

Retirement News for Employers

Helping Business Owners with Retirement Plans

Internal Revenue Service

Tax Exempt and Government Entities

Volume 3, Summer 2006

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Pension Protection Act of 2006

The Pension Protection Act of 2006 (H.R. 4) was signed into law by the President on August 17, 2006. The law includes a number of significant tax incentives to enhance retirement savings for millions of Americans. The following is a brief summary of some of the retirement related provisions included in the law:

- 1. 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.
- 2. Minimum Funding Standards** - Significant changes in defined benefit funding rules, for both single and multiemployer plans. These are the most sweeping changes in the funding rules since the enactment of ERISA.
- 3. Benefit Accruals Under Hybrid Plans** - Rules regarding hybrid plans including cash balance and pension equity plans are incorporated in Titles I and II of ERISA, and the Age Discrimination in Employment Act.
- 4. IRS Correction Programs (EPCRS)** - The law provides that the Treasury has the full authority to establish and implement EPCRS, including the authority to waive income, excise or other taxes to ensure that any tax, penalty or sanction is not excessive and bears a reasonable relationship to the nature, extent and severity of a plan mistake (i.e., compliance failure). The Treasury is instructed to give special attention to the concerns and circumstances that small employers face with respect to compliance and correction of plan mistakes.
- 5. 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.



6. 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.

7. Combined Defined Benefit and Defined Contribution Plan - The law creates a new type of plan for small employers (with not more than 500 employees) consisting of a combination defined benefit plan and defined contribution plan where the assets are held in a single trust.

8. Automatic Enrollment - The law creates a safe harbor to encourage employers to offer automatic enrollment in employer-sponsored defined contribution pension plans, which will encourage employee participation.

9. 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 through 2007 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.

10. Long Term Care/Annuity Products - The law authorizes a new insurance product which allows annuities to carry a long-term care rider, so that annuity earnings can also be used to provide coverage against long-term care needs.

11. Public Safety Officer Retirement Distributions for Health and Long Term Care Insurance - Public safety officers who retire or become disabled may make tax-free distributions of up to \$3,000 annually from their governmental pension plans if the distribution is used to purchase health or long-term care insurance.

12. 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.

13. Transfers of Excess Defined Benefit Fund Assets for Retiree Health - The law allows assets in excess of 120 percent of current liability to be used to fund retiree health benefits. Further, additional contributions to the defined benefit plan would be required when asset values fall below 120 percent of current liability. The law applies to both single employer plans and collectively bargained plans.

14. Lump Sum Interest Rate - The law phases out the use of the 30-year Treasury rate in computing lump sum distributions, and replaces it with a segmented corporate bond yield curve rate.

15. 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.

For additional information, see:

- President Bush Signs H.R. 4, the Pension Protection Act of 2006 [[View](#)]
- Summary and Bill Information - Pension Protection Act of 2006 [[View](#)]
- Technical Explanation of the Pension Protection Act of 2006 [[View](#)] ■

Waiver of the 60-Day Rollover Period

Before 2002, taxpayers who missed the 60-day deadline for rollovers from a qualified plan or Individual Retirement Account (IRA) were out of luck. The law with respect to the 60-day rule was very rigid and the IRS didn't have the authority to consider equities.

Effective for distributions after December 31, 2001, the IRS has discretion to waive the 60-day rule under certain circumstances. Please go to www.irs.gov/ep, select "Plan Participant/Employee," select "Resources for Retirement Plan Participant/Employee" and see the "IRA Online Resource Guide" to find information on obtaining a waiver of the 60-day rollover requirements.

In general, a rollover is a tax-free distribution of cash or other assets from an employer-sponsored retirement plan or IRA. This is contributed or "rolled over" to a second retirement plan or IRA. If the rollover contribution is not made by the 60th day after the distribution is received, the recipient is liable for income taxes on the amount withdrawn, plus a 10% additional tax if the recipient is under age 59 ½.

When an employee separates from service with his/her employer or retires and receives a distribution from the employer-sponsored retirement plan, generally the distribution is eligible for rollover to a traditional IRA or to another eligible retirement plan with a different employer. Before making the distribution, the plan must give the recipient a written explanation of rollover treatment, including an explanation of the 60-day rollover rule.

