Retirement Plan Update

Summer 2006

Formerly Noble Consulting Services, Inc.

Final 401(k) Plan Regulations are Here

Recently, the Internal Revenue Service (IRS) issued final regulations concerning 401(k) plans. These final regulations update and consolidate changes affecting 401(k) plans. All 401 (k) plans must adopt these new regulations.

These final regulations apply to plan years beginning on or after January 1, 2006. **The amendment must be adopted by the end of the plan year that begins in 2006.** If we are currently responsible for your plan document, we will automatically prepare the amendment and send it to you for signature. There will be a charge of $250 for this amendment.

The amendment for the final regulations includes :

- **No pre-funding of contributions**. Deferrals and match can no longer be deposited into the plan before the performance of services that relate to the contributions. An employer cannot take a deduction for pre-funded contributions.
- **Qualified Non-Elective Contributions (QNEC).** In order to pass a failing ADP/ACP test, some plans would use a technique called a "targeted QNEC" or a "bottoms-up QNEC." These were cost-effective ways to pass an ADP/ACP test. Unfortunately, the new regulations severely limit this practice.
- **Hardship Distributions.** Two additional expenses are now added to the list of those that are deemed to be immediate and heavy financial needs. Now participants can also have a hardship distribution for funeral expenses and for repairing a damaged home.
- **Gap Period Income.** For plans that are issuing a refund due to a failed ADP/ACP test, income must now be calculated on the refund from the end of the plan year to the date of the actual distribution.
- **Automatic Enrollment.** Employers have the ability to automatically enroll employees into a 401(k) plan at any contribution level as long as the employee has a chance to opt out of the plan.

Coming Soon…
A New Look and a New Name

We are currently in the process of changing our name to Noble-Davis Consulting, Inc. Jan Davis has been a partner at our firm for over 6 years and we wanted our name to reflect her contribution to our company.

Jan has been with our firm for over 11 years. She came to us with degrees in both Math and Accounting from the University of Akron. During her time here, she has passed the entire series of certification tests offered by ASPPA, earning her the QKA, QPA and coveted CPC designations.

As a result of this name change, we will be revising our website to be more user friendly. We will also be taking a close look at our forms and mailings to update the look and to provide more meaningful information.
Stay tuned!!!

Inside this issue:

Tax Saver's Credit	2
Roth 401(k) Plans	2
Revenue Sharing	2
Who is a Fiduciary?	3
Limits for 2006	3
Web Site Access	4
Pension Protection Act of 2006	4

Did you know?

- Our retirement plan administrators have an average of 10 years in the business.
- We require our administrators to take a series of demanding tests from the American Society of Pension Professionals and Actuaries (ASPPA).
- We perform in-house training all year long!

Tax Saver's Credit

If you have low to moderate income workers and sponsor a 401(k) plan—you may be able to inform your employees about even more tax savings!

The "Saver's Credit" is available to some individuals who defer a portion of their salary into a 401(k) plan or IRA. In general, contributions up to $2,000 per person can reduce their taxes. The amount of credit ranges from 10% to 50% depending on income and filing status.

To qualify for the credit, the participant's Adjusted Gross Income on their 1040 form cannot be more than:

- $50,000 married filing jointly
- $37,500 filing head of household
- $25,000 filing single

Getting the word out to your employees about this savings could help increase your plan participation!

See IRS Form 8880 for more details.

Help your employees realize the value of your plan!

Roth 401(k) Plans—are they right for you?

There's a new 401(k) option out there — Roth 401(k) plans.

A Roth 401(k) is part of a traditional 401(k) plan that allows employees to contribute after-tax dollars without being subject to taxes on future earnings. In contrast, regular 401(k) deferral contributions are funded with pre-tax dollars and the contribution and earnings are subject to taxes when the money is withdrawn.

Unlike a Roth IRA, the Roth 401(k) has no limitations on income. For a Roth IRA, the IRS phases out contributions for those taxpayers earning more than $110,000 for a single filer and $160,000 for a married filer. The Roth 401(k) also allows contributions up to $15,000 for 2006 plus an additional $5,000 if the participant if over age 50. A Roth IRA would only allow contributions of $4,000 plus an additional $1,000 if over age 50. Please note that this limit is combined for regular 401(k) and Roth 401(k) contributions; that is, a participant would not be able to contribute $15,000 for the standard 401(k) and another $15,000 for the Roth portion. Lastly, by rolling over your Roth 401(k) to a Roth IRA after retirement, you can avoid the age 70 1/2 required minimum distributions.

"Employees who are in higher tax brackets will be those who push for the Roth 401(k)"

Employers have indicated that they will be more likely to start offering a Roth 401(k) if their employees demand it. Expectations are the employees who are in higher-income brackets will be those who will push for the Roth 401(k) more than any other group. Owners in high-income tax brackets will also benefit. Currently, individuals who are earning a high income may be barred from making contributions to a Roth IRA.

