

NRS CLIENT PORTAL REMINDER

National Retirement Services, Inc. provides an online Client Portal that provides for Plan Year End Data Collection, ongoing communication and pertinent retirement plan information to be immediately available at the user's fingertips. The Client Portal also provides an interactive capability to complete and process retirement plan information online through a secure transmission. Additionally, it eliminates a vast amount of paper, while allowing operation in a more effective and efficient manner. Hundreds of NRS clients have successfully transitioned to the NRS Client Portal for their Data Collection and Plan Census processing needs.

Here are some of the NRS Client Portal features:

- The Portal is SSL Secured, which means messages and data files sent through the Client Portal are encrypted and secure.
- The Year End Data Collection is completed online with key information carried from year to year, reducing completion time.
- The Plan Census can be completed online or imported, with information carried from year to year, reducing completion time.
- Exchanging secure messages, including attachments.
- Access to a secure temporary source for file retrieval.

We strongly encourage NRS clients to use the NRS Client Portal, including completion of Year End Data Collection and Plan Census. Client questions regarding the NRS Client Portal can be directed to their NRS Account Manager. General information concerning the Portal can be obtained from the individuals listed at the conclusion of this newsletter.

2015 SAFE HARBOR 401(K) PLAN PARTICIPANT NOTICE CHANGES

Employers who utilize a safe harbor contribution for avoiding non-discrimination testing that involves employer matching contributions are sending out the required participant notice for the 2015 plan year. Those who read the notices carefully will likely find new language. The new language is required by final regulations issued in late 2013 for employers who wish to reserve the right to reduce or suspend these contributions mid-year. Unless the employer is operating at an economic loss, the employer must have notified participants of the possibility of reduction or suspension in a notice issued before the plan year begins. If the employer actually decides to suspend or reduce the matching contribution, the following steps must be taken:

- Provide a participant notice at least 30 days before the change that provides –
 1. The effective date of the reduction or suspension.
 2. An explanation that there will be a plan amendment and the consequences of that amendment.
 3. An explanation of how eligible employees may change their cash or deferred elections before the change takes place.
- Amend the Plan document to reduce or stop employer matching contributions and provide for suitable ADP testing using the current year testing method.
- Perform necessary ADP testing at the end of the affected plan year.

PBGC PROTECTS EMPLOYEE ROLLOVERS TO DEFINED BENEFIT PLANS

The Pension Benefit Guaranty Corporation will now afford greater protection to any employee rollovers made to a plan insured by them. Rollover contributions made to a plan insured by PBGC are now given one of the highest priorities for asset protection and are not subject to certain phase in rules that formerly applied. According to a November 24, 2014 news release, the PBGC “hopes to encourage people to get lifetime income by removing potential barriers to moving their money from defined contribution plans to defined benefit plans.”

REMINDERS FOR DECEMBER AND 2015

The following administrative items may need to be addressed prior to December 31, 2014 or in the upcoming plan year:

1) Timely Deposit of Participant Contributions and Loan Payments – Federal regulations deem late deposits of monies withheld from an employee’s paycheck for deposit into the employer’s retirement plan to be prohibited transactions under ERISA. For this purpose, a deposit is late unless it is paid to the Plan by the earliest date on which the money can reasonably be segregated from the employer’s general assets.

Retirement plans covering fewer than 100 participants at the beginning of the Plan year are given a “Safe Harbor” equal to **seven business days** after the payroll date. For retirement plans with 100 or more participants (at the beginning of the Plan year), there is no such safe harbor. However, an example in U. S. Department of Labor regulations indicates that a 600 participant plan

with multiple payroll centers can nevertheless deposit funds within three business days. Accordingly, prudent employers normally deposit participant loan repayments on the same day as the payroll, but no longer than two or three days after the payroll.

2) Required Minimum Distributions (RMDs) – The Required Minimum Distributions for 2014 must be completed prior to December 31, 2014.

Participants who fit into any of the following categories are required to take minimum distributions each calendar year:

- A. Terminated participants over age 70½ that have accrued benefits.
- B. 5% owners of the company (regardless of employment status) over age 70½ who have accrued benefits. Please note that Required Minimum Distributions must continue in subsequent years even if ownership falls below 5%.
- C. Lineal ascendants/descendants and spouses of 5% owners of the company (regardless of employment status) who are over age 70½ and have accrued benefits.