Rollovers also can occur between IRAs. Rolling over assets between the same types of IRAs for better investment is a very popular IRA transaction. However, unlike distributions from an employer-sponsored retirement plan, the IRA trustee or custodian is not required to provide a written explanation of rollover treatment or other tax consequences that may occur as a result of the withdrawal from the IRA. As a result, many well-intentioned taxpayers miss the 60-day cutoff date for re-depositing their IRA distributions into another IRA. In many cases the money is re-deposited into a non-IRA by the 60th day after receipt. However, since it was not re-deposited into an IRA, it is not a tax-free rollover.

Example. An employee, age 55, separates from service with her employer and receives a distribution from her employer-sponsored retirement plan. In accordance with the law, a written explanation of rollover treatment is given before the distribution. After receiving the distribution, she makes a timely rollover into an IRA certificate of deposit (CD) with her local bank. Thirteen months later the IRA CD matures. She researches CD rates and finds that a CD at the bank around the corner is paying a higher interest rate, so she withdraws the money from her IRA CD and purchases a CD at the bank around the corner. This transaction takes place well within the 60-day rollover period. After the 60-day period has expired, she learns that the CD that she purchased was a non-IRA CD and therefore the

New User Fee Schedule for 2006

The Retirement Plans Community is reminded that many user fees increased on July 1, 2006. To accommodate these updated fees, the IRS revised [Form 8717](#), *User Fee for Employee Plan Determination, Opinion, and Advisory Letter Request*.

The new fee schedule took effect in two phases:

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

For more information about user fees and a complete schedule, see [New User Fee Schedule for 2006](#) or Revenue Procedures 2006-1 and 2006-8, in Internal Revenue Bulletin 2006-1, Jan. 3, 2006. ■

distribution from her IRA CD is now fully taxable. In addition, since she is under 59 ½, she is also subject to an additional 10% early withdrawal tax.

Since IRA trustees and/or custodians are not required by law to explain the rollover options and tax consequences of not rolling over a distribution, it is important for individuals to know the rules and know whether or not their money is going into an IRA or a non-IRA account.

In the example, the individual can request a waiver of the 60-day rollover requirement from the IRS. However, the IRS may or may not grant the waiver. The IRS will evaluate the relevant facts and circumstances that caused the individual to miss the 60-day deadline. Relevant facts in the example would include: evidence of the individual's intent to make a timely rollover, the amount of time that has elapsed since the date she received the distribution, whether the bank deposited her funds into the wrong account, and reliance on the advice of the bank's employee or agent. Ignorance of the 60-day rollover rule is generally not sufficient justification for the IRS to grant a waiver.

The intent of the rollover rules is to promote and protect the portability of retirement assets, not to be loopholes for personal use of tax-deferred assets. Thus, if an individual used the money for a short term loan of any kind, the request for a waiver will be denied. Requests based on miscalculation of the tax consequences or evidence of a lack of timely intent to roll over an eligible distribution could also result in a denial. The IRS will adhere to the criteria provided in [Revenue Procedure 2003-16](#) and is likely to grant a waiver of the 60-day period if an individual is a victim of circumstances reasonably beyond his/her control.

The IRS publishes private letter rulings that it issues to individuals in response to requests for a waiver of the 60-day rollover requirements. While these rulings are limited to the individual's specific facts and circumstance, tax and legal professionals use the published rulings for guidance in drafting future requests and in advising their clients on his/her chances of getting a favorable ruling from the IRS. However, the IRS rationale and policy with respect to denials are seldom published since many individuals exercise their right to withdraw their requests prior to the issuance of a denial or adverse ruling. ■

President Signs HERO Act

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

A Virtual Small Business Tax Workshop DVD

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

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

Hello again everyone. Isn't it sad when the temperature goes below 95 and we think it is a cool spell? Nonetheless, grab yourself a glass of iced tea and join me as I share with you the latest in the Retirement Plans Community.

Using the focused examinations techniques and the various examination initiatives currently underway, I felt that it was a good time to reiterate our policy regarding the preferred place for performing an EP examination. I asked for comments from you to assist me in preparing this article through RetirementPlansComments@irs.gov. I want to thank those of you who took the time to share your comments with me. It is important to know your thoughts and ideas.

