan filings due in 2008.

Adopting an electronic filing system is consistent with recommendations made by the Government Accountability Office and the ERISA Advisory Council. The proposed regulation would apply to all employee benefit plans required to file Form 5500 reports with DOL. In conjunction with this regulatory initiative, DOL/EBSA will also update its current forms processing system – known as EFAST – to ensure that plans and service providers have secure internet-based methods for transmitting filings.

In addition, DOL/EBSA, along with the IRS and PBGC, will propose revisions to the 2007 plan year forms to streamline and improve the information filed by plans. The revised forms, to be filed in 2008, are expected to be published for public comment this year.

Written comments on the electronic filing proposal should be received by DOL/EBSA's Office of Regulations and Interpretations by October 31, 2005. Comments can be sent by mail to the Office of Regulations and Interpretations, Employee Benefits Security Administration, Room N-5669, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210, Attn: Form 5500 E-filing regulation (RIN-1210-AB04) or by email to [e-ori@dol.gov](mailto:e-ori@dol.gov).

The [proposed regulation](#) is available on DOL/EBSA's [web site](#).

## Qualified Professional Asset Manager Class Exemption

On August 23, 2005, DOL/EBSA published in the Federal Register final amendments and a proposed amendment to Prohibited Transaction Exemption (PTE) 84-14. The final amendments update financial standards and streamline recordkeeping requirements of the widely used class exemption available with respect to plans whose assets are managed by qualified professional asset managers (QPAMs).

PTE 84-14 allows plans whose assets are managed by a QPAM to engage in a variety of transactions otherwise prohibited by ERISA provided certain safeguards are met. Banks, insurance companies, savings and loans and investment advisors who are regulated by appropriate state or federal laws and meet certain financial standards are eligible to serve as QPAMs.

A separate amendment also was proposed to the class exemption that would allow in-house QPAMs to manage the assets of their own plans subject to additional safeguards to protect workers' benefits.

The [final amendments](#) to the class exemption are available on DOL/EBSA's [web site](#) as is the [proposed amendment](#).

## 2005 Form 5500

On July 25, 2005, DOL/EBSA, the IRS and PBGC released advance copies of the 2005 Form 5500.

The modifications to the Form 5500 for plan year 2005 are described under "Changes to Note" in the 2005 Instructions. Of particular importance, the Schedule T (Qualified Pension Plan Coverage Information) is no longer required; the Instructions for the Schedule A (Insurance Information) reflect EBSA guidance issued earlier this year on reporting of insurance fees and commissions; and the Schedule B (Actuarial Information) and its instructions improve reporting on investment returns, actuarial assumptions, and the summary of eligibility and benefit provisions used in plan valuations.

Information copies of the forms, schedules and instructions are available on DOL/EBSA's web site at [www.efast.dol.gov](http://www.efast.dol.gov). Filers should monitor the EFAST web site for information on approved software vendors for completing the 2005 forms and on the availability of the official, government printed forms. Advance copies of the 2005 Form 5500 cannot be used for 2004 filings.

For general assistance, contact the EFAST Help Line at (866) 463-3278.

## New Seminar Series on Choosing a Retirement Solution for Your Small Business Clients

On August 31, 2005, DOL/EBSA and the American Institute of Certified Public Accountants announced a new partnership to provide local seminars to educate accountants and their small business clients about retirement savings options to help them start and operate a retirement plan.

Small businesses are the fastest growing sector of the economy. As advisors to these small businesses, CPAs have an understanding of their needs, including those related to employee benefit plans.

Starting a retirement savings plan for a small business can be easier than most business people think. What's more, there are a number of retirement programs that provide tax advantages to both employers and employees. These seminars will provide practical information, helpful tips and an opportunity to get questions answered.

DOL/EBSA will be joined at these seminars by the IRS. The first seminar is scheduled for October 20, 2005 in Los Angeles, California. DOL/EBSA's Los Angeles Regional Office is working with the California Society of Certified Public Accountants on this seminar, which is free and open to the first 200 registrants. Information on this seminar and registration is available on the DOL/EBSA [web site](#).

## Fiduciary Education Seminar Series

DOL/EBSA has announced three seminars scheduled for this Fall:

Eastlake, Ohio – November 2, 2005  
Farmington, Connecticut – November 17, 2005  
Norfolk, Virginia – December 8, 2005

More information on these [seminars](#) and registration is available on the DOL/EBSA [web site](#).



## Mark Your Calendars for the USC Benefits Seminar

The University of South Carolina, the IRS and the Department of Labor will host a benefits seminar at the Moore School of Business on the University of South Carolina campus in Columbia, South Carolina on Friday, November 4, 2005. This will be the 35th annual benefits seminar – the IRS has been a co-sponsor of this conference since its inception – which is designed for professionals who specialize in the employee benefits area. In addition to providing a full day of technical discussions and updates, the seminar will also offer a chance for attendees to network with other benefits professionals.

### CONTACTING EMPLOYEE PLANS

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

Send comments/suggestions to:

EPCE & O  
SE:TEP:CEO  
1111 Constitution Avenue, N W, PE-4C3  
Washington, D.C. 20224

or FAX (202) 283-9525

or E-Mail [RetirementPlanComments@irs.gov](mailto: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 of the [Retirement Plans Community web page](#).

