

The Advisor

The C&P Advisors companies are pleased to bring our latest newsletter to you. If you have questions on any of these topics, contact your C&P Advisor or the individuals listed.

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Important Compliance Issues for 401(k) Plans

If you sponsor a 401(k) plan for your employees, then it is vital that you monitor your plan for compliance with the numerous federal rules and regulations that govern it. Below are some of the most common errors that the IRS sees in its reviews of 401(k) plans.

Timely deposit of employee 401(k) deferrals and loan repayments

401(k) plan salary deferrals and plan loan repayments must be deposited in the 401(k) plan as soon as they become “plan assets”. Salary deferrals and loan repayments are considered plan assets as of the earliest date on which they can be segregated from the general assets of the employer. That date cannot be later than 15 business days after the end of the month in which the deferrals are made or the loan repayments are received. However, if 401(k) deferrals or loan repayments can be reasonably segregated from general company assets **prior** to this time, then that **earlier** time becomes the deadline for when such deposits are to be made.



For plans with fewer than 100 participants, there is a safe harbor rule which considers amounts deposited in the 401(k) plan no later than the seventh business day after the date of the deferral or the loan repayment to be in compliance with the timely deposit rule.

Regardless of the size of your plan, once you demonstrate that funds can be segregated within a certain number of days, that is the threshold that should be followed. Noncompliance with this rule is a prohibited transaction, which results in an excise tax and additional reporting.

Nondiscrimination testing

Traditional 401(k) plans must be tested annually for nondiscrimination of benefits. These tests may result in limiting the amount of salary deferrals and/or employer matching contributions that the “highly compensated employees” can be allocated. If either of the tests fail, then corrective action needs to be taken by two and a half months after the plan year-end, i.e., **March 15th** for calendar year plans. Noncompliance results in an excise tax and ultimately can result in plan disqualification.



Partial plan termination

As employers have been forced to lay off employees as a result of the recent economic climate, an unintended consequence may be the partial termination of their 401(k) plan. A partial plan termination generally may occur if there is an employer-initiated action that results in a reduction of plan participants by 20 percent or more. Consequently, plan participants affected by the employer-initiated action will need to become **100 percent vested** in their plan accounts.



CPAs and Business Advisors

New Disclosure Requirements for Employers Participating in a Multiemployer Plan



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The Financial Accounting Standards Board (“FASB”) is currently deliberating what the final Accounting Standards Update (“ASU”) will entail, related to an employer’s financial statement disclosure requirement on its participation in a multiemployer benefit plan. The exposure draft issued on September 1, 2010 by the FASB proposes additional disclosures intended to provide expanded information about the multiemployer plans with which the employer is involved, the employer’s participation in the multiemployer plan(s), and any effects on the employer’s cash flows from its participation in the multiemployer plan(s), including the potential impact of plan withdrawal obligations (“withdrawal liability”).

The comment period for this exposure draft ended November 1, 2010. A recent meeting by the FASB eliminated the original effective date for public entities and nonpublic entities for fiscal years ending after December 15, 2010 and December 15, 2011, respectively. The new effective date is to be decided at a future meeting. A final ASU is expected to be issued in the second quarter of 2011.

Please contact us if you have any questions on how these requirements impact your retirement plan.

2011 Benefit Plan Limits

Listed below are some of the most commonly used employee benefit plan limitations for 2011:

401(k) plan elective deferral	\$ 16,500
403(b) plan salary reduction contribution	16,500
401(k) plan and 403(b) plan catch-up contribution	5,500
SIMPLE plan elective contribution	11,500
SIMPLE plan catch-up contribution	2,500
Annual compensation limit	245,000
415(b) limit on benefits under a defined benefit plan	195,000
415(c) limit on contributions to a defined contribution plan	49,000
Highly compensated employee threshold	110,000
Key employee threshold	160,000

These materials are not intended to provide legal or tax advice concerning the specific facts of any particular taxpayer. Taxpayers should consult with their own tax advisors as to the application of the tax laws to their personal circumstances.