



# employee plans news

PROTECTING RETIREMENT BENEFITS THROUGH EDUCATING CUSTOMERS

Internal Revenue Service  
Tax Exempt and Government  
Entities Division

A Publication of Employee Plans

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Quick Hits

## New Law Makes Some Big Changes to Retirement Plans

On March 9, 2002, President Bush signed into law the Job Creation and Worker Assistance Act of 2002 ("JCWAA"). This new law included technical corrections to prior statutes and will have a considerable impact on many retirement plans. Among the highlights are:

### Current Liability

**Old Law:** Code section 412(l) requires that a defined benefit plan's current liability be determined using a range around the four-year weighted average of 30-year Treasury securities. For plan years beginning after 1998, the upper limit of that range was capped at 105%.

**New Law:** For plan years beginning in 2002 and 2003, section 405 of JCWAA amended Code section 412(l) to increase the upper limit of the range from 105% to 120%. For plan years beginning after 2003, the upper limit returns to 105%.

**Effect:** For some underfunded defined benefit plans (plans whose assets aren't at least equal to their current liability), raising the upper limit of the interest rate range could have a substantial impact. The use of a higher current liability interest rate would generate a lower current liability amount. That would then increase a plan's current liability funded percentage and, perhaps, lower the contribution requirements.

### SEPs

**Old Law:** The Economic Growth and Tax Relief and Reconciliation Act ("EGTRRA") amended Code section 404(h) to increase the deductible limit on employer contributions to a SEP from 15% of compensation to 25%. However, Code section 402(h)(2), which limits the amount of SEP contributions that are excludible from a participant's gross income to the lesser of 15% of compensation or \$40,000 (for 2002), was unaffected by EGTRRA.

**New Law:** Section 411(l) of JCWAA amended Code section 402(h)(2) to increase the deductible limit on employer contributions to a SEP to the lesser of 25% of compensation or \$40,000 (for 2002).

**Effect:** Confirms the deductible limit of section 404(h)(2) to the limit excludible from gross income limit. This also provides consistent deductible limits for contributions to SEPs, 401(k) plans, profit sharing plans and money purchase plans.

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NEWS**



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For your convenience, we have included Internet links to referenced materials throughout the electronic version of *Employee Plans News*. These links are identified on the paper version by underlined text. The electronic version may be found at [www.irs.gov/ep](http://www.irs.gov/ep).

**New Law** continued from page 1

### **403(b) Plans**

Old Law: The limits on contributions to a section 403(b) plan (also known as a “tax-sheltered annuity plan”) were based on when the contributions became vested.

New Law: Section 411(p) of JCWAA provides that the limits on contributions to a section 403(b) plan are applied in the year the contributions are made without regard to when they become vested.

Effect: This change will make the contribution limits for a section 403(b) plan consistent with those for qualified defined contribution plans. Also, the definition of compensation used for applying the limits of section 415 is matched to that used for defined contribution plans.

### **Other Provisions**

JCWAA amended many other Code sections pertaining to pension plans. Other affected provisions are ones pertaining to:

- Catch-up contributions (JCWAA section 411(o))
- Elective deferrals and deduction limits (JCWAA sections 411(j), (l) and (o))
- Rollovers and Cashouts (JCWAA sections 411(p) and (r))
- Contribution and Benefit Limits (JCWAA sections 411(j), (l), (o) and (w))

For more insight into JCWAA, access the [Technical Explanation](#) of the Job Creation and Worker Assistance Act of 2002, JCX-12-02, 107<sup>th</sup> cong., 2<sup>nd</sup> Session. ■

## **Newer and Even More Improved Distribution Rules**

Back in January 2001, the Service issued proposed regulations for required minimum distributions (RMDs) from qualified plans, IRAs, and section 403(b) annuities. (See the [Spring 2001 Edition of Employee Plans News](#) for a description of the 2001 regulations.) After reviewing comments from taxpayers, the Service has issued final regulations for RMDs from qualified plans, IRAs, and section 403(b) annuities that were published in the Federal Register on April 17, 2002 ([the 2002 final regulations](#)). The 2002 final regulations include some of the changes and clarifications taxpayers requested after the 2001 proposed regulations were issued. [Revenue Procedure 2002-29, 2002-24 I.R.B. 1176](#) provides guidance on amending qualified plans to comply with the 2002 final regulations. Also, we have put questions and answers on the 2002 final regulations on the Retirement Plans web page at [www.irs.gov/ep](http://www.irs.gov/ep).

