



Your 2009 Benefits Checklist

By Stella LeBlanc (New Orleans)

A new year is on us and, as always, there are new responsibilities for those dealing with employee benefits. Here are some updates, due dates, and mandates in this important area.

Cycle C Filing Deadline

The Cycle C deadline for submitting determination letter applications for individually designed qualified plans ends January 31, 2009. Cycle C filers are plan sponsors whose last digit of their Employer Identification Number (EIN) ends in either three or eight. A question has been raised as to whether the deadline is extended to Monday, February 2, 2009, since January 31, 2009 is a Saturday.

Although this does not generally fall within the rules of the Internal Revenue Code, the IRS will accept an application for a Cycle C determination letter if it is submitted no later than February 2, 2009. Remember, even though February 2 is Groundhog Day, this does not give applicants unlimited do-overs as in the movie by the same name.

The Worker, Retiree, and Employer Recovery Act of 2008

This new law was passed on December 11, 2008 and was signed by the President on December 23. He is expected to sign it, but had not done so by the time we went to press.

The package includes important modifications to pension distribution requirements for seniors and businesses, as well as provisions included in the Pension Protection Act Technical Corrections Act of 2008. For purposes of this Update, we'll concentrate on two changes:

Temporary Waiver of Required Minimum Distribution Rules

Under the Act, no minimum required distribution is required for calendar year 2009 from individual retirement plans and employer-provided qualified retirement plans that are **defined contribution** plans (such as profit sharing plans and 401(k) plans). Thus any annual minimum distribution for 2009 from these plans required under current law is not required to be made. The next required minimum distribution would be for calendar year 2010. This relief applies to lifetime distributions

to employees and IRA owners, as well as after-death distributions to beneficiaries.

In the case of an individual whose required beginning date is April 1, 2010 (e.g., the individual attained age 70½ in 2009), the first year for which a minimum distribution is required under current law is 2009. Under the provisions of the new Act, no distribution is required for 2009 and, thus, no distribution will be required to be made by April 1, 2010. But the provision does not change the individual's required beginning date for purposes of determining the required minimum distribution for calendar years after 2009.

It's important to note that the 2009 required minimum distribution waiver does not apply to any required distribution for 2008 that was permitted to be made in 2009 because of an individual's required beginning date of April 1, 2009.

This provision is expected to help taxpayers who would otherwise have to liquidate some of their savings at the bottom of the market.

Rollovers Out of the Plan for Non-spousal Beneficiaries

Under a Code provision added by the Pension Protection Act of 2006, a direct trustee-to-trustee transfer of any portion of a distribution from an eligible retirement plan made on behalf of a designated beneficiary who is a non-spouse beneficiary, is treated as a direct rollover of an eligible rollover distribution.

The original language carved this type of rollover out of the definition of "eligible rollover distribution" and thus made the provision optional rather than mandatory. The technical corrections portion of the Act corrected this oversight, so for plan years beginning after December 31, 2009, plans must permit rollovers out of their plans for non-spouse beneficiaries. The rollover must be established in a manner that identifies it as an IRA with respect to a deceased individual and also identifies the deceased individual and the beneficiary; for example, "Jane Smith as beneficiary of John Smith."

Extension of Year-End Deadline for 403(b) Plan Sponsors

On December 11, 2008, the IRS extended the deadline for 403(b) plan sponsors to adopt new written plans or amend their existing written plans from January 1, 2009, to December 31, 2009. The IRS will consider 403(b)



Continued on next page

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Continued from previous page

plans as meeting the requirements of Code Section 403(b) and the final regulations for 2009, if the plan sponsor:

- adopts or amends a written plan by December 31, 2009, that is intended to satisfy Code Section 403(b) and the final regulations effective January 1, 2009;
- operates the plan during 2009 with a reasonable interpretation of Code Section 403(b), taking into account the final regulations; and
- makes its best effort to retroactively correct by the end of 2009, any operational failure occurring in 2009 to conform to the

written plan, based on the revenue procedure for the Service's Employee Plans Compliance Resolution System (EPCRS).

The IRS plans to issue further guidance on 403(b) plans, including a revenue procedure establishing a 403(b) prototype program and, later, a determination-letter program. These programs will allow plans to correct plan document failures after 2009 by making remedial amendments. The EPCRS procedure will also be modified to provide for additional 403(b) issues.

2009 COLAs

The Internal Revenue Service announced cost-of-living adjustments applicable to dollar limitations and other items for tax year 2009. Code Section 415 provides for dollar limitations on benefits and contributions under qualified retirement plans. In addition, Code Section 415 requires the Commissioner to annually adjust these limits for cost-of-living increases. Other limitations applicable to deferred compensation plans are also affected by these adjustments.

Code Section	2009	2008	2007	2006	2005
401(a)(17)/404(l) Annual Compensation	\$245,000	\$230,000	\$225,000	\$220,000	\$210,000
402(g)(1) Elective Deferrals	16,500	15,500	15,500	15,000	14,000
408(k)(2)(C) SEP Minimum Compensation	550	500	500	450	450
408(k)(3)(C) SEP Maximum Compensation	245,000	230,000	225,000	220,000	210,000
408(p)(2)(E) SIMPLE Maximum Contributions	11,500	10,500	10,500	10,000	10,000
414(q)(1)(B) HCE Threshold	110,000	105,000	100,000	100,000	95,000
414(v)(2)(B)(i) Catch-Up Contributions	5,500	5,000	5,000	5,000	4,000
415(b)(1)(A) Defined Benefit Limits	195,000	185,000	180,000	175,000	170,000
415(c)(1)(A) Defined Contribution Limits	49,000	46,000	45,000	44,000	42,000
416(i)(1)(A)(i) Key Employee	160,000	150,000	145,000	140,000	135,000
457(e)(15) Deferral Limits	16,500	15,500	15,500	15,000	14,000
1.61-21(f)(5)(i) Control Ee	95,000	90,000	90,000	85,000	85,000
1.61-21(f)(5)(iii) Control Ee	195,000	185,000	180,000	175,000	170,000
Taxable Wage Base (TWB)	106,800	102,000	97,500	94,200	90,000

Have a Happy and Benefits-Compliant New Year!

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