



MAY 2017 | NRS NEWSLETTER

ASCENSUS ACQUISITION OF NRS UPDATE

As previously announced, Ascensus, the nation's largest independent retirement and college savings services provider, acquired National Retirement Services, Inc., a leading third-party retirement administration firm that provides plan level compliance, administration, and actuarial services in late 2016.

“Joining the Ascensus family is a winning proposition for both our clients and our employees,” said John Sciarra, President and Chief Executive officer of National Retirement Services, Inc. *“We’ll continue to provide service delivery that ensures accuracy, responsiveness, and timeliness—only now we’ll be backed by the resources of the largest independent retirement and college savings services provider in the country.”*

Along with Ascensus' acquisition of National Retirement Services, Inc., Ascensus also acquired the third-party administration firm of Matthews Benefit Group, Inc. in late 2016. Together, this activity expands Ascensus Consulting's reach from coast-to-coast, as shown below.





MAY 2017 | NRS NEWSLETTER

We can now offer services to more clients across the country who are looking for customized retirement plan design and administration services delivered through a personal service model.

We will continue to offer personalized service at the *same* current locations, by the *same* Account Manager/Retirement Plan Consultant you have come to trust.

One change, however, will be the replacement of the National Retirement Services, Inc. monthly newsletter with Ascensus Consulting *Benefits Advantage*, a quarterly publication offering you professional insights that can help you successfully administer your retirement plan. Look for the next quarterly publication in June.

In cases where breaking news demands a real-time response, we will send you a *Benefits Alert* news update.

Although this will be our *last* National Retirement Services monthly newsletter, we *will still be here to serve you*. We look forward to continuing to work with you in our new capacity as members of the Ascensus family of companies.

CLARIFYING RETIREMENT PLAN DOCUMENT MISSTEPS

Mistakes happen, but when they involve the legal documents that officially describe the terms and conditions of a tax qualified retirement plan, fixing them can involve a lot more than meets the eye.

The reason for the complication has to do with the basic requirement set forth in ERISA that a tax qualified retirement plan must be in writing and that the written document must be available for review by participants and other interested parties. The IRS and Congress have developed a series of rules for adopting and amending formal plan documents, including the timing of the amendment and, in some cases, the need to notify participants of the pending change in advance. Some of these rules can come into play in cases where someone innocently checks a wrong box or types the wrong number when preparing a formal plan document.

Plan Amendment Rules

The **first rule** says that an employer can *generally* amend a plan retroactively, if the effective date is still in the plan year for which the amendment is effective. For example, a calendar year



MAY 2017 | NRS NEWSLETTER

plan can be amended effective January 1, 2017 if the amendment is adopted by December 31, 2017.

A **second rule** concerns the content of the amendment. The amendment may not decrease anyone's accrued benefit. Related to this rule is the requirement that a pension plan may not be amended to provide for a significant reduction in the rate of *future* benefit accrual unless participants receive prescribed advance notice.

Finally, the rules for "self-correcting" errors in operating retirement plans generally do not extend to plan document amendments.

Some Amendment Correction Examples

Let's suppose that when a 401(k) was being restated, the eligibility requirements (which had been three months of service) are mistakenly changed to require a Year of Service. If this restatement is effective January 1, 2017 for a calendar year plan, the mistake is easily repaired. An amendment is prepared effective January 1, 2017 and adopted on October 4, 2017 changing the requirement back to three months of service. Note that (a) the amendment does not reduce anyone's accrued benefit, (b) the amendment was adopted in the year in which it is effective, and (c) no advance participant notice was required. Note that if the mistake was not discovered until 2018, the opportunity for a quick and easy fix is gone.

As a *second* example, suppose a defined benefit pension plan is being restated and the vesting provision is inadvertently changed from 100% after five years of service to 100% after three years of service. Since the change did not reduce anyone's benefit, there was no need for an advance notice and if the restatement was adopted during the plan year in which it was effective, there is no timing violation. However, if an amendment is prepared to correct the error by changing full vesting from three years to five years, it violates the rule about reducing accrued (vested) benefits.

The Safe Solutions for Document Errors

The IRS has repeatedly rejected the notion that an employer can simply cancel a plan provision that is alleged to be a mistake and create a second "correct" document to replace the original except in very limited situations.



MAY 2017 | NRS NEWSLETTER

The safe correction of a document mistake that is consistent with available guidance is to prepare a correcting amendment and submit the matter to the IRS for their review and (possible) approval under the “Voluntary Correction Program with Service Approval (VCP).” This procedure involves a submission fee plus the expenses associated with the preparation of the submission and interaction with the IRS.

The alternative solution often involves simply leaving the error in place, with the employer taking credit for the benefit improvement. This is a particularly good solution when the error has been included in plan summaries distributed to participants and the benefits cost of the plan change is relatively modest.

REMINDERS FOR MAY

May 15 – Minimum funding requirements for defined benefit, money purchase, and target benefit pension plan years ending 8/31/16 must be met by May 15 to avoid excise taxes. An electronic transfer must be completed, or a check mailed, by this date.

May 15 – Retirement plan employer contributions are due to be deducted on employer tax returns to be filed May 15, 2017.

May 15 – Form 5500 Series/8955-SSA – Forms that are on extension are due for the Plan Year ending 7/31/2016.

May 31 – Form 5500 Series /8955-SSA – Forms are due for the Plan Year ending 10/31/16 that are not on extension.



MAY 2017 | NRS NEWSLETTER

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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