NRS
NATIONAL RETIREMENT SERVICES, INC.

DOL AND IRS AUDITS INCREASE – STEPS THAT MINIMIZE POTENTIAL AUDIT HEADACHES

Retirement plan audits may be a fact of life, but they need not be a cause for alarm if the employer's retirement plan is operated by keeping the following points in mind:

- *Deposit Employee Deferrals and Loan Repayments Timely* - Per DOL regulations, amounts withheld from employee paychecks are considered Plan assets as of the earliest date on which the contributions can reasonably be segregated from the employer's general assets. This generally means no later than 7 business days for plans covering less than 100 participants. For large plans (those with 100 or more participants) the focus is on the earliest date funds can be segregated and this is often significantly sooner.

- *Use the Right Compensation Definition* - Refer to your plan document with regard to how compensation is defined under the plan. Most plan documents do not exclude portions of compensation for the purposes of determining employee and employer contributions. This includes bonus, commissions, vacation and overtime but not severance paid after date of termination.

- *Collect and Retain Completed Participant Enrollment Materials* - The plan sponsor should have on file a completed enrollment form that indicates either an affirmative election to participate, or declination. Beneficiary forms are also required.

- *Operate the Plan According to the Terms of the Formal Documents* - The Employee Retirement Income Security Act (ERISA) mandates that the plan's operation be in accordance with the plan document provisions. This includes complying with the plan's eligibility requirements, entry dates and employee contribution change dates.

- *Secure and Maintain an Adequate Fidelity Bond* - ERISA also requires a plan to maintain a Fidelity Bond that covers at least 10% of the plan assets at the beginning of the year. The maximum bond amount required is $500,000 ($1,000,000 if employer securities are involved).

- *Participant Loans* - All participant loans must be properly documented with signatures when needed. In addition, participant loan payments are considered after tax monies and are not reported on Form W-2.

- *Adhere to Statutory Limits* - Plan Sponsors are required to adhere to statutory limits regarding Employee Contributions and Annual Compensation. These limits should be applied when calculating maximum Employee and Employer Contributions. The limits normally change annually. Please refer to the Cost Of Living Indexed Adjustments for Qualified Plans provided in the NRS Annual Year End Package, or on the NRS website at www.NRServices.com (under "Compliance Corner").

THE IRS REVISES THEIR RETIREMENT PLAN CORRECTION PROGRAM PROCEDURES

Earlier this year, practitioners were provided new IRS guidance concerning the IRS program for correcting failures in tax qualified retirement plans. The program is titled Employee Plan Compliance Resolution System ("EPCRS") and sets out detailed procedures for an employer to follow when correcting failures that can occur when running a plan. EPCRS was last updated in 2008 and covers what must be done to correct a wide variety of errors, including failures to operate the plan per its terms, failures to keep the plan up to date with current tax laws, demographic failures

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resulting in prohibited discrimination or minimum coverage violations, and a host of others items.

The new Revenue Procedure 2013-12 includes a new address for submitting matters to the IRS for their review (if the failure is not eligible for "self correction" under the Revenue Procedure). New forms have also been designed and must be used for all submissions after March 2013. Significantly, the basic fee schedule for the program has not changed, and the program is now available to Code 403(b) and governmental Code 457(b) plans.

The new guidance includes instructions for curing failures where a defined benefit plan did not take the necessary steps to curtail distributions and amendments when the plan's funding levels drop below prescribed minimums. It also provides some new or revised correction procedures for defined contribution plans, including the ability of an employer to make regular matching contributions for participants who were improperly excluded from making salary deferral contributions. The old rules required that the matching contribution on the missed deferrals be immediately and fully vested. Correction of overpayments to participants has also been simplified. If the participant does not return the overpayment and it was paid from his vested account balance, the plan can permanently reduce that participant's account balance, as well as report the improper distribution to any rollover trustee.

