

Retirement News for Employers

Helping Business Owners with Retirement Plans

Internal Revenue Service Tax Exempt and Government Entities

Volume 3, Fall 2006

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Provisions of the Pension Protection Act of 2006 Effective in 2007

The Pension Protection Act of 2006 (H.R. 4) was signed into law by the President on August 17, 2006. We featured a brief summary of some of the retirement related provisions included in the law in the [Summer 2006 edition](#) of the *Retirement News for Employers*. The law is the most sweeping pension legislation in over 30 years and includes a number of significant tax incentives to enhance retirement savings for millions of Americans. This edition of the *RNE* will focus on provisions of the law relating to defined contribution plans which are effective in 2007.

- **Permanent Retirement and Savings Incentives** - The *Economic Growth and Tax Relief Reconciliation Act of 2001* (EGTRRA) substantially increased pension and individual retirement account (IRA) contribution limits through 2010 as well as making other improvements in pensions and retirement savings through enhanced vesting, portability and reduced regulatory burdens. The law makes these favorable changes permanent. The law also [indexes the income limits](#) for traditional, spousal and Roth IRAs to prevent these benefits from being eroded by inflation.
- **Vesting** - All employer contributions made to a defined contribution plan after 12/31/06 must be vested using either a 6-year graded or 3-year cliff vesting schedule.
- **Notice and Consent Period Regarding Distributions** - A notice must be provided to plan participants at least 30 days but not more than 180 days before a distribution stating the participant's rights regarding cash-outs (explaining the consequences of not deferring the distribution), eligible rollover distributions and survivor annuities.



- **Saver's Credit Made Permanent** - The law makes permanent the Saver's Credit of up to \$2,000. Without this extension, the credit would not have been available after 2006. The law also [indexes](#) the Saver's Credit income limits to prevent this benefit from being eroded by inflation. (See also the "Timing is Everything" flyer on page 14.)
- **Requirement to Allow Employees to Divest Plan Assets** - The law requires employers to allow participants in defined contribution plans that are invested in employer securities to elect to direct the plan to divest employer securities into other investment options. Participants are required to be notified of their right to divest and of the importance of diversification. Issuance of a model notice for this purpose is being considered, and guidance is expected to be issued very soon.
- **Hardship Distributions** - This provision was effective on August 17, 2006 and modifies the rules governing hardships to include events that occur to a participant's spouse or dependent.
- **Treatment of IRA Contributions for Guard and Reservists Called to Active Duty** - The law provides that distributions from an IRA or pension plan taken by members of the National Guard and Reserves called to active duty after 9/11/2001 and before 12/31/2007 for a period in excess of 179 days are not subject to early withdrawal penalties. Withdrawn amounts may be repaid to the IRA or pension plan within two years of the distribution without regard to the annual contribution limit.
- **Rollover Rules** - The law provides new rollover requirements for after-tax rollovers in annuity contracts, direct rollovers from retirement plans to Roth IRAs, and rollovers by nonspouse beneficiaries of certain retirement plan distributions.
- **In-Service Distributions at Age 62** - The law allows pension plans to provide for distributions to employees who have attained age 62 and who have not separated from employment at the time of the distributions.

Additional guidance on these provisions will be issued by the IRS and Treasury. Please check our [Published Guidance](#) page frequently for updates.

For additional information, see:

- [Summary and Bill Information](#) - Pension Protection Act of 2006.
- [Technical Explanation](#) of the Pension Protection Act of 2006. ■

"Timing is Everything"

The first anniversary edition of our "Timing is Everything" flyer is on [page 14](#). In this edition, we have information on 2007 contribution limitations and the Retirement Saver's Credit. Feel free to go ahead and print and/or share the flyer with your employees. ■

The Act Asks for Your Comments



How to Subscribe to Retirement News for Employers

The *Retirement News for Employers* is issued by IRS e-mail. For your free subscription, go to the [Retirement Plans Community web page](#) and subscribe online by selecting "Newsletters" under "Retirement Plan Community Topics." All editions of the *Retirement News for Employers* are archived there.

