

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.

February 2009

Has Your Benefit Plan Been Audited by the DOL?

Timely Remittance of Employee Contributions

We have seen increased activity by the U.S. Department of Labor (DOL) selecting employee benefit plans for audit. They have focused on several areas, with the remittance of employee contributions being an area of particular interest. The basic rule is that employee contributions be remitted “as of the earliest date on which such contributions can reasonably be segregated from the employer’s general assets.”

In one instance, the DOL field auditor wanted this date to be no more than **three business days**. The DOL has issued a proposed rule that would require remittances by small plans (plans with less than 100 participants) to remit employee contributions no later than seven business days. This rule also would apply to both small and large plans for the remittance of participant loan repayments. However, the DOL has not yet finalized this ruling.



John Rose, CPA
Partner

In addition, the DOL has focused on what actions the plan sponsor took when any late remittances occurred. The DOL wants plan investment earnings that participants forego – as a result of their contributions being remitted late – to be contributed to the plan by the plan sponsor. Even if there would have been a loss, the DOL generally takes the position that plan participants should be credited with the rate of interest the IRS charges for the underpayment of federal income tax.

Fidelity Bond Coverage

Does your plan have the required ERISA fidelity bond coverage? The DOL field agents have been asking for proof that the bond coverage specifically names each plan individually and that there is no deductible. You should inquire with your insurance provider that you have the proper ERISA fidelity bond coverage.



Jeff Spencer, CPA
Principal

Health & Welfare Plan Compliance

Another hot area of DOL audit activity has been the examination of ERISA health and welfare plans to determine their level of compliance with federal laws such as HIPAA, COBRA, and other laws that impact employer sponsored health plans.

Please contact us if your benefit plan has been selected for a DOL audit, or if you are concerned about your plan’s level of compliance and it has not yet been examined by the DOL.



CPAs and Business Advisors

Valuation of Plan Assets



George Pickard, CPA
Manager

Does your employee benefit plan have hard-to-value investments? With the issuance by the Financial Accounting Standards Board of Statement No. 157, *Fair Value Measurements*, there has been much discussion on how plans are valuing their assets. Typically, a plan sponsor will rely on the third party administrator or custodian to value the investments. However, the plan sponsor and/or its trustees have a fiduciary responsibility to determine that the investments are being properly valued at fair market value. In particular, private equity funds and fund of funds have been a focus, since these investments can be difficult to value.

Plan fiduciaries should make sure that they have a documented process in determining the fair market value of these investments. Plan sponsors should know how the investments will be valued, who will be valuing them, and that the investments will be valued as of the plan's year-end. **Please contact us if you have any questions about valuing your benefit plan's assets.**

2009 Benefit Plan Limits

Listed below are some of the most commonly used employee benefit plan limitations for 2009:

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

Contact John Rose at 216-765-6908 or Jeff Spencer at 216-765-6934 for more information.
Visit www.cp-advisors.com to receive future newsletters by e-mail.

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.