NRS
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NEWSLETTER

A MESSAGE FROM THE PRESIDENT OF NRS

Many firms and businesses of all sizes continue to experience an uneven recovery during these difficult business conditions.

Predictably, competition stiffens as every company must buckle down and face the challenges at hand. In my world of designing and administering qualified retirement plans, it is no different. Plan sponsors often receive calls from retirement plan marketers who hope to attract their business. Usually, the approach lead-in is "*how they can save you money*". I must admit, that offer always gets my attention. In some cases they can add value, but many times they cannot.

Unfortunately, the information being presented is not always accurate or true. As you may know, there are a number of moving parts within the operational structure of a qualified retirement plan. The critical parts consist of: 1) Plan Documents & Plan Level Compliance (non-discrimination testing and tax reporting), 2) Flexibility in Plan Design and Portability, 3) Asset Management & Advisory, 4) Record Keeping & Communication, and 5) Trustee services. Understanding how these parts operate, and determining their respective cost can be a complicated exercise. Therefore, it is important for Plan Sponsors to ask specific questions as to the quality and cost of these services.

At NRS, we strive to provide clients with the best Plan Document and Plan Level Compliance services, while charging fair and reasonable fees that we disclose upfront. Our mantra at NRS is that "*Service is an* ***ART***" – **A**ccuracy, **R**esponsiveness, and **T**imeliness. Also, we believe that we offer the best value in our industry while earning your trust every day. I encourage all NRS clients to visit our website, www.NRServices.com and complete the client survey. This survey is sent directly to me and the Management Team at NRS, as we want to know your level of satisfaction with our professional services.

Qualified retirement plans remain the best financial vehicle for employers and employees to contribute and save money on a pre-tax basis. Since these plans are tax qualified, NRS must ensure that plan documents and plan administration comply with the rules of the Regulators; IRS, DOL and PBGC. We make sure that your Plan is properly administered and meets all requirements under ERISA, the Tax Code, and corresponding laws.

Finally, it is important to state that NRS and its predecessor companies have been providing these services to our clients since 1923, and we look forward to continuing our position as an industry leader in the qualified retirement plan marketplace for years to come.

In closing, I thank you for the trust you have placed in NRS, and wish you and all of your co-workers a very happy holiday season!

Sincerely,

JOHN M. SCIARRA
President/CEO

2010 YEAR END REMINDERS

As 2010 rapidly winds down, sponsors of tax qualified plans need to keep a number of things in mind if they want to stay in compliance and operate their plans efficiently. We offer a list of the more significant items below:

- Be sure your plan is amended by the end of the 2010 plan year to reflect HEART provisions (along with documenting the 2009 suspension of required minimum distributions for defined contribution plans).
- Terminated Participants and owners over age 70 ½ must receive required minimum distributions no later than 12/31/10 or else face stiff financial penalties for both participant and plan.
- Be aware that the various cost of living driven limits that impact tax qualified retirement plans remain at their 2010 levels for 2011.
- Plan design changes for 2010 must be adopted as amendments to the plan's formal documents no later than the last day of the plan year for which they are effective.
- Some plans, particularly defined contribution plans with affluent participants, may want to implement in plan Roth conversions (discussed elsewhere in this Newsletter).
- Review outstanding plan participant loans to be sure that they are being repaid on time – and treat as taxable distributions any loans delinquent beyond the calendar quarter following the calendar quarter in which the payment was due.
- Review terminated participants who are still entitled to benefits – and arrange for them to receive a mandatory distribution if permitted by the plan document (usually permitted for benefits worth under $5,000 or in some cases $1,000).

2010: THE YEAR OF THE ROTH TRANSFER… *IS IT A GREAT TAX STRATEGY?*

The year 2010 is the first time that the law allows those with household incomes over $100,000 to roll over pre-tax money to a Roth IRA. Restricted to lower paid individuals before 2010, rollovers from tax qualified retirement plans are now permitted to any plan participant, provided there is an event that permits a plan distribution, the participant (or plan trustee) transfers the money to a Roth IRA, and declares the entire pre-tax distribution as taxable income. Normally, plan participants who roll over pre-tax distributions to a Roth IRA must declare the entire distribution as taxable income in the taxable year received. For the 2010 tax year only, participants are permitted to defer recognition of this taxable income until 2011 and 2012 by declaring half of the distribution in each tax year. This rule was part of the Bush Administration tax relief measures that are due to expire at the end of 2010. After 2010, tax rates are scheduled to increase for taxpayers in higher income tax brackets.