**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 the [Retirement Plans Community web page](#).

IRS speakers this year will feature Michael Julianelle, Director, EP Examinations; Cathy Jones, EP Area Manager, Mid-Atlantic; and Stacy Smith, EP Specialist. J. Shannon Davis, Associate Regional Director with EBSA, will be the featured DOL speaker. There will also be several speakers from the private sector.

The seminar is accredited for attendees to earn CPE credits for accountants, CLE credits for attorneys, and CPE credits for South Carolina life insurance agents.

For those who are interested in attending, please contact Helen Doerpinghaus, at the University of South Carolina at [doerp@moore.sc.edu](mailto:doerp@moore.sc.edu) for further information. You may also contact Stacy Smith at [stacy.smith@irs.gov](mailto:stacy.smith@irs.gov).

## SWBA/IRS 16th Annual Employee Benefits Conference

The SouthWest Benefits Association/Internal Revenue Service 16th Annual Employee Benefits Conference features the top government officials from the IRS and DOL, and leading private industry experts in the world of employee benefits. The curriculum provides insight into the hottest topics in employee plans and direct answers to troubling plan questions.

Featured government speakers include:

- Joseph Grant, Director of EP Rulings and Agreements;
- Michael Julianelle, Director of EP Examinations;
- Martin Pippins, Manager, EP Technical Guidance and Quality Assurance;
- Lisa Mojiri-Azad, Senior Technical Reviewer, Office of Division Counsel/Associate Chief Counsel, TE/GE; and
- Dan Hogans, Attorney Advisor, Office of Benefits Tax Counsel.

Just added is a special session on *Compensation and Benefit Support for Employees Affected by the Katrina Disaster*. Other featured topics include:

- Litigation Update
- Final 401(k) Regs
- Roth 401(k) Update
- 409A Nonqualified Deferred Compensation Plans
- Listed Transactions – Unwinding Benefit-Related Transactions
- Circular 230
- Update on 415 Regs
- EP Examinations and Enforcement Activities.

This year's conference is scheduled for October 24-25, 2005 at the InterContinental Hotel Dallas. For more information on the conference and to register, please call the SWBA at (214) 382-3035, or visit [www.swba.org](http://www.swba.org). Don't miss this opportunity to learn from and interact with your peers at the premier employee benefits conference in the southwest!



## 2006 Los Angeles Benefit Conference

The 2006 Los Angeles Benefits Conference is co-sponsored by the IRS, the American Society of Pension Professionals & Actuaries (ASPPA), the National Institute of Pension Administrators, and the Western Pension and Benefits Conference. The conference will be held at the Hilton Los Angeles/Universal City on January 26-27, 2006 with a Pre-Conference Workshop (Conversations with the IRS) on January 25.

Scheduled speakers include:

- Carol Gold, Director of EP;
- Michael Julianelle, Director of EP Examinations;
- Joseph Grant, Director of EP Rulings and Agreements;
- Avaneesh Bhagat, EP Voluntary Compliance Program Coordinator; and
- Kevin Masushige, EP Closing Agreement and Self-Correction Program Coordinator.

Featured Sessions include:

- Washington Update;
- EP Examinations and Enforcement Activities;
- Defined Benefit Plan Design;
- Plans for Non-Profit/Governmental Entities;
- Health and Welfare;
- EPCRS;
- 401(k) Plans; and
- DOL Regulatory/Fiduciary Issues.

There will also be "Interactive Tables" with IRS staff throughout the conference to answer questions.

For more information regarding the conference, such as special hotel rates and airfares, and to register for the conference, visit the [ASPPA web site](#) or call them at (703) 516-9308.

## Calendar of EP Benefits Conferences

### UPCOMING EVENTS...

Name	Date(s)	Location	Co-Sponsor(s)	For Further Information, Please Contact
<b>SWBA/IRS 16<sup>th</sup> Annual Employee Benefits Conference</b>	10/24/05-10/25/05	Dallas, TX	Southwest Benefits Association (SWBA)	<a href="http://www.swba.org">www.swba.org</a>
<b>Los Angeles Benefits Conference</b>	01/26/06-01/27/06	Los Angeles, CA	ASPPA, NIPA, WPBC & cooperating sponsors	<a href="http://www.asppa.org">www.asppa.org</a>

### RECENT EVENTS...

Name	Date(s)	Location	Co-Sponsor(s)	For Information, See
<b>Central &amp; Mountain Sts. Benefits Conference</b>	09/12/05-09/13/05	Denver, CO	ASPPA and WPBC	<i>EP Benefits Conferences Calendar at <a href="http://www.irs.gov/ep">www.irs.gov/ep</a></i>
<b>Northeast Benefits Conference</b> (2 Locations)	06/09/05-06/10/05	Framingham, MA & White Plains, NY	ASPPA & NE Area Pension Liaison Group	
<b>18<sup>th</sup> Annual Cincinnati Employee Benefits Conference</b>	06/09/05-06/10/05	Cincinnati, OH	Cincinnati Bar Association	
<b>Mid-Atlantic Benefits Conference</b>	05/23/05-05/24/05	Philadelphia, PA	ASPPA	
<b>Great Lakes Benefits Conference</b>	05/05/05-05/06/05	Chicago, IL	ASPPA & cooperating sponsors	