For your convenience, we have included Internet links to referenced materials throughout the electronic version of *Retirement News for Employers*. These links are identified by the blue and underlined text. ■

The Advisory Committee on Tax Exempt and Government Entities (the "ACT") serves as an advisory group to the Commissioner, Tax Exempt and Government Entities Division of the IRS on employee plans, exempt organizations, tax exempt bonds, and federal, state, local and Indian tribal government issues. Presently, the ACT is considering recommendations to assist employers, who have or will adopt pre-approved qualified retirement plans through institutions, service providers or other professionals, to remain compliant with IRS rules and regulations. Any employer, who has adopted a pre-approved plan and is willing to provide comments, is asked to respond directly to the ACT's e-mail address at tege.act@irs.gov on the following questions:

1. Who, if anyone, assisted you in completing the documents relating to your plan (such as an attorney, consultant, broker, representative of the plan's sponsor, etc.)?
2. Who, if anyone, provides technical assistance to you in the ongoing operation of your plan?
3. What have been the most difficult aspects of operating your plan and complying with the IRS' document requirements?
4. What recommendations would you make to help improve compliance with the IRS' rules and regulations?
5. What other information would you like to share with the ACT concerning your experience as an adopter of a pre-approved plan? ■

Delay in Effective Date for Regulations Under Section 403(b)

As mentioned in our [August 29, 2006 News Flash](#), the Internal Revenue Service announced that the general effective date for the regulations regarding section 403(b) arrangements that were proposed in 2004 (including the related controlled group regulations under section 414(c)) will be extended.

In order to provide employers, employees, insurance carriers, and mutual funds involved in section 403(b) arrangements a reasonable advance period before the regulations go into effect, the final regulations generally will not be effective earlier than January 1, 2008. ■

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

This is my last time sharing my thoughts on our Critical FewPoints in the EP Examination Program. I will be assuming my new position as IRS Director of Government Entities this month. Upcoming editions of this newsletter will continue to share the thoughts of my replacement.

Though IRS Employee Plans is undergoing changes in its senior leadership, our efforts these past years to focus our limited resources and attention to what we call the “Critical Few” priorities/goals in our Examination Program remains unchanged. We recognize the importance of a reasonable and vigorous EP Examination Program to the Retirement Plans Community.

For FY 2007, we will focus on three “Critical Few” priorities/goals as follows:

- Expand Compliance Contacts
- Research & Analysis
- Focused Examinations

Let’s outline some details on each of the FY 2007 Critical Few:

First, **Expand Compliance Contacts** includes effectively dealing with abusive schemes, increasing the number of returns examined, addressing new market segments, expanding contacts from the EP Compliance Unit (EPCU), working new projects (such as risk-based targeted exams) and completing specialty work (such as EP Team Audits).

Second, **Research & Analysis** is key in making certain that the most appropriate plans are selected for enforcement. We will more effectively use our data and develop projects through analysis performed by the Data Analysis Unit and the EP Compliance Unit. One effort is what we will call LESE which stands for **L**earn, **E**ducate, **S**elf-Correct and **E**nforce. LESE cases are quick projects where returns selected for examination contain issues of interest in a particular market segment.

Third, **Focused Examinations** started in FY 2006 will continue due to the favorable results in using the technique to work our examination cases. This is also the proper way to conduct an examination. The focus is on non-compliant taxpayers to produce efficient examinations by identifying more productive issues before assignment and concentrating on pre-audit, initial interview, internal controls and examining key issues. Thus, this approach saves compliant taxpayers time and money. Agents can still perform a quality examination, determine if the issues warrant further investigation, and close the case in a more timely manner.

Check out the [FY 2007 EP Work Plan](#) for more details on the EP Examination Program.