Defined contribution plan distributions may begin in the calendar year in which the participant attains age 70½ and must begin no later than April 1 of the following year. Defined benefit plan distributions must begin no later than April 1 of the year following the calendar year in which the participant attains age 70½. Periodic distributions must continue no less frequently than annually and must be made during each subsequent year. There is a **50% nondeductible excise tax** on the portion of the RMD which has not been distributed. In addition, failure to make these payments is considered to be a failure to operate the Plan per its terms which can compromise the Plan’s tax favored status.

3) Participant Fee Disclosure (Code Section 404a-5) – Plan Administrators are required to disclose certain plan and investment-related information, including fee and expense information, to eligible participants and beneficiaries in participant-directed individual account plans. This is a recurring annual requirement and is normally due on or before the anniversary date of the distribution of the last notice. The annual notice must be distributed to new employees as they become eligible to enroll in the Plan.

4) Maximum Compensation – As a reminder, the maximum compensation that can be considered when determining contributions for plan years beginning in 2014 is \$260,000. For plan years beginning in 2015, the maximum compensation has been increased to \$265,000. Be sure to take this compensation cap into consideration when determining the compensation for owners and other principal employees for plan years beginning in 2014 and 2015.

5) Definition of Plan Compensation – The definition of Compensation in the Plan Document should be carefully followed when administering a plan. Certain forms of compensation may be excluded for the purposes of calculating contributions. Excluded compensation must be clearly defined in the Plan document. Failure to use correct compensation for calculating contributions can result in an operational defect.

6) Terminated Participants – Former employees with vested benefits should be encouraged to receive distributions from the Plan which can be rolled over to an IRA or distributed as a direct payment. Plans approaching 100 participants may be subject to audit requirements which could be avoided if terminated participants receive distributions from the Plan. Note that in many cases terminated participants with vested benefits of less than \$1,000 can receive mandatory

distributions. A distribution form signed by the trustee is all that is required. Participants with vested benefits of \$1,000 to \$5,000 may also receive mandatory distributions in the form of a Safe Harbor Automatic Rollover IRA.

7) Loan Defaults – Most plans require terminated participants who have a participant loan at the time of termination of employment have their loans defaulted/distributed by the last day of the quarter following the quarter in which the last payment was made. The Plan Sponsor must make sure that the required tax reporting is accomplished in the event of a loan default in the case of participants who do not take a distribution from the Plan.

8) Changes to Plan Provisions – If you are considering making a change to the Plan for the current plan year and have not yet adopted a formal amendment to reflect the change, please contact NRS as soon as possible. Nearly all plan amendments must be adopted before the end of the Plan year in which they are effective. Plan changes that represent a reduction in future rights or benefits must be adopted on or before their effective date. If you are considering such an amendment for the upcoming plan year, you should contact NRS as soon as possible.

9) Fidelity Bond Coverage – All qualified retirement plans are required to carry a Fidelity Bond with the exception of plans that cover only the owner or owner and spouse or business partners and their spouses. The amount of the bond should be at least equal to 10% of the highest amount of the funds handled in the prior year, with a minimum of \$1,000 and a maximum of \$500,000 (\$1,000,000 for plans that hold employer securities). Due to special rules concerning exemption from ERISA required annual financial audits, small plan filers that have 95% or more of their assets in “qualified assets” are exempt from the audit requirement. If a small plan trust has less

than 95% in qualified assets, the audit can still be avoided by expanding the fidelity bond to cover 100% or more of the assets that are not qualified assets. “Qualified assets” generally consist of (1) assets held by regulated investment institutions, (2) shares issued by an investment company registered under the Investment Company Act, (3) participant loans, (4) investments and annuity contracts issued by licensed insurance companies, (5) certain employer securities, and (6) assets in an individual account where the participant has investment control. Employers should review their current policy to ensure that the Plan carries sufficient coverage.

**FOR MORE INFORMATION OR TO
REQUEST A PROPOSAL, PLEASE
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WWW.NRSERVICES.COM, OR FOR
SALES SUPPORT, PLEASE CONTACT:**

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