



Bi-Monthly Report

September-October 2009

Volume 18 Issue 2

Year-End Reminders and Deadlines...

Introduction and 2009 Form 5500 Filings

Our annual list of year-end reminders and important deadlines follows. We would like to notify you that starting January 1, 2010, for plan years beginning on or after January 1, 2009, the Form 5500 Filings will have to be signed and filed electronically by the Plan Sponsor. In order to electronically sign Form 5500, each person who signs a Form 5500 will have to register for electronic credentials. We will need to request, at a later time, the email address of each person who is going to sign the 2009 Form 5500.

One person (an individual, husband and wife, or partner only) plans will not have to file electronically. Further details will be communicated as they become available.

Year-End Reminders

Item	Discussion
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 2009, 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, 2009 and December 1, 2009 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. 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. 2009 is no different. Amendments will need to be adopted regarding the Heroes Earnings Assistance and Tax Relief Act of 2008 (HEART) and the Worker, Retiree and Employer Recovery Act of 2008 (WRERA), as well as the Pension Protection Act of 2006 (PPA).</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 2009, then the filing deadlines are February 1, 2010 for Form 945 and for the participant copy of Form 1099-R, and March 1, 2010 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 is generally 10% of the funds handled. 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 2009, then the 2009 distribution may be postponed until April 1, 2010. Normally, two distributions would be required in 2010 (the 2009 distribution by April 1, 2010, and the 2010 distribution by December 31, 2010.)</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> <p>Solely for 2009, the law was amended to provide that Defined Contribution Plan participants do not have to take their age 70½ 2009 distributions. However, this “distribution holiday” does not apply to age 70½ 2009 Defined Benefit Plan participant distributions. See our January-February 2009 Bi-Monthly Report.</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"> 1. A participant whose marital or family status has changed since last completing a Beneficiary Election Form should complete a new Form. 2. A married participant, having attained age 35 since last completing a Beneficiary Election Form, should complete a new Form. 3. A participant who has changed his estate plans since last completing a Beneficiary Election Form may want to complete a new Form.

A summary table of deadlines for the preceding items follows.

Important Deadlines

Event	Deadline
2010 401(k) elections by: Safe Harbor 401(k) Plan annual notices distributed between: 2010 Cafeteria Plan elections by: 2009 Cafeteria Plan flexible-spending accounts - medical and dental expenses incurred no later than:	December 31, 2009* October 2 and December 1, 2009* December 31, 2009* December 31, 2009* (or, if the plan provides, by the end of the grace period) *Dates shown are for calendar year plans.
Certain Defined Benefit Plan participants who attained age 70½ prior to 2009 must continue to take their annuity type benefit by: A participant, who participates in a Defined Benefit Plan and who attained age 70½ during 2009 may have to start taking his or her annuity-type benefit by:	December 31, 2009 April 1, 2010
Filing of 2009 Form 945 by: Filing of participant copy of 2009 Form 1099-R by:	February 1, 2010 February 1, 2010
Filing of 2009 Form 1096 by: Filing of IRS copy of 2009 Form 1099-R by:	March 1, 2010 March 1, 2010

Pension Review Services
445 Broad Hollow Road Suite 8
Melville, NY 11747
Phone: (516) 694-5500 Fax: (516) 694-5501
www.pensionreviewservices.com
email: info@pensionreviewservices.com