

More Stuff!

Timely deposits of employee contributions and loan payments – As you are aware, there is a question on the Form 5500 that asks if you made all employee contributions timely. For this purpose, DOL expects you to deposit any monies withheld from the paycheck immediately and consistently after each and every pay period. DOL has provided a safe harbor, at least with respect to plans with under 100 participants, that this means no more than 7 business days following withholding. This means that to be able to respond yes to this question, you must deposit employee deferrals and loan repayments so that they are DEPOSITED into the Plan's Trust within 7 business days after each payroll. As you know, on our annual census questionnaire, you are asked to indicate if you made timely deposits. If instead, you wish us to analyze your deposits for the year and calculate any corrections that need to be made to comply if there are late deposits, please supply us with a spreadsheet indicating the date of each payroll and the date that the employee contributions were remitted to the Plan. We will charge you \$100/hour for the analysis.

“QDIA” is still here - 99% of 401k plans and many stand alone profit sharing plans permit participants to self-direct their contributions. As long as your participants have the tools and information needed to make an appropriate choice, you are most likely protected against liability for the participant's investment results. However, in some instances, you may make deposits for an employee who hasn't completed an enrollment form to select the investments. It could be for profit sharing contributions for a participant who doesn't defer. or it could be because you have an automatic enrollment feature in your 401(k). If the investment company doesn't have an enrollment form completed by the participant, these contributions will be deposited into a default fund. When this occurs, your first course of action should be to ask the participant to fill out the enrollment form and select how they wish these monies to be invested. But sometimes they fail to complete the form anyway. By following certain guidelines recently issued by the Department of Labor, you will be afforded the same protection as if the participant had chosen the investments. First, ask your broker if your plan's default option meets the criteria of a suitable investment. Second, if not (*many are using the money market or a stable value fund which may not be suitable*), change the default investment option to one DOL has determined suitable. Third, give a notice to your participants (and annually thereafter) notifying them of the default option. By doing these steps, you are in full compliance with this **voluntary** procedure. However, if you don't give them the notice, or if you fail to change the default option, it doesn't mean the participant will have a cause of action, but we recommend that at a minimum, you at least change your default option to a fund approved by DOL. We will be happy to assist your broker in this process.

Quarterly Statements for self directed accounts – We have been providing you at no cost a good faith notice each and every quarter beginning in 2007 to comply with the new Department of Labor requirement for participants who self direct any portion of their account balance. We will continue to provide this notice to you unless your investment company is providing all the required information on their quarterly statements.

Plan Design - If you are looking to put away on an individual basis more than the maximum that your 401k or profit sharing plan allows (\$49,000 - \$54,500 for 2009 and 2010), talk to your PIC consultant about the feasibility of adding a cash balance or defined benefit plan.