What I am about to write in no way changes our past policy and I want to discuss the reasons why we have this policy in place. I want to ensure that the EP agents' time is efficiently used by having access to source documents where they are stored. To accomplish this goal, I am encouraging EP agents to **initially PLAN on performing the audit where the taxpayer's original books, records and source documents pertinent to the examination are located, which is generally at the taxpayer's place of business.**

Refer to Regulation Section 301.7605-1(d), which provides, in part:

“A field examination will generally take place at the location where the taxpayer's original books, records, and source documents pertinent to the examination are maintained. In the case of a sole proprietorship or taxpayer entity, this will usually be the taxpayer's principal place of business.”

The regulation very clearly sets out what the policy is, but it's important to understand why the IRS has this policy and what I hope to accomplish by following this policy. I don't want to use our authority to insist on the place of audit simply for the sake of demonstrating that we can, especially as it appears Employee Plans hasn't taken a consistent position in the past. Sometimes there are valid reasons not to perform the audit at the taxpayer's place of business. **But, please note that we are not auditing the information entered onto the Form 5500, we are auditing the operation of the plan.**

By performing the audit at the taxpayer's place of business, the books, records and source documents are more readily available, and this should lessen both the number of document requests and the added time these requests require.

By performing the audit at the taxpayer's place of business, the books, records and source documents are more readily available, and this should lessen both the number of document requests and the added time these requests require. For example, Forms W-2, 940 and 941; payroll records; personnel files and the entity's income tax return are all examples of documents and records that would not normally be stored at a pension professional's place of business. A review of these and other records often leads to questions that require additional records that are at the taxpayer's place of business.

Another goal for conducting the audit at the taxpayer's place of business is to provide an opportunity for agents to familiarize

themselves with the business operations by inspecting the premises and interviewing the taxpayer. Experience has shown that pension professionals are extremely knowledgeable regarding the plan's operation, but are not as well-versed in how the taxpayer conducts business. Without dealing with someone from the business who knows about its daily operations, our EP agents cannot resolve their questions. In addition, unless an interview with the taxpayer has been pre-arranged, the representative's lack of knowledge significantly diminishes the value of the initial interview.

Additionally, agents need to evaluate the internal controls that are in place for plan and business operations. Without having access to someone who works in the taxpayer's location, it is difficult for the agent to evaluate whether the census information provided to the pension professional is accurate. For example, does the office manager fully understand how the plan should work, including entry dates, includable compensation, related businesses that could have an impact on various operational tests, etc.? If not, the information provided to the pension professional may be flawed.

It is for these reasons that my agents have been instructed to initially plan on performing the audit at the taxpayer's place of business. Both agents and managers will use appropriate business and professional judgment in determining where and when the audit will take place.

However, with respect to certain businesses, especially small businesses, I realize there may be valid reasons for not holding the examination at the taxpayer's principal place of business. I am particularly sensitive to situations where:

- The agent's presence would disrupt the business operations.
- There is a lack of office space to perform the audit.

If it makes better business sense to conduct the examination at a location other than the taxpayer's place of business (for example, if the agent's presence would disrupt the business operations), then the taxpayer or their authorized representative may submit a request outlining the reasons. If this is approved, the agent will request an opportunity to conduct a walk-through of the business premises and an opportunity to direct questions to the taxpayer to resolve questions regarding business operations.

In conclusion, I expect my agents to utilize their professional judgment in determining when it is appropriate to deviate from the normal policy of conducting audits at the taxpayer's place of business. I am confident that my agents and their managers, with your input, will use appropriate business and professional judgment in determining where and when the audit will take place and when it is appropriate to request a walk-through of the business premises.

Please feel free to e-mail any questions or comments on this topic to RetirementPlansComments@irs.gov and type "Place of Audit Comments" in the subject line. I will address any further comments or questions either in a future article or on the Retirement Plans Community web page www.irs.gov/ep.

Thank you for reading my words. Be well. ■

The Fix Is In: Common Plan Mistakes

In each issue of the *Retirement News for Employers* we present a common mistake that happens 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 **“Plan Loan Failures and Deemed Distributions.”**

The Issue

Many employers make participant loans available in their retirement plans. When a plan makes loans available, there are two important statutory requirements to consider: §72(p) dealing with taxability of participant loans and §4975(d) dealing with prohibited transactions. This column focuses on the tax rules under §72(p).

A plan loan is a taxable distribution unless the loan satisfies the exception under §72(p)(2) which sets limits on the amount of a nontaxable loan and the repayment of the loan. Participants may receive a nontaxable loan of up to 50% of their vested account balance not to exceed \$50,000. A minimum loan up to \$10,000 can be made that exceeds the 50% rule as long as the excess is secured with additional collateral. The participant loan, by its terms, must be repaid within five years. The repayment period may be exceeded if the loan is for the purchase of a primary residence. Principal and interest must be paid in substantially level payments at least quarterly.

