

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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Major Overhaul of Form 5500 Filings

Electronic Filing Required

For employee benefit plan years beginning on or after January 1, 2009, the U.S. Department of Labor (DOL) will process Form 5500, *Annual Return/Report of Employee Benefit Plan*, through its Employee Retirement Income Security Act Filing Acceptance System (EFAST2). This means that Form 5500 will need to be filed electronically. Paper versions of Form 5500 will not be available for use for plan years beginning on or after January 1, 2009.



As a result, all attachments to the Form 5500, e.g., the accountant's opinion, actuarial information, supplemental schedules, etc. will need to be scanned into PDF format in order to be attached to the Form 5500 filing.

In addition, the plan sponsor will be required to "sign" the Form 5500 electronically. To accomplish this, the plan sponsor will need to go to a DOL website and enter certain personal information. The plan sponsor will then receive his or her credentials (signer ID and PIN code) via email.

Changes to Form 5500 and Schedules

The new 2009 Form 5500 filing package contains numerous changes to the information requested on the various forms and schedules. One of the major changes involves Schedule C, *Service Provider Information*, which now will require reporting information on service providers receiving direct and/or indirect compensation. Another significant change is on Schedule R, *Retirement Plan Information*, which requires additional information to be reported about defined benefit pension plans.

The Need to Plan Ahead



Due to the extensive changes made to the Form 5500 package as well as the changes in how the form is completed and submitted, it is anticipated that plan sponsors and their service providers will need to plan ahead to obtain all of the necessary data. In addition, plan sponsors can count on spending additional time and resources in getting the forms completed accurately and filed timely. ***Please contact us if you have any questions on how these new filing requirements will impact your employee benefit plans.***

Ciuni & Panichi, Inc. will be offering a seminar on Retirement Plans on Wednesday, February 17th at 7:45 AM in our office to discuss these issues in more detail. Please contact Jason Ice at 216-765-6926 or jice@cp-advisors.com for more information.



CPAs and Business Advisors

Timely Correction of Failed Nondiscrimination Tests



Reggie Novak,
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Many 401(k) retirement plans provide for elective employee contributions. If your plan does, you may be familiar with the Actual Deferral Percentage test (ADP) and the Actual Contribution Percentage test (ACP). The nondiscrimination rules require average deferrals and average contributions for the “highly compensated employee” (HCE) group to be within a certain range of the average deferrals and contributions for the “non-highly compensated employee” (NHCE) group.

According to the Internal Revenue Service (IRS), one of the most common mistakes submitted for correction under the Voluntary Correction Program (VCP) is the failure to timely test for and correct ADP or ACP mistakes. When a plan fails the ADP and/or ACP tests, corrective action is required to protect the qualified status of the plan. The correction period established is the 12 month period following the close of the plan year in which the mistake occurs. If corrective distributions are made after the first 2 ½ months of the correction period, the employer will be liable for a 10 percent excise tax. The 10 percent excise tax is submitted along with Form 5330 to the IRS. If correction is not made within the correction period, the plan could be considered disqualified.

Census information, including all employees, should be compiled as soon as possible after the plan year ends so that nondiscrimination testing can be performed accurately and any corrective distributions can be made in a timely manner in order to avoid the 10 percent penalty.

The plan document and employee data should be carefully reviewed to ensure that employees are correctly classified, the proper definition of compensation is used, and proper testing/correction methods are used.

It is also important for business owners to be aware that related companies may impact nondiscrimination testing and to disclose to their advisors any and all ownership interests or service affiliations. This will help ensure that the plan maintains its qualified status.

2010 Benefit Plan Limits

Listed below are some of the most commonly used employee benefit plan limitations for 2010:

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.



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