What's up with Revenue Sharing?

Looking to reduce your plan administration costs? Your plan may be eligible to receive revenue sharing. Some mutual funds on some trading platforms will pay us a sub-transfer agent fee. They pay us this fee because we group our trades together and send one big trade file instead of many trades the fund company would receive if we processed trades for each individual participant.

Want to save money on administration costs?

The good news is, when we receive a sub-transfer agent fee, we credit the payment directly to your administration invoice. This decreases your fee to us with no reduction in service or quality.

Just a note: this may not be available for all funds or plan types. But, it could work for you. If you'd like more information, please contact your administrator or have your investment professional give us a call.

Who is a Fiduciary?

There is a lot of buzz lately about fiduciary responsibility. To learn if you are a fiduciary and what your responsibilities are, please read below.

Who is a Fiduciary?

- Anyone with discretion in administering and managing a plan or controlling the plan's assets
- Fiduciary status is determined by the functions performed for the plan, not a person's title
- A plan must have at least one fiduciary (a person or entity) named in the written plan document
- A plan's fiduciaries normally include the trustee, investment advisors, all individuals exercising discretion in the administration of the plan and those who appoint others to fulfill those duties.

What are the responsibilities of a fiduciary?

- Acting solely in the interest of plan participants and their beneficiaries and with the exclusive purpose of providing benefits to them
    - Participants must be provided with sufficient information to make informed decisions with regard to their options under the plan (including investment options)
- Carrying out their duties prudently
    - Lacking the expertise of a "prudent expert," the fiduciary will want to hire someone with the professional knowledge to carry out those functions
    - Prudence focuses on the process for making fiduciary decisions, so the process should be documented
- To follow the plan documents
    - The plan document serves as the foundation for all plan operations
- To diversify plan assets
    - Diversification helps to minimize the risk of large investment losses to the plan
    - Fiduciaries will want to document their evaluation and investment decisions
- To only pay reasonable expenses—must monitor, understand and track expenses to ensure they are reasonable

Outside Service Providers

- Hiring a service provider is in and of itself a fiduciary function. An employer should document its selection and monitoring process for the selection.
- Fees paid out of the plan for such services should be "reasonable"
- An employer should establish and follow a formal review process at reasonable intervals to ensure service providers are performing as they should.
    - Review service provider's performance;
    - Read any reports they provide;
    - Check actual fees charged;
    - Ask about policies and practices; and
    - Follow up on participant complaints

"Fiduciaries must act solely in the best interest of the plan participants with the exclusive benefit of providing benefits to them."

If you have any questions about your fiduciary responsibilities, please contact your administrator.

Limits for 2006

Keep track of those numbers!

It's always nice to have a reminder of the limits in effect for the current plan year.

- 401(k) Deferrals—$15,000
- Catch-up Contributions—$5,000
- SIMPLE Deferral Limit—$10,000
- Maximum Defined Contribution Plan Limit—$44,000
- Maximum Compensation—$220,000
- Social Security Wage Base—$94,200

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Are your participants interested in web site access?

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

Pension Protection Act of 2006 (HR4) —What You Need to Know

No doubt you're heard that the Pension Protection Act of 2006 was signed into law by the President on August 17, 2006.

The new law will primarily affect plan years beginning on of after January 1, 2007. In general, the plan amendment to reflect these changes is not due until the end of the 2009 plan year.

Here is a brief summary of the provisions:

1. **Permanent Retirement and Savings Incentives—**this law makes EGTRRA (Economic Growth and Tax Relief Act of 2001) permanent. EGTRRA increased limits, enhanced vesting and reduced regulatory burdens. The law also makes the Saver's Credit permanent (see pg 2).
2. **IRS Corrections Programs—** this law allows the Department of Treasury to have more authority to waive income, excise or other taxes in the case of a plan mistake.
3. **Automatic Enrollment**—the law creates a safe harbor for employers to offer automatic enrollment in an employer-sponsored 401(k) plan.
4. **In-Service Distributions at age 62**— the law provides for distributions to employees that have attained age 62 but have not yet separated from service.
5. **Investment Advice**—the law permits investment advisers to offer advice to participants and recommend their own funds without violating fiduciary rules.
6. **Reporting and Disclosure Provisions**— Defined contribution plans (i.e. 401(k) and profit sharing plans) will have to provide quarterly statements to participants who are allowed to direct their own investments.
7. **Defined Benefit Plan Reform—** the law overhauls many of the rules affecting Defined Benefits Plans. The new changes are complex and far-reaching. If you have a defined benefit plan, please contact your actuary for more information.

"All profit sharing and 401(k) plans that have participant directed assets will have to issue quarterly statements in 2007."