The Problem

The most common plan loan failures relate to:

- 1) loans that exceed the maximum dollar amount,
- 2) loans with payment schedules that don't meet the time or payment limits, and
- 3) defaulted loans due to failure to make required payments.

Each of these will cause the loan (or portion thereof) to become a “deemed” distribution for tax purposes. A deemed distribution differs from other distributions in that the participant is taxed as if the distribution were received, but the treatment of the loan as a distribution does not excuse the participant from the obligation to repay the loan. A failure to repay the loan may result in additional tax consequences and, in some cases, a prohibited transaction.

If a participant loan is in excess of the maximum amount allowed, only the excess portion is taxable. For example, a \$60,000 non-principal residence loan would trigger a \$10,000 deemed distribution. If a participant loan doesn't satisfy the 5-year, quarterly payment requirement, the entire loan is taxable, including a loan that is within the dollar limit. For example, a non-principal residence loan for \$5,000 with a 6-year repayment period is made. Since the 5-year repayment term limit is exceeded, the entire \$5,000 is taxable even though it is within the dollar limit. Similarly, if the loan was properly set up as a 5 year loan but provided for 5 annual payments, the entire \$5,000 is taxable as a deemed distribution. When a loan goes into default, whether from participant or administrator error, a deemed distribution of the entire unpaid loan balance plus accrued interest results.

The Fix

If the plan contains language that reflects the loan limits under §72(p)(2), the violations discussed will also 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) can be used to correct these mistakes.

Revenue Procedure 2006-27 adds three new corrections for plan loan failures which, when made through VCP, removes the §72(p) deemed distribution tax reporting requirements. These corrections are only allowed if the normal maximum period for repayment of the loan has not expired. The Service reserves the right to limit the use of the correction methods to situations that it considers appropriate: for example, where the loan failure is caused by employer action.

Where a plan loan has exceeded the dollar limit, correction will be permitted if there is a payment to the plan based on the excess loan amount. If loan repayments were made before correction, the prior repayments may be applied either:

- 1) to interest on the excess so the participant only repays the excess loan amount,
- 2) only to the amount of the loan not exceeding the dollar limit so that the participant repays the excess loan amount (plus interest), or
- 3) pro rata against the loan excess and the maximum loan amount, so that the corrective repayment would equal the outstanding balance remaining on the original loan excess on the date that corrective repayment is made.

Where a plan loan has a payment schedule that is greater than allowable by law, the loan can be reamortized over the remaining period of the proper maximum payment period measured from the original date of the loan. For example, a participant loan has a repayment period of six years. Two years later it was discovered that the loan should have been repaid over five years. To correct the error, the outstanding loan balance is reamortized over the remaining 3-year period. Correction is not available where the statutory term of the loan has expired. In that case, VCP can be used to report deemed distributions in the current year.

Finally, for loans that are deemed in default, correction can be:

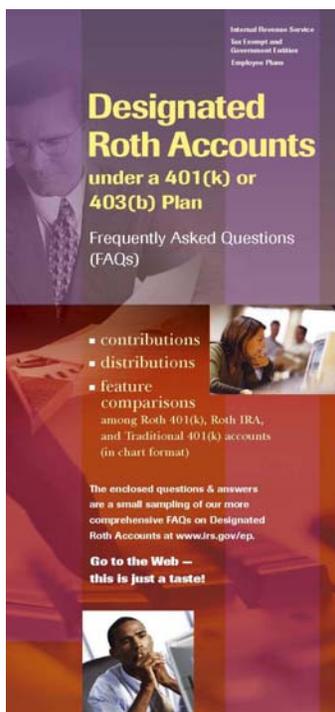
- 1) a lump sum payment equal to what should have been made to the plan, plus interest,
- 2) reamortization of the outstanding balance of the loan over the remaining payment schedule of the original term of the loan, or
- 3) a combination of either of the above methods.

Additionally, in certain situations involving defaulted loans (e.g., where the employer didn't start payroll withholding for repayment of the loan), the employer may be required to pay a portion of the repayment made by the employee in order to correct the defaulted loan.