Finally, I want to thank you for reading my words and for the comments you have given me in person and through e-mail. I wish for all of you to have continued success with your businesses and with your retirement plan goals for you and your employees. ■

Product Profile - Have you had your Check-up this year? for 401(k) Retirement Plans

Two years ago, in the [Fall 2004 edition](#) of the *Retirement News for Employers*, we profiled [Publication 4405](#), *Have you had your Check-up this year? for SIMPLE IRAs, SEPs, and Similar Retirement Plans*. We are pleased to announce its new companion [Publication 3066](#), *Have you had your Check-up this year? for 401(k) Retirement Plans*. Just as you need to give your car periodic check-ups to ensure that you have a solid, well-oiled, dependable machine when you need it, a retirement plan needs regular attention and care to keep it operating well.

This publication provides the roadmap to help you maintain your 401(k) plan and participant benefits. *Have you had your Check-up this year? for 401(k) Retirement Plans* is a plain-language publication that provides you with basic information on:

401(k) PLAN CHECKLIST

This Checklist is *not* a complete description of all plan requirements, and should not be used as a substitute for a complete plan review.

For Business Owner's Use
(DO NOT SEND THIS WORKSHEET TO THE IRS)

Every year it is important that you review the requirements for operating your 401(k) retirement plan. This checklist is a "quick tool" to help you keep your plan in compliance with many of the important rules. Underlined text below shows a link to expanded explanations and resources available at www.irs.gov/ep.

<p>1. Has your plan document been updated within the past few years to reflect recent law changes? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>If your plan has not been updated to reflect EGTRRA, the plan needs to be revised.</p> <hr/> <p>2. Have you notified the people who service your plan of any plan changes? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Notify plan servicers right away with any changes in the form or operation of your plan, including acquisition or ownership changes affecting the employer.</p> <hr/> <p>3. Is your plan's operation based on the definitions and requirements (terms) written in your plan document? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Failure to follow the terms of the plan is a common problem encountered on audit.</p> <hr/> <p>4. Were all eligible employees identified and given the opportunity to make an elective deferral election? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>By supplying your third party administrator (TPA) or advisor with information regarding all employees who receive a Form W-2, you may reduce the risk of omitting eligible employees.</p> <hr/> <p>5. Is the plan's definition of compensation used for all deferrals and allocations? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Because your plan may use different definitions of compensation for different purposes, it's important that you apply the proper definition in a consistent manner when dealing with deferrals and allocations.</p>	<p>6. Have you timely deposited employee deferrals each pay period? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>You are required to deposit deferrals as soon as they can be segregated from the employer's assets. Most employers deposit salary deferrals when making payroll tax deposits.</p> <hr/> <p>7. Have you identified all your highly compensated employees and key employees, including owners and their family members, so that your TPA can perform your nondiscrimination tests? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Failure to provide this information prevents your TPA from properly performing your nondiscrimination tests.</p> <hr/> <p>8. Have the 401(k) nondiscrimination tests (ADP, ACP, and Top-Heavy) been performed counting all eligible employees? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>You may not need to—find out how a safe harbor 401(k) plan may allow you to completely avoid these tests.</p> <hr/> <p>9. Have you filed a Form 5500 series return, and have you distributed a Summary Annual Report (SAR) to all plan participants this year? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Responsibility for filing the Form 5500 and distributing the SAR lies with you, the plan sponsor.</p> <hr/> <p>10. Are elective deferrals limited to the amounts under IRC 402(g) for the calendar year? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Elective deferrals are limited to \$15,000 for 2006, including any designated Roth contributions made by participants, and exclusive of any catch-up contributions.</p>
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If you answered "No" to any of the above questions, you may have a mistake in the operation of your 401(k) plan. This list is only a guide to a more compliant plan, so answering yes to each question may not mean your plan is 100% compliant. Many mistakes can be corrected easily, without penalty and without notifying the IRS.

