

PLAN ELIGIBILITY RULES FOR REHIRED EMPLOYEES

Determining eligibility for qualified retirement plan entry involves a set of rules and series of calculations. This is particularly true in the case of an employee who terminates employment and is later rehired. This article focuses on some important concerns presented by rehired employees, but stops short of a detailed explanation of the rules regarding one or a series of One-Year Breaks in Service. The Break in Service rules are also very important, but rarely come up in most rehire situations. Plan eligibility rules are part of the Internal Revenue Code and associated Federal Regulations and are present in virtually every tax qualified retirement plan document.

A common mistake made by employers who sponsor and administer retirement plans is ignoring the fact that a newly hired employee had a prior employment period. If an employee is a rehired employee, regardless of whether the employee was ever eligible for the plan, prior employment periods must be examined in order to determine when the rehired employee is entitled to enter or re-enter the retirement plan. The process involves the following logical process:

- If a rehired employee was a participant in the plan when he/she terminated employment and had any vested benefit, the employee re-enters the plan upon the date of rehire.
- If a rehired employee was a non-vested participant and has had five or more One-Year Breaks in Service, the employee will be treated as a new hire. A One-Year Break in Service is usually defined as a 12 month period described in the plan document during which the employee completed 500 or fewer hours of service.

- If the rehired employee was a non-vested participant and is not treated as a new employee due to the above five year service break rule, the employee enters the plan on the rehire date.
- If the rehired employee met plan age and service eligibility requirements, but terminated before becoming eligible to enter the plan, the employee enters the plan upon the later of: (1) the date of rehire or (2) the date the employee would have entered the plan had the employee not terminated employment.
- If the rehired employee failed to meet the plan's age and service requirements upon employment termination, the employee's prior employment service is recognized in determining plan eligibility.

In some cases, such as 401(k) plans and plans involving participant direction, suitable forms must be timely provided to the rehired employee prior to, or at the time of plan re-entry.

As always, the plan administrator should consult and follow the specific plan document provisions.

Examples:

Let's say that a calendar year retirement plan requires One-Year of Service and age 21 for plan eligibility. It permits plan entry on the January 1 or July 1 coinciding with or next following the date that age and service conditions are met. A Year of Service is defined as the 12 month period immediately following the employee's hire date during which the employee completed 1,000 or more hours of service.

Betty was hired on April 14, 2013 at age 26 and terminated employment on November 28, 2013 after completing 1,100 hours of service. Betty was

due to enter the plan on July 1, 2014, but was no longer an employee on that date. She had, however, completed a Year of Service during the 12 month period starting on her April 14, 2013 hire date and ending April 13, 2014. Suppose that Betty is rehired in an eligible employment classification on January 3, 2015. She is eligible for plan participation immediately because she had already completed the plan age and service requirements in 2014 and was rehired after July 1, 2014, the date that she would have otherwise entered the plan except for her November 28, 2013 termination.

As a *second* example, suppose that Betty was rehired on May 4, 2014 instead of January 3, 2015. In that case, Betty had completed a Year of Service on April 13, 2014 and enters the plan on July 1, 2014 if she was still employed on that date.

The *third* example relates to the same retirement plan and deals with Bob, an individual who was hired on July 2, 2014, working 165 hours per month. Bob is scheduled to enter the plan on January 1, 2016 since he will complete a Year of Service on July 2, 2015. However, Human Resources discovers late in 2015 that Bob was previously hired on October 12, 2013 and terminated in January 2014, after completing 550 hours of service. As a result, HR recalculates Bob's entry date to be January 1, 2015 since Bob had completed a total of 1,105 hours of service by October 11, 2014 when his original 550 hours are added to the 555 hours he completed from July 2, 2014 through October 11, 2014.

NRS assists clients in determining the correct date for employees to enter the retirement plan and begin to accumulate benefits.

AMNESTY PROGRAM DEADLINE FOR LATE REPORTING OF “OWNERS’ ONLY” PLANS

Just under a year ago, the IRS announced a generous amnesty program for owner only plans to file late Forms 5500-EZ without any penalty (see our June 2014 Newsletter for details). This amnesty, which can save some owners thousands of dollars in late filing penalties, expires June 2, 2015. After this date, the IRS says it will discontinue the amnesty program, charge a fee, or impose other penalties. Any 5500-EZ filer who missed filing one or more past forms should immediately take action to get these forms prepared and filed by June 2.

APRIL 2015 REMINDERS

April 1 – This is the deadline for the first minimum distribution to be paid to participants who reached age 70½ during 2014 and who have terminated employment or who own more than 5% of the company.

April 15 – Forms 5500 series and Form 8955-SSA are due for Plan Years ending 6/30/14 if they are on extension.

April 15 – Retirement plan employer contributions are due if contributions are claimed as deductions on tax returns due April 15, including returns on extension.

April 15 – The 2014 PBGC premium filing due date for small plans, those with less than 100 participants, with a premium payment year beginning March 1, 2014.

April 15 – Minimum funding requirements for defined benefit, money purchase, and target benefit plan years ended July 31, 2014 must be met by April 15 in order to avoid excise taxes.

April 30 – Forms 5500 series and Form 8955-SSA are due for Plan Years ending 9/30/14, unless an extension applies.

HOW ARE WE DOING? PLEASE COMPLETE THE NRS CLIENT SATISFACTION SURVEY!

We are grateful and thankful for the strong response to our Client Satisfaction Survey! In an effort to maintain high level client satisfaction, we need client feedback! The content of these replies will be sent directly to Executive Management. This survey takes less than 2 minutes to complete. To access the Client Satisfaction Survey, [please click here.](#)

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