Making Sure It Doesn't Happen Again

Employers need to have a system in place to ensure that plan loans are administered in compliance with the plan document and any separate written loan policy adopted. Employers should work with plan administrators to ensure that the administrators have sufficient participant loan information to verify that the proper loan payments are being made timely. 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 and delay or eliminate the need for reporting deemed distributions. ■

Product Profile - *Designated Roth Accounts under a 401(k) or 403(b) Plan* Publication



Have you read about the “new Roth 401(k) plans” but not really known what they were all about? We, here in Employee Plans, knew you would have questions and we have developed a new publication, *Designated Roth Accounts under a 401(k) or 403(b) Plan - Frequently Asked Questions (FAQs)*, ([Publication 4530](#)) to provide you with answers.

This publication provides a sampling of our [Frequently Asked Questions](#) in the areas of contributions to and distributions from a Designated Roth Account. In addition, it provides a feature [comparison chart](#) of Roth 401(k), Roth IRA and Traditional 401(k) retirement accounts. It also provides you with additional information on where to go if you have even more questions. For example, one of the resources is www.irs.gov/ep, where you will find, among others things, that these are not new plans at all, but separate accounts under a 401(k) or 403(b) plan to which designated Roth contributions are made.

The publication can be found on the [Retirement Plans Community web page](#) by clicking on “EP Forms & Publications” under the “Retirement Plans Community Topics” section. ■

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.

Form 5500

The 2006 Form 5500 - Just Looking

With its [Media Release](#) of July 13, 2006, DOL/EBSA, along with the IRS and Pension Benefit Guaranty Corporation, announced the release of the 2006 Form 5500, *Annual Return/Report of Employee Benefit Plan*, instructions and schedules (also see the *DOL Corner* that appears on page 13 in this newsletter).

Informational copies of the entire Form 5500-series for 2006 are available for viewing on EBSA's web site <http://www.efast.dol.gov/>. Paper copies will not be available until October 16, 2006.



Revised Form 8717 Now Available

The Retirement Plans Community is reminded that many of the IRS user fees increased on July 1, 2006. To accommodate these updated fees, the IRS has released a revised [Form 8717](#), *User Fee for Employee Plan Determination, Opinion, and Advisory Letter Request*. (See article on page 3 of this newsletter.)

So You Need More Time?

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

To help clarify:

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

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

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

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

Hold Onto Those Schedules

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

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

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

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

A completed and signed Schedule P should also be retained by the Form 5500-EZ filer for 2005.

New Publications Coming Your Way!

Just in time for your end-of-summer reading, we're happy to announce the release of the following two new publications:

- **Publication 4530, *Designated Roth Accounts Under a 401(k) or 403 (b) Plan*** is an introductory brochure that contains a sampling of the more comprehensive list of FAQs found on the EP web page, along with a chart that compares some of the features in Roth 401(k), Roth IRA, and traditional 401(k) retirement accounts (also see the *Product Profile* on page 9 in this newsletter).
- **Publication 4531, *401(k) Plan Checklist*** is directed at small business owners or plan sponsors and is designed to help them identify possible operational problems within their specific 401(k) plan.

And you thought it was safe to go into the water!

All of these forms and publications are available electronically on the [Retirement Plans Community web page](#) by clicking on "EP Forms & Publications" under the "Retirement Plans Community Topics" section.

Paper copies can be requested by calling (800) TAX-FORM (829-3676). Be aware that paper copies of Publication 4530 and Publication 4531 will not be available until mid-September. As mentioned above, paper copies of the Form 5550 material for 2006 will not be available until October 16, 2006. ■

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

Evelyn DeWald,
Michael Julianelle,
Joyce Kahn,
Donzel Littlejohn,
Peter McConkey,
Todd Newman,
Mark O'Donnell,
Nancy Payne,
Martin Pippins,
Keith Ruprecht,
John Schmidt,
Mikio Thomas, and
Brenda Smith-Custer



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.

New! Information about Rollovers

We have added a new resource for Rollovers from qualified retirement plans. The information includes a [rollover chart](#) summarizing the rollover rules, [FAQs](#) for obtaining a waiver of the 60-day rollover period and resources for additional information.

