

2011 Employee Benefit Plan Year End Checklist

Critical and Time Sensitive

- 1. Required Restatement and Tax Compliance Amendments** – All plan sponsors of 401(k), profit-sharing, money purchase or other defined contribution plans should have amended their plans for the following:
 - Economic Growth and Tax Relief Act of 2001 (“EGGTRA”) – if using a prototype plan document prepared by a bank or other provider, should have signed an updated version of your plan by April 30, 2010
 - EGGTRA – Individually designed plans had deadlines through January 31, 2011 to amend their plans depending on their cycle
 - Pension Protection Act – Last day of 2009 plan year
 - Heroes Earnings Assistance and Relief Tax Act of 2008 – Last day of 2010 plan year
 - Worker, Retiree, Employer Recovery Act of 2008 – Last day of 2009 plan year needed to have been adopted by December 31, 2010.

If you have missed these deadlines, your plan is not in compliance with the tax laws. You can restore the tax-qualified status of your plan by filing an application with the Voluntary Correction Program (“VCP”). Visit www.irs.gov and click on the “Retirement Plans Community” tab for more information and a VCP Submission Kit.

- 2. Plan Investment Expenses** – Plan sponsors should become familiar with all aspects of how investment expenses are recorded in the plan to ensure that procedures are in place related to the DOL’s 408(b)(2) regulation. This interim final regulation requires service providers to provide written information to plan sponsors effective April 1, 2012 for any “covered service” arrangement in place as of this date. In addition, if changes are made to that information, service providers must provide written changes within 60 days of the change. Plan sponsors then have a fiduciary responsibility to review that information. If this information is not received, it is likely that a prohibited transaction has occurred, subject to correction and excise taxes. In addition, disclosures to participants regarding participant-directed individual account plans subject to the DOL’s 404(a) regulations are also required beginning May 31, 2012. See our website for a Compliance Calendar for more information.
- 3. New Employers in the Plan** – If the plan sponsor made any acquisitions during the year, the plan document should be reviewed to ensure the plan has been amended to allow for additional participating employers. There may be a multiple year transition period, which applies to the employees inherited through an acquisition. In addition, controlled group circumstances should be reviewed for any new acquisitions made during the year if the acquired company maintained a separate plan.
- 4. Increase Deferrals** – Consider adding a lump sum deferral option in the month of December. This will enable participants to defer additional amounts on bonuses or year-end payments.

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5. **Plan Disclosures and Notifications** – Various plan notifications are due between now and the end of the plan year. See the attached Compliance Calendar for the most common notifications and disclosures required.
6. **Correct Late Remittances Reported on Form 5500** – If the plan reported delinquent participant contributions on its 2010 or earlier Form 5500, the DOL will be expecting the plan to make restitution to the plan for lost earnings related to those late contributions. If plan corrections are not made prior to December 31, 2011, the late remittances will need to be reported as “not corrected” on the 2011 Form 5500. Per Form 5500 instructions, late remittances are reported until the year after the correction to the plan has been made. For corrections made prior to the last day of the plan year, late remittances can be reported as “corrected”. Please refer to the IRS self correction and DOL correction programs to ensure correction is fully made. In addition, a review of 2011 remittance details could be performed to identify and correct any late remittances related to 2011 before the end of the plan year.
7. **Fidelity Bond Coverage** – Plan sponsors should review the amount of fidelity bond coverage before year-end to ensure the correct amount has been obtained based on expected January 1, 2012 total plan assets (10% up to \$500,000, unless plan assets include employer sponsored securities then coverage up to \$1,000,000).