■ contact your benefits professional ■ visit the IRS at www.irs.gov/ep ■ call the IRS at (877) 829-5500

Department of the Treasury Publication 4021 (7-2006) Internal Revenue Service Catalog Number 485517 www.irs.gov

- **Tools** - For a quick review to see if you meet some basic requirements in operating your business's retirement plan, get the one-page [IRS 401\(k\) Checklist](#) of 10 questions. The online version of the checklist includes expanded explanations to key terms in the questions. The checklist does not cover all plan requirements, so you should not use it as a complete plan review. It is, however, an easy way to start your plan check-up.
- **Tips/Resources** - Help ensure that the plan is in good running order.
- **Help** - through IRS Programs. The IRS has helpful correction programs that provide incentives for finding and correcting mistakes earlier rather than later. After reviewing the plan and completing the appropriate checklist, an employer may find an error in the plan's operation. The employer may want to correct the error using one of the IRS correction programs.

Finally, the publication provides additional resources for your use if you need more in-depth information.

The publication, as well as additional information on [401\(k\) plans](#) and checklists for [SIMPLE IRAs](#), [SEPs](#), and [SARSEPs](#), can be found on the Retirement Plans Community web page, www.irs.gov/ep. Copies of the publications can be ordered by calling 1-800-TAX-FORM (829-3676). The number is toll-free. ■

The Fix Is In: Common Plan Mistakes

In each issue of the *Retirement News for Employers* we present a common mistake that occurs in retirement plans. We describe the problem, how it happened, how to fix it and how to lessen the probability of the problem happening again. This edition of the column focuses on “**Correction for Exclusion of Employees for Elective Contributions or After-Tax Employee Contributions.**”

The Issue

A plan must specify how an employee becomes a participant. In other words, what are the plan’s eligibility conditions? IRC §§401(a)(3) and 410(a) establish minimum standards relating to age and service requirements for eligibility purposes. Failure to timely include all eligible employees in a qualified plan will cause the plan to lose its tax-qualified status.

The Problem

If an employee is improperly excluded from a profit-sharing plan, they miss out on any contributions made (with earnings) during the period of exclusion. Calculating the amount that the employee lost in this situation is simple. The allocations of any plan contributions during the exclusion years are recalculated by including the excluded participant and are adjusted for lost earnings. When a plan allows elective contributions or after-tax employee contributions in a 401(k)/(m) arrangement, the calculation of the loss suffered by the excluded employee becomes more complex. When an employee misses the chance to make a deferral or after-tax contribution, the dollars that would have been contributed are still in the possession of the employee. The affected employee has lost the opportunity to put a certain amount of money into a tax-favored account.

The Fix

Improperly excluding an employee from making elective contributions or after-tax employee contributions will cause a plan to become disqualified, resulting in adverse tax consequences to the employer and employees under the plan; however, employers may get relief from these adverse consequences through the [Employee Plans Compliance Resolution System \(EPCRS\)](#) by correcting the failures. The Voluntary Correction Program (VCP) and the Self-Correction Program (SCP) can be used to correct these mistakes.

Prior to the issuance of Revenue Procedure 2006-27, the correction for excluding an otherwise eligible employee from making deferrals or after-tax employee contributions into a 401(k)/(m) plan was for the employer to contribute both:

1. A Qualified Non-Elective Contribution (QNEC) equal to the average deferral percentage (ADP) for the class of the excluded employee (either Highly Compensated Employee (HCE) or Nonhighly Compensated Employee (NHCE)) times the employee’s compensation during the period of the failure, and
2. An additional QNEC equal to the average contribution percentage (ACP) for the class of the excluded employee (NHCE or HCE) times the employee’s compensation during the period of the failure.

The above amounts would be adjusted for earnings. The average deferral percentage, or ADP, is determined by averaging the deferral percentages separately calculated for the eligible employees in the §401(k) arrangement. A QNEC is a contribution made by an employer that meets certain vesting, distribution and nondiscrimination requirements.

