

# Retirement Plan Update

Fall 2006



## Best Practices of Plan Sponsors

Want to attract, retain and inspire the best employees? Retirement plans are part of the answer. Not only do retirement plans help in hiring and maintaining employees, but they also help your employees achieve financial security and enable them to transition into retirement when ready.

Several surveys indicate that the best companies:

- **Offer a match.** A match shows the employees that you are interested in their financial security and also helps to increase the level of employee participation.
- **Talk one-on-one with employees and offer retirement planning tools.** Your investment advisor should offer your employees a chance to sit down and talk face to face. This will help employees to feel comfortable with the retirement plan and get expert advice on how to invest their retirement money.
- **Make extra efforts with**

**young employees.** Encourage young employees to contribute early in their careers. The earlier they save, the more it will add up.

- **Help older employees catch-up.** Educate your older employees about catch-up provisions in your plan to allow them to save even more. Consider adding catch-ups to your plan if you don't have them already. It doesn't cost anymore and it's a great opportunity.
- **Communicate with your employees.** Give employees advance warnings of changes. Keep them up to date with changes in the law and new limits. Consider showing employees your corporate financial statements so they can appreciate the big picture of the retirement plan.
- **Listen to your employees.** Encourage employees to give their input to the plan. Pay close attention to their reaction to

benefit changes. Be willing to change your plan based on their comments.

- **Be persistent.** Benefits education isn't a one time event. Schedule regular meetings to discuss investments and financial education.
- **Distribute an annual pay and benefits statement.** Show your employees specifically how much their salary and benefits actually cost the company.



### Inside this issue:

Help on issuing W-2 forms	2
Distribution/1099-R form Update	2
New Limits for 2007	2
A New Look for our Website	3
Safe Harbor 401(k) Plan Notices	3
Late Deposits of Participant Contributions	4
Final 401(K) Regulation Amendments	4
Pension Protection Act in Depth	5
Web Site Access	6
Automatic Enrollment	6

### Did you know?

- We hold quarterly contests to meet customer service goals. If our goals are met, we celebrate with an afternoon out of the office to the bowling alley, race track or our next trip—Whirlyball!
- A typical goal might be to have 90% of our quarterly statements out in 30 days. We met that goal for our September valuations.

## Help on Issuing W-2 Forms

January 31, 2007 is the deadline for issuing employee W-2 forms. The following may be helpful when preparing those forms:



### Active Participant

- A person who actually contributes (defers) pre-tax dollars to a 401(k) plan
- A person who actually contributes post-tax dollars to a retirement plan
- A person who receives an Employer contribution or reallocated forfeiture during the 2006 tax year.

### Form W-2 Completion

- Box 12—If any employee contributes (defers) pre-tax dollars, place a D in this box with the amount of the deferral.
- Box 13—Place an X in the box for Retirement Plan if the employee is an “Active Participant” as defined in the box to the left

## Distribution and 1099-R Form Update

- In an effort to avoid the last minute rush of completion, distribution and mailing of those dreaded 1099-R forms, we have an internal deadline for processing distributions to participants. Any distribution request received prior to December 15, 2006 will be processed by the end of the calendar year and a 1099-R issued for the 2006 calendar year. We reserve the right to hold any requests received after December 15th deadline and process them after January 1st. This will allow us to prepare your 1099-R forms in a more timely manner, enabling you to mail them in plenty of time to meet the January 31st deadline.

- If you have any employees who are:
  1. Age 70 1/2 or older and are a more than 5% owner of your company, or
  2. Age 70 1/2 or older, have retired and still have money in the planthen those employees are required by law to

*Please forward your completed distribution forms for terminated participants no later than December 15, 2006.*

take a Required Minimum Distribution from the plan, based on their life expectancy. In most cases these distributions must be completed before December 31, 2006 or the employee is subject to an excise tax of 50%. We are in the process of sending distribution packages to all employees we have on record. Please be sure to follow up with these participants to be sure that they get the completed paperwork back to us. Also, if we do not regularly receive termination information from you, be sure to inform us immediately if someone in your plan has terminated this year and is age 70 1/2 or older!!

## New Limits for 2007

The new limits for 2007 have been released! Here's a quick guide for your reference.

