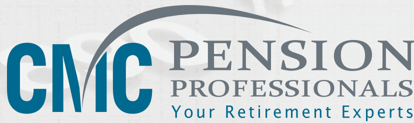
For Your

Benefit



November 2010

Deadlines Coming Up

1. February DB plans must fund by 11/15.
2. Pension Limits Unchanged for 2011:
   a. Deferrals $16,500
   b. Catch up $5,500.

More on the website: www.cmcpenpro.com

CMC will close on December 24 and 31, 2010 in order to celebrate the holidays.

Cash Balance Plan Regulations Issued

After four years we have our first cash balance plan regulations from the IRS. Although there are still questions, we have enough information to modify the current designs we're using. We did not get a much hoped for safe-harbor conversion from a traditional plan to a cash-balance plan.

Benefits to Cash Balance Plans:

- Help control the costs for older employees since benefits are based on salary, not on age and salary, as in a traditional plan.
- Benefits are easy to understand—much like a profit-sharing plan with a fixed contribution formula.
- Contributions for partners usually mirror actual benefit increases.
- They are very powerful when combined with a profit-sharing plan for compliance testing.
- Contributions can be much larger than in a profit sharing.

One prior uncertain area critical to the design of cash balance plans is the choice of interest crediting rate. It is supposed to be reflective of market rates. Previously, the IRS had confirmed that you could choose treasury rates, long-term bond rates, or a fixed rate of 3% or less. This has been expanded considerably: IRS:

- Confirmed that fixed rates of up to 5% (one commonly used rate) is acceptable. This rate works very well with compliance testing.
- Authorized the use of equity-based indexes for the first time. It allows earnings to be based on any broad-based index (such as S&P 500, or international indexes)
- Introduced the concept of crediting the actual return of the trust as long as it is well diversified.

This opens options for those who want to tie the assets and liabilities more closely, and for those who hope for higher amounts credited to their accounts. This makes the plan more of a super profit-sharing plan (i.e. one allowing contributions of double or triple those of a profit-sharing plan.)

Call us if your clients want to put in a cash balance plans before the end of the year.

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New Fee Disclosure Rules

The Department of Labor (DOL) has issued two new rules for fee disclosure, especially for self-directed plans.

Rule Number One

Any company collecting a fee out of plan assets must disclose what the fee is for and what they are being paid. This affects:

- Brokers
- Investment providers
- Insurance companies, etc.

It also affects:

- CPAs and TPAs providing services to the plan, who are getting any portion of their income from the plan (directly as a fee, or indirectly through any arrangement with the investment fund).

This regulation is effective next June. To meet the specific details, most companies will need to issue revised service agreements.

Rule Number Two

The IRS issued a second fee dislosure regulation for participants. This will be effective for plan years starting after 11/1/11. This rule will significantly increase the material that must be disclosed to participants in plans where the participant has investment control. More information will have to be disclosed annually on:

- How to join the plan, and
- How to make changes to the investments.

We expect the firms that specialize in providing funds for pension plans will provide the necessary disclosure. However, plans that use general investment platforms and allow their employees to choose between several investment options may have significant trouble providing all of the necessary information to the participants.

The required disclosures includes actual expenses charged as well as detailed information about the performance of the funds that must be available on a website.

More detailed information should be available over the next few months on these regulations. ■

Contributions Deductible?

The primary requirement to make a contribution from a business to a retirement plan is to be a plan sponsor. That sounds like a no-brainer but in reality many clients are making contributions with no assurance that they can take a deduction. Here's an example.

Dr. Smith and Dr. Jones have a partnership. The partnership is owned by their respective corporations. The employees are hired by the partnership, but the two doctors are employees of their corporations. The partnership adopts a plan, makes contributions for the employees. The doctors' corporations make contributions for the doctors. Sounds logical, right? But what if the doctors' corporations never actually signed the plan document as a sponsoring employer? Are the corporation's contributions deductible? Probably not! Why? Because the corporations are not plan sponsors.

Call us if you think you might be in this situation.

CMC News

Michael Bain, ASA, MSPA attended the Annual Conference for the American Society of Pension Actuaries and Professionals (ASPPA) in Washington, D.C. in October.

Sammy Tyndall and Michael Tompkins are now part of an elite group. They has been confirmed as Enrolled Retirement Plan Agents (ERPA) and can now practice before the IRS. Currently, there are only 500 ERPAs in the United States. Congratulations!