It can be argued that this correction creates something of a “windfall” for affected employees because under the ADP portion of the correction the employee receives both the corrective contribution and the cash compensation upon which the QNEC is made.

Revenue Procedure 2006-27 introduced a new optional correction method based on the principle that the employer should contribute to the plan on behalf of the excluded employee an amount that measures the value of the “lost opportunity” to the employee to have a portion of his or her compensation contributed to the plan. This correction principle applies solely to this limited circumstance. It does not, for example, extend to the correction of:

- A failure to satisfy a nondiscrimination test, e.g., the ADP test pursuant to §401(k)(3) and the ACP test pursuant to §401(m)(2).
- §414(v) catch-up contributions or Roth contributions.

The method of correction cannot be used until after the correction of other qualification failures. Thus, for example, if in addition to the failure of excluding an eligible employee, the plan also failed the ADP or ACP test, the correction method described cannot be used until after correction of the ADP or ACP test failures.

The new correction for a failure to include an eligible employee in a 401(k) plan is based on the “lost opportunity cost” to make deferrals. For salary deferrals, the required make-up payment is 50 percent of the pre-tax deferrals the employee would have made had the employee been timely included in the plan. This is based on the employee’s compensation times the ADP of the employee’s class (NHCE or HCE). The matching contribution for the excluded employee equals the matching contribution that would have been received had the employee made pre-tax deferrals. However, the corrective matching contribution is based on the full amount of deferrals (ADP) and not the 50 percent lost opportunity cost applicable to employee deferrals. Similar correction rules apply to safe harbor 401(k) plans. However, in calculating the correction amount the plan must apply its safe harbor formula rather than the ADP amounts for the applicable class of employees.

Example: A NHCE has compensation of \$40,000 and is incorrectly excluded for a full year from a plan that provides a match equal to 100 percent of the first 3 percent of compensation. The plan has a NHCE ADP equal to 5 percent. The QNEC for lost opportunity cost to make deferrals is \$1,000 ($\$40,000 \times 5\% \times 50\%$). The QNEC for the matching contribution is \$1,200 ($\$40,000 \times 3\%$).

The correction for after-tax contributions is based on a different “lost opportunity cost” - namely, 40 percent of the after-tax contributions the employee would have made had the employee been timely included in the plan. This amount is based on the employee’s compensation times the ACP for the employee’s class (NHCE or HCE). The applicable ACP in this calculation may be limited to the portion of the ACP that is attributable to after-tax employee contributions (excluding matching contributions).

IRS employees contributing to this edition of the *Retirement News for Employers* are:

Michael Julianelle
Joyce Kahn
Roger Kuehnle
Peter McConkey
Mark O’Donnell
Nancy Payne
Marty Pippins
Keith Ruprecht
John Schmidt
Brenda Smith-Custer and
Mikio Thomas

Making Sure It Doesn't Happen Again

Employers need to have a system in place to ensure that employees are allowed entry into the plan according to the terms of the written plan. Employers should work with plan administrators to ensure that the administrators have sufficient employee data to calculate the proper entry date and rate of deferrals desired by the employee.

However, keep in mind that, despite all of your good efforts, mistakes can happen. In that case, the IRS can help you correct the problem and retain the benefits of your qualified plan. ■

Safe Harbor Notice Reminder

Employers with calendar-year safe harbor 401(k) plans are required to give employees a written notice within a reasonable period before the beginning of each plan year of their rights and obligations under the plan. The regulations under section 401(k) provide that the timing requirement for the notice is deemed satisfied if the notice is given at least 30 days but no more than 90 days before the beginning of each plan year.

The regulations also provide that certain information otherwise required to be contained in the safe harbor notice can instead be cross-referenced to the relevant portions of the plan's summary plan description that is currently available to employees. However, a description of the plan's withdrawal and vesting provisions applicable to contributions under the plan may not be cross-referenced to a summary plan description. This is a change: For plan years beginning before 2007, a safe harbor 401(k) plan notice could have cross-referenced the plan's summary plan description for the plan's withdrawal and vesting provisions.

