

401(K) SAFE HARBOR PPA PLAN RESTATEMENT: WHEN DO WE RESTATE?

As we have mentioned in earlier issues of this newsletter, federal procedures concerning pre-approved retirement plan documents require pre-approved defined contribution (money purchase, 401(k) and profit sharing) plans to be restated by April 30, 2016. This includes plans that feature 401(k) salary deferrals where the employer has adopted “safe harbor” employer contribution provisions meant to automatically satisfy non-discrimination testing requirements. According to federal regulations, plans with safe harbor provisions are generally permitted to make voluntary plan design changes effective only on the first day of each plan year so that participants can be advised at least 30 days before the safe harbor plan year begins.

Efficient and accurate plan administration dictates that “Pension Protection Act (‘PPA’) plan restatements” be effective on the first day of a plan year. Many safe harbor 401(k) plans use the calendar year as the plan year, so their PPA plan restatement will be effective either January 1, 2015 or January 1, 2016. Since mid-year plan design amendments are generally not permitted for safe harbor plans, changes in plan design provisions are effective on the first day of the plan year. This presents the possibility of incorporating plan design changes into the PPA plan restatement. Note that if there are no plan design changes, the PPA plan restatement contains the same basic plan provisions as the current document and the timing of the restatement adoption is immaterial. Adoption of a restated plan to comply with IRS rules is not considered a prohibited mid-year amendment for safe harbor plans.

While a PPA plan restatement that also incorporates plan design amendments effective on the first day

of the plan year may appear expedient, incorporating plan design changes in a 2015 PPA plan restatement may be impractical for most plan sponsors due to timing issues. To clarify, simultaneous preparation of an updated annual employee safe harbor notice, PPA plan restatement, Summary Plan Description, and Administration Guide results in the greatest accuracy and efficiency. These materials are unlikely to be processed before the December 2, 2014 deadline for distribution of the 2015 employee notice. Therefore, a separate plan amendment and associated participant notice would represent the most practical approach. However, if a PPA plan restatement effective January 1, 2015 is adopted later in 2015, the restatement will incorporate the 2015 plan design changes.

An employer with a safe harbor 401(k) plan may want to make the PPA plan restatement effective January 1, 2016 if plan design changes are anticipated for the 2016 year. The restatement and related materials can be drafted during 2015 and can include the 2016 design changes. This will permit preparation of appropriate 2016 safe harbor notices to participants that incorporate the 2016 changes. More details, including initiating the restatement process is scheduled to reach NRS clients later this month.

IRS PERMITS DEFINED BENEFIT PLANS TO TAKE RETROACTIVE ADVANTAGE OF HATFA

As mentioned in our last newsletter, the newly enacted Highway and Transportation Funding Act (“HATFA”) provides defined benefit plan minimum funding relief for employers struggling with meeting federally required funding obligations. The law was enacted August 8, 2014

and was effective for 2013 plan years. Many affected employers had either already met their 2013 funding obligation or were unable to obtain revised actuarial valuations before the September 15 funding deadline for calendar year 2013. According to IRS Notice 2014-53 issued in September, employers who file or who have filed the Form 5500 series with Schedule SB using MAP-21 rates by December 31, 2014 will be deemed to have elected not to use the HATFA interest rates for 2013, including both funding and AFTAP purposes. Furthermore, employers who subsequently file an amended 2013 Form 5500 Schedule SB using HATFA interest rates by December 31, 2014 are deemed to have revoked their previous election to use MAP-21 instead of HATFA interest rates. These actions permit employers to shift amounts originally used to fund 2013 minimums to instead be used to defray 2014 funding amounts. HATFA rates can also increase 2013 AFTAP ratios if the employer so chooses to lessen the possibility of benefits restrictions.

REMINDERS FOR OCTOBER

October 15 – Defined contribution plan employer contributions are due for employer tax returns to be filed October 15 covering the fiscal year ending 07/31/2014 and for the fiscal year ending 01/31/14 tax returns that are on extension to October 15.

October 15 – Deadline for retroactively amending calendar year plans to correct coverage or non-discrimination failures for 2013.

October 15 – **Form 5500 Series/8955-SSA** – Forms are due for the Plan Year Ending 12/31/2013 that is on extension.

October 31 – **Form 5500 Series/8955-SSA** – Forms are due for Plan Year ending 03/31/14 that have not been placed on extension.

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

CENTRAL & EASTERN TIME

Jim Houpt
Executive Vice President
T| (800) 627-1610 x 507
E| jim.houpt@NRServices.com

PACIFIC & MOUNTAIN TIME

Nate DeLong
Sales Representative
T| (800) 350-2172 x 260
E| nate.delong@NRServices.com

Alex Froloff
Sales Representative
T| (800) 350-2172 x 224
E| alex.froloff@NRServices.com