



# *Bi-Monthly Report*

September-October 2008

Volume 17 Issue 3

## **Year-End Reminders and Deadlines...**

### **Introduction**

Our annual list of year-end reminders and important deadlines follows. Contact us if you have any questions regarding any of the items listed. Many of the dates refer to calendar-year plans and adjustments may be necessary for non-calendar year plans.

### **Year-End Reminders**

<b>Item</b>	<b>Discussion</b>
Salary-reduction elections	Participant 401(k) and Cafeteria Plan elections generally have to be made prior to the beginning of the plan year. Before the end of 2008, plan sponsors should confirm that election options have been communicated and participant elections made for calendar-year plans.
Safe Harbor 401(k) Notices	In order to maintain a Safe Harbor 401(k) plan, certain annual notices must be distributed to eligible employees. One notice describes such employees' rights and obligations regarding the coming plan year. The other notice states the Employer's contribution commitment for the safe harbor profit sharing contribution for the current year. These notices must be distributed between 30 and 90 days before the end of the current plan year (between October 2, 2008 and December 1, 2008 for a calendar year plan).
Cafeteria plan flexible-spending accounts	Cafeteria Plan rules require that plan participants forfeit unused amounts remaining at the end of the plan year, unless the Plan provides for a "grace period" of up to 2 1/2 months after the plan year end. Employees should be reminded of this "use it or lose it rule" and budget their medical and dependent-care expenses accordingly. Visiting the dentist, purchasing eye glasses, and purchasing non-prescription drugs (if the Plan allows) on or before December 31, 2008, or the end of the grace period, if adopted, could reduce or avoid losing unused amounts.  Please note that dependent-care salary deductions have to be reported as a separate item on the employee's W-2 Form.

**Year-End Reminders (continued)**

Item	Discussion
Participant-directed investments	<p>If participants self-direct their plan investments, then these investments should be reviewed for suitability no less often than annually. It is the plan administrator's fiduciary responsibility to provide appropriate investment choices. It is also the plan administrator's responsibility to provide quarterly notices to the participants.</p>
Plan amendments and contributions	<p>If it is desired to amend a pension or profit sharing plan, then the plan has to be amended prior to the plan's year-end. If it is desired to decrease a pension plan benefit or contribution formula, then generally an advanced notice prior to participants accruing their benefits is required. Generally, for a calendar year pension plan, the participant notice describing a benefit decrease has to be distributed by December 16 for small plans. Because a profit sharing plan's contribution is usually discretionary, this latter requirement generally does not apply to profit sharing plans.</p> <p>In addition, due to ever-changing laws and regulations, generally each year, prior to the end of the plan year, amendments will be required to be adopted in order to keep the plan document in compliance. 2008 is no different. Amendments will need to be adopted regarding the final Code § 415 regulations and regulations regarding the normal retirement age provisions. In addition, defined benefit plans will need to be amended for the Pension Funding Equity Act.</p>
Retirement-plan distribution withholding and reporting requirements	<p>Form 945 is used to report distribution income-tax withholding, and Forms 1099-R and 1096 are used to report retirement plan distributions. If distributions were made in 2008, then the filing deadlines are February 2, 2009 for Form 945 and for the participant copy of Form 1099-R, and March 2, 2009 for Form 1096 and for the Internal Revenue Service copy of Form 1099-R. Generally, your accountant or bookkeeper will prepare Form 945.</p> <p>The Trust should have a Trust Identification Number (TIN) which is different from the Corporate Employer Identification Number (EIN). The TIN should be used to report plan distributions and as the identification number for asset accounts. If the Trust does not have a separate number, please notify us so that one can be applied for.</p> <p>Please note that if you currently use the Electronic Federal Tax Payment System (EFTPS) to make your federal employment tax deposits (under the EIN), to make your plan distribution withholding tax deposits under the TIN, you will either have to establish a new EFTPS account or use the Form 8109 Federal Tax coupons under the TIN.</p>

**Year-End Reminders (continued)**

Item	Discussion
Fidelity Bond	<p>Except for one-participant plans, ERISA requires that every fiduciary of an employee benefit plan and every person who handles funds or other property of a plan be bonded. A one-participant plan means a plan whose participants are only a 100% owner (and/or his spouse) regardless of whether the business is incorporated or not, or whose only participants are partners and/or their spouses.</p> <p>The amount of the bond must be 10% of the funds handled with the minimum coverage amount being \$1,000 and the maximum amount being \$1,000,000. The coverage requirement is determined at the beginning of each year and may have to be updated. PRS can obtain the bond for you.</p>
Age 70½ minimum required distribution requirements	<p>Because the age 70½ requirements are complicated and because there is a 50% excise tax for the amounts not taken, we suggest that you contact us if you have any questions.</p> <p>Generally, distributions must be taken by December 31. If age 70½ is attained in 2008, then the 2008 distribution may be postponed until April 1, 2009, in which case two distributions would be required in 2009 (the 2008 distribution by April 1, 2009, and the 2009 distribution by December 31, 2009.)</p> <p>Subject to certain conditions, the Plan may allow non-5% owners to delay commencement of the distributions if still actively employed. However, individuals are still required to take IRA distributions, except for Roth IRA accounts, once they have attained age 70½.</p>
Beneficiary Election Forms	<p>Each plan participant should be reminded that he can update his Beneficiary Election by completing a new Form. Examples of when new forms should be completed are as follows:</p> <ol style="list-style-type: none"> <li>1. A participant whose marital or family status has changed since last completing a Beneficiary Election Form should complete a new Form.</li> <li>2. A married participant who has attained age 35 since last completing a Beneficiary Election Form should complete a new Form.</li> <li>3. A participant who has changed his estate plans since last completing a Beneficiary Election Form may want to complete</li> </ol>

A summary table of deadlines for the preceding items follows.

# Important Deadlines

Event	Deadline
2009 401(k) elections by: Safe Harbor 401(k) Plan annual notices distributed between: 2009 Cafeteria Plan elections by: 2008 Cafeteria Plan flexible-spending accounts - medical and dental expenses incurred no later than:	December 31, 2008* October 2 and December 1, 2008* December 31, 2008*  December 31, 2008* (or, if the plan provides, by the end of the grace period)  <i>*Dates shown are for calendar year plans.</i>
Certain participants who attained age 70½ prior to 2008 must take their 2008 minimum-required distributions by:  A participant who attained age 70½ during 2008 has to take his IRA minimum-required distribution and may have to take his qualified-plan minimum-required distribution by:	December 31, 2008  April 1, 2009
Filing of 2008 Form 945 by: Filing of participant copy of 2008 Form 1099-R by:	February 2, 2009 February 2, 2009
Filing of 2008 Form 1096 by: Filing of IRS copy of 2008 Form 1099-R by:	March 2, 2009 March 2, 2009

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