So, for plan years beginning after December 31, 2006, a safe harbor notice must include a description of the plan's withdrawal and vesting provisions applicable to contributions under the plan (merely cross-referencing to the relevant portions of a summary plan description is not sufficient). ■

CONTACTING EMPLOYEE PLANS

The *Retirement News for Employers* 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. ■

DOL Corner

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 homepage as well as the Compliance Assistance page for notice of updates posted on the web site.



Securities Lending

On October 31, DOL/EBSA published in the Federal Register a final class exemption expanding the opportunities for securities lending between employee benefit retirement plans, banks and broker-dealers.

The exemption, which consolidates two existing class exemptions, provides conditions to safeguard the assets of plans involved in securities lending transactions. The updated requirements will permit retirement plans to earn additional income by lending securities from their portfolios to a greater universe of permissible borrowers.

Under the exemption, the categories of permissible borrowers have been expanded to include broker-dealers and banks of the United Kingdom, Canada and certain other foreign broker-dealers and banks. In addition, the types of collateral that may be offered to plans for securities lending transactions have been broadened to include negotiable certificates of deposits payable in the United States, mortgage backed securities, the British pound, the Canadian dollar, the Swiss franc, Japanese yen, the Euro, securities issues by Multilateral Development Banks, rated foreign sovereign debt and irrevocable letters of credit issued by certain foreign banks. If the plan's U.S. domiciled lending agent agrees to indemnify the plan against losses resulting from a borrower's default, the final exemption permits a plan to accept any other type of collateral currently permitted by the Securities and Exchange Commission under Rule 15c3-3 of the Securities Exchange Act of 1934.

ERISA gives DOL/EBSA authority to grant an exemption from the law's prohibited transaction provisions. DOL/EBSA grants class exemptions when it determines that the exemption is in the interest and protective of the rights of benefit plan participants and beneficiaries.

The [final exemption](#) revokes and replaces Prohibited Transaction Exemptions 81-6 and 82-63.

Default Investment Alternatives for Participant-Directed Plans

On September 27, DOL/EBSA published in the Federal Register a proposed rule to make it easier for fiduciaries of 401(k) and other participant-directed defined contribution plans to adopt automatic enrollment design features. The proposed rule is the first major regulation resulting from the Pension Protection Act of 2006 (PPA).

The proposal implements provisions of the PPA to provide relief to plan fiduciaries who invest the assets of participants in "qualified default investment alternatives" in the absence of participant investment direction (including through plans that have automatic enrollment plan features). Default investment alternatives under the proposed regulation are intended to encourage the investment of employee assets in appropriate investment vehicles for long-term retirement savings.

Public comments on the proposed rule should have been submitted to the U.S. Department of Labor, Employee Benefits Security Administration, Room N5669, 200 Constitution Avenue, NW, Washington, DC 20210, Attention: Default Investment Regulation; or electronically to e-ORI@dol.gov or www.regulations.gov by November 13, 2006.

A [fact sheet](#) on the proposed rule and the [proposed rule](#) are available on DOL/EBSA's web site.

Electronic Filing and Proposed Improvements to Form 5500 Annual Reports

On July 21, DOL/EBSA published in the Federal Register a final regulation requiring plans to file Form 5500 Annual Reports electronically beginning with 2008 plan year filings due in 2009. Simultaneously, DOL/EBSA, along with the IRS and PBGC, proposed changes to the forms that will be processed under the new electronic system.

The final electronic filing rule is effective for plan years starting on or after January 1, 2008. This will give plans and service providers needed time to adapt to the new system and any changes to the Form 5500. The wholly electronic filing system will be streamlined, cost-effective and more efficient for plans. It will also increase the accuracy of the information used by the public and the government.

