

HICKS NOTES

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NOW IS THE TIME TO REVIEW AND AMEND PLANS

Over the next few months, all employers should stay diligent with regard to their retirement plans. 401(k) plans that are not Safe Harbor Plans need to perform ADP and ACP tests. If the discrimination tests are failing, excess contributions must be returned to the affected Highly Compensated Employees by March 15th or the plan sponsor will face a 10% excise tax. If the plan has Eligible Automatic Enrollment Arrangement (EACA) provisions, corrections are not required to be made until June 30th.

If you have moved from a Safe Harbor to a Non-Safe Harbor plan for 2013, you should consider amending your plan's requirement to share in employer contributions provision. Adding an "employed on the last day of the plan year" provision may reduce the employer's contribution since terminated employees may not be eligible for an employer contribution.

Generally, you must amend a plan before an employee has earned the benefit, usually at 1,000 hours of service for the applicable year. By amending and giving notice to participants in the first six months of the year, you can be more restrictive for that year. Wait too long to act and the opportunity will be lost. Given the weakness in our economy, many employers need to review their current plan provisions and be ahead of the game. Amending eligibility requirements, entry dates, allocation methods or other plan provisions may also help to reduce employer costs. Some amendments may not affect existing employees but as the economy turns around and hiring begins again, it will apply to new employees. A little planning now can go a long way in the future.

DEFINED BENEFIT plans also need to be aware of this amendment window. Talk to your sponsors and see how their year is going. Will they be able to make their contributions this year? Are they struggling with last year's numbers? They can still lower their funding if they act now! Many clients wait until after the plan yearend and by then, it's too late to amend the plan to lower the required contribution because the employees have "earned" that year's benefit. Every Defined Benefit client needs a call to see how their year is shaping up and to make sure they can fund at existing levels.

Because of the plan amendment rules, it is imperative that sponsors stay ahead of the game. Need help? [Click here.](#)

Call or email us with any question or pension need.

UNDERSTANDING AND ANTICIPATING IRS AND DOL RED FLAGS CAN HELP GUIDE PLAN OPERATIONS

The Form 5500 is filed by each plan sponsor to report activity on their qualified retirement plans. It asks a series of questions and, for the most part, is public information available on the Internet. Owner-only plans, who file form 5500-EZ or the abbreviated filing requirements of the form 5500-SF, are not available to the public. While much of the information is basic: plan sponsor, number of participants, plan asset value and plan details, there is a section that asks a series of questions designed to ferret out potential operational problems with these plans.

The answers to these questions may trigger audits and reviews by the IRS and DOL. Running the plan correctly reduces your chance of an audit. The questions that may raise a red flag for audits are listed below:

Were participant contributions deposited timely? Did the employer deposit participant 401(k) and Roth contributions within the allocated time period? If not, there is a correction program to fix these. [Click here](#) for the DOL on-line calculator to correct these deposits.

Is the plan covered by a fidelity bond? This is a simple requirement that may be overlooked by a plan sponsor. All plans, except for owner-only plans, are required to be covered. Bonds are relatively cheap, but necessary. Here is a link for more information about purchasing bonds.

Were there any prohibited transactions? Prohibited transactions may be corrected and are subject to an excise tax based on the type and amount of the transaction and the timeliness of the correction. Contact us if you feel a prohibited transaction may have occurred.

Does the plan have any notes or obligations classified as uncollectible or in default? In the event trustees invest in second deeds of trust and/or the notes, and these assets are in default or uncollectible, certain steps must be taken to rectify this situation.

These are only a few of the compliance questions asked on 5500 form. For a complete list of the questions, [click here.](#)

By avoiding these operational errors and potential red flags, a plan sponsor can reduce the chance of being audited. Our office is always available to consult with you regarding these situations. Call us!