- 401(k) Deferrals—\$15,500
- 401(k) Catch-up Contributions—\$5,000
- SIMPLE Deferral Limit—\$10,500
- SIMPLE Catch-Up Contributions—\$2,500
- Maximum Defined Contribution Plan Limit (415) —\$45,000
- Maximum Compensation—\$225,000
- Social Security Wage Base—\$97,500



*The new limits are here!*

## A New Look for our Website

Our website has been completely revamped to coincide with our name change. It is now more organized and user-friendly. We have divided the website into three distinct sections:

### The Participant section includes:

- Log-in to access their account balance information
- A quick guide for maneuvering the website
- A list of Frequently Asked Questions.

### The Plan Sponsor section has:

- The log-in to access the plan and participant information at the Plan Sponsor level

- A News and Update link that has useful information regarding Roth 401(k) plans, fiduciary responsibilities, our prior newsletters, and the most up-to-date plan limit information

- The newsletter section also contains a detailed look at the new Pension Protection Act of 2006.

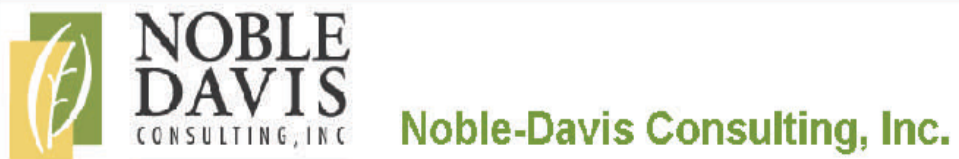
- This section also lists important Bonding information

### The About Our Firm section gives you information regarding:

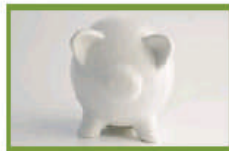
- What is special about Noble-Davis Consulting, Inc.
- Information on how to contact us

If you don't currently have web access for your plan, feel free to ask your administrator if we can make it happen for you!

Please let us know if you have any suggestions!!!



Noble-Davis Consulting, Inc. is a full service Third Party Administration firm known for proactive, hands on service, a highly trained staff and competitive fees.



#### For Participants:

- [Account Information](#)
- [Quick Guide](#)
- [Website FAQ](#)



#### For Plan Sponsors:

- [Plan Sponsor Website](#)
- [News and Updates](#)
- [Bonding Update](#)



#### About Our Firm:

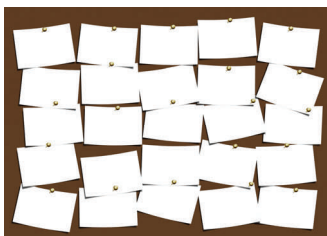
- [A Quick Look at Our Firm](#)
- [Contact Us](#)

Take a look at our new streamlined website at [www.noblepension.com](http://www.noblepension.com)

## Safe Harbor 401(k) Plan Notices

Is your plan a Safe Harbor 401(k) Plan?

Safe Harbor 401(k) Plans are 401(k) plans where a plan sponsor must contribute a pre-determined contribution for each participant (at least a 3% profit-sharing contribution or at least a match that consist of 100% on the first 3% of and employee's deferral and 50% on the next 2% of deferrals).



*2007 Safe Harbor 401(k) Plan notices now require even more information.*

If you've adopted one of these plans, you'll be seeing a change soon. The safe harbor notices that are required for the

2007 plan year must be more detailed than ever before. In the past, the notice was permitted to reference the Summary Plan Description to explain some of the features in the plan, like vesting and distribution policies. Now,

changes in the law have made it necessary to include information about those items directly in the text of the Safe Harbor 401(k) Notice.

As a result, this year's notice will be longer and more involved than that of past years. Since these notices must be delivered 30 days prior to the start of the plan year, rest assured that we are working on all of the changes right now. They'll be on their way to you soon!

## Late Deposits of Participant Contributions

Since 1995, the Employee Benefits Security Administration (EBSA) has pursued an aggressive enforcement project intended to safeguard employee contributions to 401(k) plans and health care and other welfare plans where employers delay forwarding participant contributions to employee benefit plans.

Under the regulations, in the Department of Labor's (DOL) plan asset regulation 29 CFR 2510.3-102, amounts paid to a plan participant (i.e. taxes on distributions) or withheld by an employer from a participant's wages (i.e. 401(k) deferrals) are **plan assets on the EARLIEST DAY they can be reasonably separated from the employer's general assets**, but in no event later than the 15th business day of the month following the month in which the participant's contributions are withheld.