The proposed changes to the content of the form are intended to simplify filing and ensure compatibility with the electronic processing system. Among the proposed revisions to the Form 5500 are: creation of a new short form for small plans whose assets are held in easy-to-value investments with regulated financial institutions; increased transparency of plan-related fees and expenses; improved information on the funding of defined benefit plans; and realignment of the reporting rules of 403(b) plans (subject to Title I) to be compatible with those of 401(k) plans. The new system will also customize information required to be filed to the type of plan involved in each filing.

The comment period on the proposed Form 5500 revisions closed September 19, 2006. The comments are available on [EBSA's web site](#).

For further information, see [DOL/EBSA's web page](#) on electronic filing and the proposed improvements.

EFAST2 Project Request for Proposal

On September 1, DOL/EBSA released a Request For Proposal (RFP) to support a new mandate on electronic filing of the Form 5500 Series reports required by ERISA. The RFP was published online by Federal Business Opportunities.

The RFP solicits proposals from the information technology (IT) community for a wholly outsourced IT system to be designed, developed and operated by a private-sector vendor under contract to the Department of Labor. The IT system, known as EFAST2, is intended to receive, process, store, publicly disclose, distribute and archive an estimated 1.1 million electronically filed Form 5500 reports annually submitted by the public via the Internet.

A copy of the [EFAST2 Request for Proposal](#) is available online or through the Department of Labor's Procurement Office at 202-693-4585.

2006 Form 5500 Annual Report

On July 13, DOL/EBSA, the IRS and PBGC released advance copies of the 2006 Form 5500 and instructions.

The logo for Form 5500, featuring the words "Form" and "5500" in a large, blue, sans-serif font. The "5500" is significantly larger than "Form".

The modifications to the Form 5500 for plan year 2006 are described under “Changes to Note” in the 2006 Instructions. Of particular importance, the Schedule P (Annual Return of Fiduciary of Employee Benefit Trust) is no longer required; the instructions for the Schedules H and I are updated to refer to EBSA’s revised Voluntary Fiduciary Correction Program and companion exemption; new addresses for submitting late filing penalties under the Form 5500 Delinquent Filer Voluntary Compliance Program are provided; and the instructions for counting welfare participants and beneficiaries are improved.

Information copies of the forms, schedules and instructions are available on DOL/EBSA’s web site at www.efast.dol.gov. Filers should monitor the EFAST web site for information on approved software vendors for completing the 2006 forms and on the availability of the official, government printed forms. Advance copies of the 2006 Form 5500 can not be used for 2005 filings.

Upcoming Compliance Assistance Events

Fiduciary Education Seminars: December 5 in Sacramento, California; February 8 in Saddle Brook, New Jersey.

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. ■

Net Gains

Welcome back to *Net Gains*, the column devoted to providing you with the latest [Retirement Plans Community web page](#) information. This portion of the [IRS web site](#) contains almost everything you want to know about retirement plans but didn’t know where to find it.

More New FAQs

In the Summer edition of the *Retirement News for Employers* we told you about our new FAQs on obtaining a waiver of the 60-day rollover period. Since then we have added additional FAQs regarding [Loans](#), [Hardship Distributions](#) and [Plan Investments](#). Check out these and our other [Frequently Asked Questions](#).

New Examinations Communication Tools

We recently posted two new Examinations Communication tools. The first, the [Employee Plan Audit Efficiency Guide](#) was developed by a team of practitioners and Employee Plans managers. It is intended to ease the communication between the plan sponsor and the examining agent so the audit can proceed as efficiently as possible. The guide will be completed jointly by the agent and the plan sponsor so both will know what to expect during the audit.

The second item is [Top Ten Tips to Prepare for an Efficient Audit](#). This listing provides the plan sponsor with ways to prepare for an examination of its plan and trust. Each tip comes with detailed explanations to assist the plan sponsor in getting the necessary items ready for the examination.

COLAs

As we mentioned in the [October 19, 2006 Special Edition](#), the 2007 [Cost-of-Living Adjustments](#) for retirement plans have been released and can be found on the Retirement Plans Community web page.

