

HAPPY HOLIDAYS AND IMPORTANT YEAR-END REMINDERS!

Happy Holidays to clients and friends of the Firm. We trust you and yours had a safe and peaceful Thanksgiving Holiday!

As discussed in previous newsletters, a qualified retirement plan is one of the best retirement vehicles a business owner can provide for oneself and his/her employees. Thus, it should come as no surprise that if one qualified plan is good, then having a second, complimentary retirement vehicle may be even better, affording those key individuals the maximum tax advantages allowable. Therefore, you may want to entertain the idea of a second retirement plan for 2016 by contacting your NRS Account Manager!

While we should all look back and be thankful this Holiday season, we should also take note of those important issues relative to your qualified retirement plan. Thus, we have included a number of year-end reminders that you should consider.

REMINDERS FOR DECEMBER AND 2016

The following administrative items may need to be addressed prior to December 31, 2015 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 2015 must be completed prior to December 31, 2015.

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 due no later than 14 months after 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 2015 and 2016 is

\$265,000. Be sure to take this compensation cap into consideration when determining the compensation for owners and other principal employees for these plan years.

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 a Plan 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).

For plans with Fidelity Bond coverage *under* \$500,000, it is wise to include an automatic “rider” that increases the coverage as plan assets grow. Furthermore, 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. Employers should review their current policy with their property/casualty provider to ensure that the Plan carries sufficient coverage. If your property casualty provider does not offer Fidelity Bond coverage, then NRS can refer one.

10) Data Collection Package – If your plan year-end is December 31, our annual data collection package is already available via our portal. You should be receiving our annual data collection package in the mail (if you elected to receive a version via mail) for the 2015 plan year shortly. Please note that the sooner we receive your census data, the sooner we can complete your year-end administration, including 401(k) non-discrimination testing if applicable and Employer Contribution calculations. Your effort to get the data to us as soon as you can in the month of January is greatly appreciated.

The NRS portal is available to populate and transmit the census data and required forms via our secure website. We strongly urge you to utilize the portal for transmission of the year-end data. Note that all forms that are completed on the portal will be saved and can be conveniently updated at any time for the following year.

Please see your NRS Account Manager if you have any questions on the above reminders.

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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HAPPY HOLIDAYS!