EPCRS continues to offer a relatively painless way for plan sponsors to correct errors and omissions that inevitably occur when running a tax qualified employee retirement plans. It recognizes that people make mistakes, even those who administer retirement plans.

DEPARTMENT OF LABOR DELINQUENT FILER VOLUNTARY COMPLIANCE PROGRAM UPDATED

The U.S. Department of Labor (DOL) recently - released an updated description of their amnesty program directed at employers who fail for any reason to timely file the annual report Form 5500 or Form 5500-SF. Note: Form 5500 EZ filings are not under DOL jurisdiction and therefore not covered by the amnesty program. The program, designed to encourage employers with delinquent 5500 filings to voluntarily come forward and file delinquent forms for a small fraction of the penalty that can be assessed, has been in place since 1995. The new DOL release offers an online calculator designed to determine the penalty fee that the delinquent employer must pay, along with a system that accepts employer payments. While the DOL still accepts checks, employers are encouraged to use bank accounts or credit cards to make an electronic payment. This is discussed online at www.dol.gov/ebsa/faqs/faq_dfvc.html.

The fee for a late filing depends upon 1) whether the filing is for a small (less than 100 participant) plan or a large plan (100 participants or more and not subject to the 80 to 120 participant rule), 2) how late the filing is, and 3) whether there is a single or multiple failures. For example, suppose a small plan employer is a year late in filing his 2011 Form 5500-SF. The base penalty is $10 per day with a $750 maximum. This results in the employer paying a flat $750 fee. If the employer had two or more delinquent filings for the same plan at the same time, the maximum fee would be $1,500. A large plan employer would pay a maximum $2,000 fee for a single failure and $4,000 for multiple failures. Considering that a single late filing can involve a penalty of $300 per day up to $30,000, the late fees are relatively modest. According to their web site, there is no vehicle for the DOL to waive these fees.

All filings under the program must be accomplished using the EFAST2 electronic filing system. The DOL promises to handle future updates in the program by postings on the DOL web site. Since 403(b) plans are now required to file the Annual Report Form 5500 series, the amnesty program is now available for employers with 403(b) plans, as well as tax qualified plans under Code 401(a).

NATE DELONG JOINS NRS

National Retirement Services, Inc. (NRS) is pleased to announce the hiring of Nate DeLong for NRS Business Development & Sales. Prior to joining NRS, Nate enjoyed 8 successful years at American Funds fulfilling inside sales for their Qualified Retirement Plan products. Nate is highly credentialed as a CPC, QPA and QKA. NRS is very excited that Nate has joined its team, and is confident that Nate will experience great success in supporting NRS's CPAs, Financial Advisors and Wholesalers in the Pacific and Mountain Time Zones. Please join NRS in welcoming Nate DeLong to its Sales and Marketing Team! Nate will be working at NRS's Huntington Beach, California, Headquarters. His direct line is (714) 622-3244, or (800) 350-2172 ext. 260. Nate's email address is nate.delong@nrservices.com.

After 7 years of outstanding service with NRS, Kevin Spaeth has decided to leave NRS and become the Director of TPA Relationships-Western Region with Great West Retirement Services (GWRS).

Kevin will be dearly missed by all of his NRS co-workers; however, this is an outstanding career opportunity for him.

Please join me in thanking Kevin for his past service and wish him the very best in his new endeavor with GWRS!

REMINDERS FOR APRIL

- ***April 1*** is the required deadline date for the first minimum distribution to be paid to participants who reached age 70½ during calendar year 2012 and are terminated or own at least 5% of the company.

- ***April 15*** is the deadline for processing corrective distributions of calendar 2012 salary deferrals in excess of Code 402(g) limits.

- ***April 15*** is the deadline (without extensions) for filing partnership and/or individual 2012 tax returns and for making associated deductible 2012 contributions. Automatic filing extensions to September 15 (partnerships) and October 15 (individuals) may be requested by this initial deadline date.

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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