Retirement Plans Community Site Map

Need help finding a topic? Visit the [Retirement Plans Community Site Map](#) which contains a listing of information by topic on the Retirement Plans Community web site. ■

The Filing Cabinet

Forms - you can't live with them, you can't live without them. Just like you use forms when running your business - everything from spreadsheets to receipts to invoices - you also use forms when dealing with a retirement plan.

New Products

In keeping with our ongoing commitment to supply basic information on different types of retirement plans, we're happy to announce the release of the following new publications dealing with 401(k) and 403(b) plans respectively:

- [Publication 3066](#), *Have you had your Check-up this year? for 401(k) Retirement Plans*. (See the *Product Profile* on page 5.)
- [Publication 4531](#), *401(k) Plan Checklist*. (See the *Product Profile* on page 5.)
- [Publication 4547](#), *Have you had your Check-up this year? for 403(b) Retirement Plans* is an educational brochure designed to inform and encourage employers to perform a periodic "check-up" of their 403(b) plans through the use of the *403(b) Plan Checklist*, and how to initiate corrective actions if necessary.
- [Publication 4546](#), *403(b) Plan Checklist* is directed at the public educational institution or charitable organization and designed to help them identify possible operational problems within their specific 403(b) plan. It is to be used in conjunction with the Publication 4547.

All of these new publications are available on the Retirement Plans Community web page at www.irs.gov/ep by clicking on "EP Forms & Publications" under the "Retirement Plans Community Topics" or by calling 1-800-TAX-FORM (829-3676).

New Joint-Agency Publication

Once again, we've partnered with the U.S. Department of Labor's Employee Benefits Security Administration (EBSA) to create another plain-language publication. *Payroll Deduction IRAs for Small Businesses* is directed at the small business owner who wants to help its employees save for retirement. The publication is available on the Internet at www.dol.gov/ebsa. ■

Let's Just Take It One Three-Month Period at a Time

 = contribution

 = conference

 = file forms


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


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

 **December 5:** DOL Seminar: [Fiduciary Education Seminar](#) - Sacramento, CA

December 31: Deadline for -

- Making required minimum distributions for 2006.
- Distributing prior year's excess contributions - including income or losses - without losing plan's tax-qualified status.

 **January 15, 2007:** Fourth quarterly contribution due date for 2006 calendar-year defined benefit plans.

 **January 31:** Deadline for -

- Filing [Form 945](#), *Annual Return of Withheld Federal Tax*.
- Giving payees [Form 1099-R](#), *Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans...*

 **February 8:** DOL Seminar: [Fiduciary Education Seminar](#) - Saddle Brook, NJ

For a comprehensive list of upcoming EP Educational Events, visit the [Retirement Plans Community web page](#), select "Educational Services" under "Retirement Plans Community Topics" and then "Upcoming EP Educational Events." ■



Timing is Everything



Some helpful retirement tips from the IRS for 2007...

How much can I contribute to my retirement plan?

- **401(k) and 403(b) Plan Participants:**
 - You can make up to \$15,500 in elective contributions.
 - Over age 50? You may be eligible to make “Catch-Up Contributions” up to an additional \$5,000.
- **SIMPLE IRA Plan Participants:**
 - You can make up to \$10,500 in pre-tax contributions.
 - Over age 50? You may be eligible to make “Catch-Up Contributions” up to an additional \$2,500.

Am I entitled to a tax credit for my contributions?

- **Retirement Saver’s Credit:**
 - Tax credit of up to \$1,000 or up to \$2,000 if filing jointly.
 - In order to qualify for the credit, adjusted gross income cannot be more than:
 - \$52,000 if married filing jointly,
 - \$39,000 if head of household, or
 - \$26,000 if single, married filing separately or qualifying widow(er).
 - File Form 8880, *Credit for Qualified Retirement Savings Contributions*, to calculate the credit.



See your employer or www.irs.gov/ep for additional information on these items.