



**PENSION
PLAN
SERVICES
INC**

March Madness

March
2008

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Timely Deposit of Employee Contributions:

The Department of Labor has proposed a safe harbor deadline for an employer to deposit participant contributions withheld from his/her compensation. Under the proposed regulations, small plans (defined as plans with fewer than 100 participants at the beginning of the plan year) will be treated as complying with the safe harbor if the contributions *are deposited no later than the 7th business day following the date of the withholding.*

Under the current rules, all employers are required to transmit employee contributions to the plan as soon as they can reasonably be segregated from the general assets of the employer, but no later than the 15th business day of the month following the month in which contributions were received or withheld by the employer.

A plan that fails to comply with the safe harbor does not automatically violate the plan asset regulations, however the employer would have the burden of proving participant contributions were deposited as soon as reasonably possible.

The safe harbor will be effective on the date the DOL publishes final regulations, but employers may take advantage of the safe harbor now.

Client and Advisor Appreciation Event!

Save **June 23rd** for our educational seminar and golf outing as a token of appreciation for all who support us. Come for education about important retirement plan issues then relax and have some fun. The enclosed flier explains in further detail!

Qualified Default Investment Arrangements (QDIA):

The Department of Labor released a final version of the regulations relating to Qualified Default Investment Arrangements in participant directed individual account plans effective as of 12/24/07. The Pension Protection Act provided a new fiduciary protection from participants when the plan automatically enrolls or contributes on behalf of the participant into a default investment. There are four types of permissible default funds which qualify for protection:

- 1) A mix of investments that takes into account individual's age or retirement date, such as Life-Cycle or Target Date funds.
- 2) An investment that takes into account the risk characteristics of the participants in the plan as a whole, such as a Balanced, or Lifestyle fund.
- 3) An investment management service that allocates contributions among existing plan options taking into account the individual's age or retirement date.
- 4) A capital preservation product, but only for the first 120 days (such as cash, stable value, money market funds).

Other conditions and a notice requirement must also be met for the fiduciary to be able to claim protection for the Qualified Default Investments.

Please work with your financial advisor to discuss an appropriate default investment for the situations where a participant does not provide the plan with investment direction. This can apply to profit sharing, safe harbor and forfeitures in addition to deferral dollars in automatic enrollment plans.

"Prophet Sharing"...

"...And surely I am with you always, to the very end of the age."

Matthew 28:20

Continued...

Roth 401k and Roth IRA Rollovers:

After 2007, participants can roll over distributions directly from a qualified retirement plan to a Roth IRA as long as two conditions are met. 1) Participants adjusted gross income for Roth IRA purposes is less than \$100,000 and 2) the participant is not a married individual filing a separate return. The participant must be made aware of the fact they will need to have additional resources outside the plan to pay income taxes on the amount rolled over. Distributions from a qualified plan rolled over to a Roth IRA must be included in the participant's gross income. After-tax contributions are not taxed again, and the 10% tax on early distributions does not apply. Any amount rolled over to a Roth IRA is subject to the same rules for converting a traditional IRA into a Roth IRA.

Roth IRA's: contribution limits lower than qualified plan; income limitations; no loan provisions from IRA; no life insurance.

Roth 401(k): In order for earnings to be non-taxable, distribution must be taken when age 59 ½ or older, AND the 5 year window is met.

Can these Rollover situations occur?

Roth 401k to another Roth 401k; Roth IRA to another Roth IRA... YES

Roth 401k to Roth IRA; and Pre-Tax 401k to Roth IRA....YES, but only if the 2 conditions mentioned above are met.

Roth IRA to Roth 401k....NO

Roth 401k to Roth IRA then back to another Roth 401k.... YES, but only if account has strictly been a conduit IRA and no other contributions have been added.

Pension Protection Act Guidance

PPA Benefit Statements: After PPA, defined contribution plans such as 401k, profit sharing or money purchase plans must provide a quarterly statement to participants who may select their own investments. Otherwise, an annual statement is required for fiduciary directed investments. At this time, the industry is still awaiting the DOL model benefit statements. PPS has been providing plan sponsors with a quarterly good faith compliance statement and will continue to do so until further guidance is released. PPS will also provide an annual statement of the vested account balance upon completion of the annual reports and 5500 to provide good faith compliance with the vested account balance notification requirement. As plan sponsor, please be sure to distribute these important statements to plan participants.

Non-Spousal Direct IRA Rollovers: PPA included a provision to allow non-spouse beneficiaries to make a transfer from a qualified plan direct to an IRA, which allows the individual to stretch distributions over his or her lifetime as if they had inherited an IRA. The original intent appears this provision would be mandatory for all plans. The IRS then issued statements in early 2007 that the provision was optional. In August, the IRS posted an announcement the provision will be mandatory and there would be a technical correction. Dec. 29, 2007 the Act was signed without provisions making the non-spouse rollover mandatory for 2008. The IRS issued publication 590 in January 2008 mentioning the provision is effective, but no mention of whether it is mandatory or optional. Our conclusion at this point is the non-spouse rollover provision remains optional, and must be adopted by each plan.

PPS Mission: To personally and professionally engage with clients to provide services that positively impact their business and employees.

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Thank you so much for your business