Other Time Sensitive

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8. **Definition of Compensation** – Plan administrators should review their plan’s provisions related to the definition of compensation to ensure deferrals and matches are set-up and calculated correctly within payroll programs. See the attached Compliance Calendar for 2012 plan limits.
9. **Investment Policy Guidelines** – Plan sponsors should know the types of investments and the underlying assets of those investments in order to uphold their fiduciary responsibilities to the plan. Plan sponsors should become familiar with the requirements of how investments are to be valued for financial statement purposes. In addition, plan sponsors should review their plan documents to ensure that adequate investment options have been designated as Qualified Default Investment Alternatives.
10. **Use Available Correction Programs** – Be aware that the IRS’s Employee Plans Compliance Resolution System and the DOL’s Voluntary Fiduciary Correction Program offer available correction methods for a number of plan operational errors (e.g. missed contributions, vesting issues and loan balance corrections). Plan sponsors should review the results of their 2010 year-end audit and identify any corrections that are necessary to maintain the plan’s tax qualified status.
11. **Plan Forfeitures** – Review the balance in the forfeiture account and, according to the provisions of the plan, use the forfeiture balance to pay plan expenses or allocate as employer contributions.
12. **Census Preparation and Reconciliation** – Plan sponsors should prepare a reconciliation of their census to their W-3 during year-end payroll reporting, and provide this census information to their TPA and auditor as soon as possible after year-end to allow time before the March 15 deadline for any corrective distributions. As part of our list of requested items, we provide a schedule to assist in this reconciliation.

Priority

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- 13. Third Party Reviews** – Plan sponsors should perform various periodic reviews and reconciliations of information provided by the third-party service providers including:
- reconciling total plan assets per the participant detail (the sum of the individual participant account balances) to total plan assets reported by the trustee or custodian
 - reconciling total contributions (including loan repayments) made to the plan per the plan sponsor's payroll registers to total contributions received by the plan per the trustee or custodian
 - agreeing individual demographic data included in new employee personnel files to the corresponding information included in the participant detail provided by the trustee or custodian
 - agreeing a sample of individual participant activity to individual participant statements, such as distributions, loan repayments and contributions.
- 14. Review Personnel File Documentation** – Plan sponsors should perform a review of employee files to determine that all required documentation related to participant information and directions for the plan have been retained, including pertinent dates, enrollment/declination forms, deferral percentage adjustments, and loan and distribution requests.

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- 15. Review of Partial Plan Termination Triggers** – If a plan sponsor downsized during the year, a review of the plan provisions and a determination of whether a partial termination (a greater than 20% reduction in participants) has occurred should be made, as this could have an effect on vesting, distributions and forfeitures. The plan sponsor should identify any "triggering events", such as continued lay-offs. Triggering events can occur over a period of more than one year. Therefore, the cumulative effects should be reviewed as part of the determination.
- 16. Preparation of Corporate Minutes Related to Plan Decisions** – Written documentation of the decision making process related to plan procedures and features should be documented. Schedule a year-end review of plan providers, investment options, fees, etc. and document the results of this review as evidence that you performed your fiduciary responsibilities.
- 17. Statement on Standards for Attestation Engagements No. 16** – The new service organization reporting standard, Statement on Standards for Attestation Engagements ("SSAE") No. 16, is now effective as of June 15, 2011. SSAE No. 16 supersedes Statement on Auditing Standards No. 70 with the professional guidance on performing the service auditor's examination. Plan sponsors should review the SSAE No. 16 reports for any user control considerations that should be implemented by the sponsor in order to rely on the internal controls at the various service providers for the plan.
- 18. Review Trend of Testing Results** – If the plan consistently fails the ADP and ACP tests, consider adding a safe harbor provision or an automatic enrollment feature.

- 19. Reduce Plan Costs** – Plan sponsors should pay out benefits to the participants who have terminated employment with the plan sponsor, in accordance with the automatic distribution procedures in their plan document. As long as the plan holds separated participants' assets, they are still considered eligible participants. Not only could the plan or the plan sponsor be paying administrative fees for these terminated participants, but also the number of eligible participants at the beginning of the plan year is what determines whether or not an audit is required.
- 20. Locate Lost Participants** – When a former participant cannot be located, the plan must take reasonable steps to locate that individual before the plan forfeits the participant's benefits. The "Letter Forwarding Program" described in detail at the IRS web site at: www.irs.gov/ep serves as an acceptable method to satisfy the "reasonable steps" requirements. However, it should be noted that the plan document should be reviewed and possibly amended to provide for forfeitures of non-vested lost participants' benefits.

Should you have questions on any of the above listed items please contact:

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This information is meant to be a general overview of typical employee benefit plans - related issues encountered by employee benefit plan administrators and is not meant to be a comprehensive review of any specific employee benefit plan topic. Nothing herein should be construed as offering accounting advice.

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