

PLAN DOCUMENT RESTATEMENTS REQUIRED FOR ALL PRE- APPROVED DEFINED CONTRIBUTION PLANS

The IRS, as part of its program of requiring updated plan documents for tax qualified retirement plans, has recently approved plan documents that incorporate several new laws and regulations, including the **Pension Protection Act of 2006 (“PPA”)**. **Dubbed the “PPA restatements,” all pre-approved defined contribution plan documents for tax qualified retirement plans must be restated** no later than April 30, 2016 in order to retain their pre-approved status. This periodic updating was established in 2007 and represents a six year cycle consisting of two years for document providers to draft and submit updated plans, two years for the IRS to review, comment and approve these drafts, and two years for employers to restate their documents with the newly approved language.

The six year cycle applies only to pre-approved plans (pre-approved defined benefit plans have a six year cycle that is two years behind the defined contribution plans cycle). Plans that are not pre-approved (“individually designed plans”) must restate and normally submit plans to the IRS for approval every five years. Thus, pre-approved plans not only are relieved of the need to pay an IRS fee for their review and approval, their process occurs every six years, rather than every five years.

NRS will be contacting clients in the near future concerning the need to restate defined contribution plans where NRS provides a document drafting service. All NRS provided defined contribution plan documents are pre-approved and will require restatement. Now is a good time for employers to consider making plan design changes because the revised plan provisions can be easily incorporated into the plan document restatement process.

ANNUAL PARTICIPANT DISCLOSURES FOR PARTICIPANT INVESTMENT DIRECTED PLANS

It is hard to believe that Labor Department mandated disclosures to retirement plan participants who direct the investment of allocated plan contributions is celebrating its second anniversary in August. The earliest due date for the first participant disclosure under Department of Labor Regulation 2550.404a-5 (“404a-5 Notice”) was August 30, 2012. While the original regulation required new disclosures to participants within 12 months following the previous disclosure, a July 22, 2013 DOL directive tempered that timing requirement. The result is a somewhat complicated deadline schedule for the third annual disclosure. Last year, some employers provided the second disclosure within twelve months of the first, while others filed the second disclosure after 12 months, but within 18 months of the first. The deadline for the third disclosure depends upon whether the second disclosure was released within 12 months of the first disclosure, or sometime later than 12 months, but not later than 18 months after the first disclosure. The former group is permitted to distribute the third disclosure as much as 18 months after the second. Those who took advantage of last year’s extension by releasing the second disclosure more than 12 but not more than 18 months after the first must release the third disclosure within 12 months after the second disclosure.

For example, Employer A has a calendar plan that normally provides plan materials to participants in January of each year and distributed its first 404a-5 Notice on August 25, 2012. After learning of the extension, Employer A postponed release of a second disclosure until January 31, 2014. The third disclosure is due no later than January 31, 2015.

Employer B also has a calendar plan year. Employer B sent the first disclosure on August 15, 2012 and the second disclosure on August 15, 2013. Employer B is permitted to deliver the third disclosure as late as mid-February 2015, but chooses to distribute the Notice on October 31, 2014, along with other plan related materials.

PBGC PREMIUMS INCREASED AND PAYMENT DATES MODIFIED

Premiums changed for defined benefit pension plans that are covered by the federal Pension Benefit Guaranty Corporation are increasing this year and will be linked to a cost of living index starting in 2015. The base premium per participant for 2014 is \$49, up from \$42 in 2013. The variable rate per \$1,000 underfunding for 2014 also moved up to \$14 from \$9. Comparable rates for 2015 will be \$57 per person and \$24 per \$1,000 of underfunding. Employers who make additional plan contributions will reduce underfunding and reduce premiums payable. Starting in 2015, the due date for premiums will coincide with the extended due date for filing the plan's Form 5500 series (9.5 months after the end of the plan year).

REMINDERS FOR JULY

July 15 - Defined contribution plan employer contributions are due for employer tax returns due July 15 covering the fiscal year ending 04/30/2014 and for the fiscal year ending 10/31/2013 tax returns that are on extension to July 15.

July 15 - Form 5500/8955-SSA – Forms are due for the Plan Year Ending 09/30/2013 that are on extension.

July 31 - Form 5500/8955-SSA – Forms are due for calendar year plans that have not been placed on extension.

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