

# HICKS NOTES

NH HICKS Experience Counts

Legal and Pension Consultants  
(800) 310-4975 | [www.nhhicks.com](http://www.nhhicks.com)

June 2014

By Tom Hicks, Attorney At Law

## NOW IS THE TIME TO REVIEW YOUR PLANS

Employers must stay diligent with regards to reviewing and amending their retirement plans. Generally, you must amend a plan before the participants earn that year's benefit, generally at 1000 hours. By amending and giving participant's the notice before the benefit is earned, you may be able to save your plan sponsor money. Maybe add "employed on the last day" provision if you are no longer a safe harbor plan. Amending entry dates, contribution eligibility requirements and allocation methods, or other provisions may help reduce employer costs. Wait too long and this opportunity is lost for the year.

DEFINED BENEFIT PLANS need particular attention. How is the employer's year going? Do they still need the big deduction the plan allows? Will they have the cash to fund the plan next year? Given the current economic situation, many plan sponsors find themselves unable to afford the funding requirements of these plans. A good advisor will be proactive and touch base with all their defined benefit plan sponsors and keep them ahead of the curve.

For SAFE HARBOR 401(k) PLANS, final regulations, issued November 14, 2013, permit an employer to stop safe harbor contributions midyear if they are operating at an economic loss for the year or there is language in the safe harbor notice that allows for them to stop or reduce safe harbor contributions. The economic loss requirement is more lenient than the prior "substantial business hardship" requirement of prior years.

In order to stop or amend the safe harbor contribution, the employer must provide all participants with a supplemental notice at least 30 days prior to the effective date of the change. In addition, they must give eligible employees the chance to change their salary deferrals, amend the plan and the ADP/ACP test and make contributions accrued to the date of the change. The effective

date of these regulations is the plan year beginning on or after January 1, 2015. We will provide the amendment language in our safe harbor notices for the 2015 plan year.

Top Heavy plans will still be required to make the 3% contribution if key employees have contributed for the year. In some sense, you are trading one requirement for another in top heavy plans, so careful analysis is needed before you suspend the safe harbor contributions. For the IRS notice on suspending safe harbor contributions, [click here](#). If you need help, contact us today.

## PLAN TODAY FOR PPA RESTATEMENTS

The IRS has issued determination letters on the required defined contribution PPA restatements. These rules require ALL defined contribution plans including 401(k)s to be rewritten in their entirety for laws and regulations that have been passed over the last eight years. [Click here](#) for our PPA Summary. We are ahead of the curve with our clients and have redesigned several plans for this new rewrite.

Many TPA's will be over charging for this restatement document. In the past, we have seen as much as \$4,000. We remain competitive at \$950 for a plan review, proposal of changes, new plan documents and administrative forms (\$450 for an owner-only plan).

Call you clients today and have someone review their plans for changes. Find out what they will be charged by their existing TPA for this work. We are here and ready to help in any way we can. Your clients deserve proposals, administration review and documents prepared at a reasonable rate.

Need help? [Contact us](#).