Why a Roth Transfer?

As most people know, amounts in a Roth IRA represent after tax contributions plus investment results that generally may be distributed tax free if they meet a few rules contained in the Tax Code. Money is taxed before it is contributed to the account and neither principal nor accumulated investment results are normally subject to income tax when received. Importantly, Roth account money is *not* subject to the Required Minimum Distribution rules after age 70 ½, including both the after tax principal and investment results. Individuals with available non-retirement assets are able to transfer 100% of their pre-tax retirement plan money to a Roth and pay the associated

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income taxes with other funds. This substantially leverages the amount of tax free retirement account money. If an individual anticipates nearly as much taxable income in his or her retirement years as received before retirement, or if income tax rates increase, a Roth account has definite financial advantages. Note that the 20% mandatory withholding rule on taxable distributions does not apply if a distribution is made directly to a Roth IRA.

<u>Qualified Plan to Roth IRA Rollover</u>

Given the advantages of a Roth IRA for certain individuals, pressure exists for some plans to transfer pre-tax retirement plan accumulations to a Roth. However, money is generally not made available to plan participants before retirement, death, termination of employment, or disability. Distributions of retirement money to employees are restricted, both by law and by employer preferences. Money purchase and defined benefit pension plans, for example, normally may not make in-service distributions before age 62. Employee deferral contributions and Qualified Non-elective Employer Contributions to a 401(k) plan cannot be distributed in service until age 59 ½. Profit sharing plan accumulations are available in service after an age specified in the plan or after the participant has completed five or more years of plan participation, if the plan is designed to permit them. Distributions of "seasoned money" that has been in the plan for at least two years is also permitted for profit sharing plans. These new provisions can apply to distributions for any purpose desired by the participant or *the plan may restrict distributions solely to Roth rollovers* (or Roth conversions discussed below).

<u>Conversion to a Roth Account within the Same Plan</u>

A law signed September 27, 2010 permits a 401(k) or 403(b) plan to be designed to allow in-service transfers of certain funds to a Roth account within the same plan. In order for the new rule to work, the plan must offer participants the opportunity to make salary deferrals into a Roth account on an after tax basis. If the plan has a Roth account in place and if the plan permits the transaction, a participant (including surviving spouses and alternate payees) entitled to a plan distribution may elect to transfer funds into the Roth account, so the assets never leave the plan. The plan must have a 401(k) provision as part of the formal plan document at the time of the transaction. However, other amendments may be adopted at a later date as described below. A special tax notice incorporating information concerning the Roth transfer is required and tax reporting on Form 1099-R is needed. For example, in plan Roth rollovers are not subject to the 10% early distribution tax and, unlike rollovers to Roth IRAs, in plan transfers to a Roth account cannot be reversed at a later date. For detailed tax planning, we encourage you to consult your tax advisor.

<u>Roth in Plan Conversion Program Must be in Place – Most Plan Amendments Delayed</u>

According to detailed guidance (IRS Notice 2010-84) released just after Thanksgiving, a plan can informally: (a) set up a provision allowing in service distributions exclusively for Roth rollovers (see above for design criteria), (b) administratively establish a Roth provision in an existing 401(k) or 403(b) plan, and (c) permit the "distribution" to be transferred to a Roth account within the plan before the end of 2010 in order to facilitate 2010 Roth in plan transfers. The formal plan amendment documenting these changes generally must be adopted no later than December 31, 2011.

If you or the employers that you serve need help in establishing an in plan Roth rollover program, let us know.

We are here to help!

ALL OF US AT NRS WISH YOU AND YOURS THE VERY BEST FOR A WONDERFUL HOLIDAY SEASON AND A PROSPEROUS NEW YEAR!

NRS
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For more information or to request a proposal, please visit our website at www.NRServices.com, or for sales support, please contact:

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