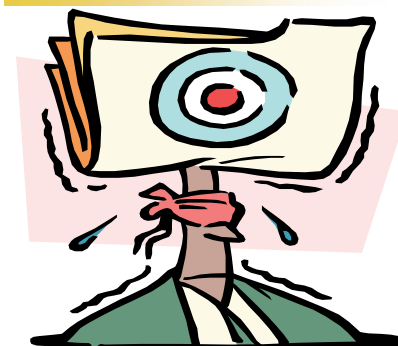
In plan audits we have witnessed, the DOL is taking the stance that a reason-

able time to segregate contributions is 2-3 days. If the plan sponsor is found to be segregating the assets after a period of 2-3 days, the DOL will then require the plan sponsor to deposit lost earnings on the contributions and pay a penalty of 15% to the IRS for use of the plan assets. A fiduciary breach could also be claimed by the DOL, resulting in a 20% penalty.

Since we cannot tell if the contributions have been deposited into a separate checking account, we ask this question on our annual information request. We use your answer to indicate on the Form 5500 if the contributions are delinquent. Please be aware that lying on the Form 5500 is punishable by fines and even time in jail!

If you have late deposits and want to correct it before the DOL finds you, there are a couple of options. You could restore the lost earnings and file for relief under the DOL's Voluntary Fiduciary

*Don't make yourself a target to the DOL!*



Correction Program with no fee (however our administration costs will be charged). Another option is to restore the lost earnings and pay the excise tax on the use of the money. Please note that participants are becoming more savvy about these deadlines and could contact the DOL to report late deposits on their account.

## Final 401(k) Regulation amendments—they are coming!

If you have a 401(k) plan, your plan will require an amendment by the end of the plan year that begins in 2006. For most plans this is by December 31, 2006. IRS regulations have updated the law and reflect other changes that have been made since 1994. We are currently preparing those amendments. Here's a look at what is included:

- If your plan is a safe harbor 401(k) plan that had conditions in place for a discretionary match, those provisions will now have to be eliminated in order to preserve the desirable features of the safe harbor, like avoiding the ACP Test.
- Elective deferrals cannot be pre-funded. That is, you cannot contribute deferrals

to the plan until they have actually been withheld from pay.

- If your plan contains a provision allowing hardship withdrawals, and limits those withdrawals to the "safe harbor" definition (medical expenses, education expenses, to purchase a principal residence or to prevent eviction), two new events have been added to the safe harbor definition: funeral expenses and repairs to a principal residence.
- If your plan has targeted QNECs (also referred to as bottoms-up QNECs) in order to minimize the contribution to pass a failing ADP/ACP test, there are now severe restrictions on their usage.



*Amendments are on the way!!*

- If you tend to have refunds from a failing ADP/ACP test, gap period income will now have to be calculated on the refund amount, resulting in a greater refund. Gap period income is an amount equal to 10% of the earnings for each month after the end of the plan year that the refund is not paid.

For those of you on our prototype plan, the amendment will be simply added to the existing plan, with no signature requirement from you.

For those employers on our volume submitter plan, amendments will be sent to you for signature.

For those who use a different document provider, we will attempt to obtain our copy of the amendment directly from that provider.

# Pension Protection Act of 2006—in Depth

The Pension Protection Act of 2006 (PPA) was signed into law by President Bush on August 17, 2006. The most important part of the legislation was the permanent extension of the EGTRRA retirement legislation which makes attractive benefits like higher contribution limits and the Saver's Credit permanent. A large portion of the bill relates to Defined Benefit Plans, but there are also some provisions that are important to Defined Contributions Plans. Plan amendments for these provisions are required by the end of the 2009 plan year. Here is a detailed summary:

- **Accelerated Vesting**— All employer contributions must adhere to a vesting schedule that is at least as rapid as a 6 year graded schedule (20% of vesting each year after the first year) or a 3 year cliff (100% vested after 3 years of service) effective for contributions made in the 2007 plan year and later.
- **Benefits Statements**—Participant statements requirements in 2007:
  1. Quarterly for participant-directed Defined Contribution Plans (401(k), Profit Sharing, Money Purchase Pension, etc.)
  2. Annually for non-participant directed plans
- **Automatic Enrollment Safe Harbor**—For plan years beginning after December 31, 2007, a 401(k) plan with an automatic enrollment feature would be eligible for safe harbor treatment for the ADP/ACP test and would be deemed to meet top heavy requirements. A plan with an automatic enrollment arrangement would automatically deduct a set deferral percentage from an employee's pay upon their entry into the plan, providing the employee had not elected a different percentage or to NOT participate in the plan. The requirements to receive the special safe harbor treatment in this arrangement are:
  1. The initial percentage of the automatic enrollment must be between 3% and 10% but no less than 4% in the second year of enrollment, 5% in the third year of enrollment and 6% in any subsequent year of participation
  2. The arrangement would not have to apply to current plan participants
  3. A match of at least 100% on the first 1% of pay and 50% on the next 5% of pay, or a 3% non-elective contribution for all participant would have to be provided.
  4. Vesting on employer contributions would have to be 100% after no more than 2 years of service
- **Excess contributions in an automatic enrollment plan**— A plan with an “eligible” automatic enrollment arrangement would be allowed to make ADP/ACP refunds up to six months after the close of the plan year without a 10% excise tax on the refunded amounts. Currently, the refunds must be made within 2 1/2 months to avoid the excise tax.
- **Other excess contributions**—All excess contributions made within the correction period (either the normal 2 1/2 months or the 6 months mentioned above) would be taxed in the year of distribution, rather than in the year the deferral was made to the plan, as is the current law. This is good news for plans that do not end on December 31st, since the taxation currently goes back two calendar years in some cases, making it difficult on the employees by having to revise their tax return.
- **Direct Rollovers**—Plan distributions could be paid directly to a Roth IRA, with the taxable portion of the rollover amount taxed when rolled over (subject to the normal Roth IRA conversion rules). Currently, a participant would have to roll over the distribution to a standard IRA first, then convert to a Roth IRA.
- **Non-spousal rollovers**— A non-spouse beneficiary could roll over proceeds to an IRA for distributions after 2006.
- **Simplified Form 5500 for smaller plans**— For plans with 25 or fewer participants, a more simple version of the Form 5500 can be filed for plan years beginning in 2007.
- **Missing Participants**—Defined Contribution plans can now use the PBGC's missing participant program.

*Participant-directed defined contribution plans must issue quarterly statements effective in 2007.*

Plan amendments for these provision are required by the end of the 2009 plan year. However, the Summary of Material Modifications that must be distributed to participant to outline these changes may have to be prepared and issued in 2007.

Fall 2006



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## We're on the web at [www.noblepension.com](http://www.noblepension.com) Are you interested in web site or plan sponsor access?

- Features include:
  - Retirement Calculator
  - On-demand Reporting
  - On-demand Forms
  - Coming Soon—Investment Advisor and Retirement Planner

If you are interested but do not yet have web site access, log on:

- As a participant using UserID: 222222222 and Password: 2222
- As a plan sponsor using UserID: sponsor and Password: sponsor

## Should I consider adding an “Automatic” 401(k)?



The talk is all about automatic enrollment 401(k) plans.

Automatic enrollment means that when an employee is eligible for entry into a 401(k) plan, they are given a form that allows them to elect not to participate. If they do not complete that form and turn it in, they are automatically enrolled into the plan at a set percentage rate of deferrals. The idea is being strongly supported by Congress right now. They like it because it means more savings by more employees. They also are interested in creating a system that increases an employee's percentage of deferrals at regular intervals.

Is it right for you?

### Advantages

- Increases participation in plan, aiding in ADP/ACP test passage if that is an issue
- More workers will be saving for retirement, helps those who “never bother to sign up”
- If rules are followed to make the plan a “qualified” automatic enrolment plan, relief from testing may be available (see Pension Protection Act article on page 3)

### Disadvantages

- May hurt employee morale if employees feel forced or tricked into saving
- Annual notice to employees is required
- Match costs may be higher due to increased participation
- If company does not automatically withhold for an employee who did not elect to participate, the employer is now responsible to contribute the amount that would have been withheld into the plan on the employee's behalf.
- More recordkeeping is required, especially for plans where an automatic deferral percentage increase is included. This work will probably fall on the employer.
- Plan sponsors may have to choose a default investment for those employees with automatic enrollment, creating more liability if that fund does not perform well.

The choice is yours, but please consider the ramifications carefully. The newspaper articles “buzzing” about this idea rarely mention the extra liability borne by the plan sponsor or the extra work involved. Ask your administrator for more information.