Correcting Plan Errors

As we mentioned in the Spring edition of the *Retirement News for Employers*, we recently redesigned our page on [Correcting Plan Errors](#). Since then, we have added a new link called [“Q&A’s – Recent Outreach Events.”](#) The featured questions and answers are based on oral presentations made by IRS officials at the ASPPA web cast on June 6, 2006, entitled, “It’s Finally Here. EPCRS Updated” and the June 13, 2006 Tax Talk Today Program - “Why Fix Mistakes in Retirement Plans Now Rather than Later?” The questions were submitted by the attendees and the responses were given at the meetings. Check it out. There’s sure to be something there for you.

“Timing is Everything” Archive

If you’re new to the *Retirement News for Employers*, or if you’re memory-impaired like us here at the RNE, check out the archive of “Timing is Everything” flyers. Each one-page Timing flyer has plain-language retirement information for employees and plan participants.

The Timing archive is on both the Plan Sponsor/Employer and Plan Participant/Employee sections on the [Retirement Plans Community web page](#). And when you go to the online archive, you’ll discover that the flyers have even more help to offer because we’ve provided links on each flyer that provide more details about specific retirement plans and products. As always, we welcome your suggestions about future Timing topics, so drop us a line at [RetirementPlanComments@irs.gov](#). ■

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.

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.

Written comments on the proposed Form 5500 revisions should be submitted by September 19, 2006, 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 Revisions or by email to e-ori@dol.gov.

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

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 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 cannot be used for 2005 filings.

Upcoming Compliance Assistance Events

- Fiduciary Education Seminars: November 8 in Milwaukee, Wisconsin; December 5 in Sacramento, California
- Voluntary Fiduciary Correction Program Workshops: August 22 in Charlotte, North Carolina; September 12 in Salt Lake City, Utah

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. ■

This Way to the Forums

How to Subscribe to Retirement News for Employers

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

There is still time to register for the two remaining 2006 IRS Nationwide Tax Forums! The EP seminars are *Accessing Money from a Retirement Plan* and *Roth 401(k) and Tips*. *Accessing Money* presents highlights of minimum required, early, and hardship distributions; loans and prohibited transactions; and the distinction between withdrawals from traditional accounts and Roth accounts. *Roth 401(k)* features the latest information on the new Roth 401(k) accounts as well as tips on avoiding common pit-falls discovered in examination projects conducted on SIMPLE IRA, SEP, and traditional 401(k) plans. In addition, Employee Plans (EP) and Exempt Organizations (EO) will sponsor a booth in the exhibit hall where you can pick up our products or speak with an EP or EO specialist.

The locations and dates for the two remaining Tax Forums are:

- Las Vegas, NV August 22 - August 24
- New York, NY August 29 - August 31

Tax Forums have already been completed in Anaheim, CA, Chicago, IL, Atlanta, GA and Orlando, FL to rave reviews.

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

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:

-  **August 22-24:** [IRS Nationwide Tax Forum](#) – Las Vegas, NV.
-  **August 29-31:** [IRS Nationwide Tax Forum](#) – New York, NY.
-  **September 15:** Deadline for making final required minimum contributions for 2005 calendar year money purchase and defined benefit plans.
-  **October 15:** Third quarterly contribution due date for 2006 calendar year defined benefit plans.
-  **October 16:** File the 2005 [Form 5500](#), *Annual Return/Report of Employee Benefit Plan* or [Form 5500-EZ](#), *Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan* with DOL/EFAST for those who filed for a 2 1/2 month extension prior to August 1.
-  **November 1:** Last date for employers with [SIMPLE IRA plans](#) or SIMPLE 401(k) plans to notify eligible employees of salary reduction rights and of the type of employer contribution to be made.

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 for employees from the IRS...

As a participant in a retirement plan, you're entitled to receive certain information about your plan to help *you* plan for *your* future. Here are a few examples:



Within 120 days after the end of a plan year, your employer is required to provide you with a statement of your accrued and vested benefit.

Most retirement plans are required to file a Form 5500, *Annual Return/Report of Employee Benefit Plan*, by July 31 of the following year. Your employer is required to give you a copy of the return within 30 days of your written request.

By September 30, your employer is required to give you a copy of the plan's Summary Annual Report which summarizes the plan's financial status for the prior year.



If you participate in a SIMPLE IRA or SIMPLE 401(k) plan, you must get an annual election notice describing your right to make salary reduction contributions and your employer's decision to make either matching or nonelective contributions for the next year by November 1.

For more retirement tips, talk to your employer or visit www.irs.gov/ep, select "Plan Participant/Employee" and click on "Timing is Everything."