The 2002 final regulations will be used for determining RMDs for calendar years beginning on or after January 1, 2003. For determining RMDs for calendar year 2002, taxpayers can use the 2002 final regulations, the 2001 proposed regulations, or the 1987 proposed regulations, whichever rules are most advantageous for the taxpayer.

Significant changes from the prior proposed regulations include:

- The mortality tables for calculating lifetime and after-death RMDs. These new tables reflect current life expectancy and provide for distributions to take place over a longer period than previous tables. This will lead to smaller annual RMDs.

- The 2002 final regulations also simplify the calculation of RMDs. For example, the marital status of an employee is determined on January 1 each year for lifetime distributions. Divorce or death after that date is disregarded until the next year. Therefore, the spouse's status as the "sole beneficiary" during the year for purposes of using the joint and survivor tables would not be affected by death or divorce during the year.
- The date for determining the designated beneficiary has been changed to September 30 of the year following the year of the employee's death. This date was changed from the end of the year following the year of the employee's death in order to provide adequate time to calculate and distribute the required minimum amount by the end of the year following the year of the employee's death.
- The 2002 final regulations permit a beneficiary subject to the 5-year distribution rule of the 1987 proposed regulations to switch to the life expectancy rule if all amounts that would have been required to be distributed under the life expectancy rule are distributed by the earlier of December 31, 2003, or the end of the 5-year period following the year of the employee's death.
- For RMDs after the employee's death, separate accounts with different beneficiaries can be established any time. The separate accounting must allocate all post-death investment gains and losses on a pro rata basis among the different accounts for the period prior to the establishment of the separate accounts. The separate account must be established by the end of the year following the year of the employee's death in order to permit the distribution period for a separate account to a distinct beneficiary to be determined without regard to the beneficiaries of the other separate accounts.

Section 1.401(a)(9)-6T of the 2002 regulations governing defined benefit plans and annuities has been issued as temporary and proposed regulations. This was done in order to allow taxpayers to comment on changes made in them to reflect new product designs available in the marketplace. Much of the proposed and temporary regulations concern increasing annuities under annuity contracts.

Most qualified retirement plans must be amended to comply with the 2002 final regulations under section 401(a)(9). Revenue Procedure 2002-29, 2002-24 I.R.B. 1176 provides guidance on plan amendments. Determination letter applications for individually designed plans filed on or after the first day of the first plan year beginning on or after January 1, 2003 will be reviewed for compliance with the 2002 final regulations.

To supply further guidance on RMDs, the Service issued [Notice 2002-27, 2002-18 I.R.B. 814](#). This notice provides that beginning with RMDs for calendar year 2003, IRA trustees, custodians, and issuers must provide information relating to lifetime RMDs to IRA owners by January 31. Thus, the first report alerting IRA owners to the RMD they must take for 2003 will be due January 31, 2003. The IRA trustee must either provide the IRA owner with the amount of the RMD, or offer to provide the IRA owner, upon request, with the amount of the RMD.

Notice 2002-27 then provides that, beginning with RMDs for calendar year 2004, the fact that there is a RMD for an IRA for a year must be reported by the IRA trustee to the IRS on [Form 5498](#). The trustee must also inform the IRA owner that this information is being reported to the Service. The trustee does not report the amount of the RMD on Form 5498. RMDs with respect to IRAs of deceased owners or for section 403(b) contracts are not reported at this time. ■

## The Revised SEP, SARSEP and SIMPLE IRA Plan and IRA LRMs Are Here

As promised under [Rev. Proc. 2002-10, 2002-4 I.R.B. 401](#), new Listings of Required Modifications (LRMs) have been drafted and placed on the Retirement Plans web page at [www.irs.gov/ep](http://www.irs.gov/ep). The new LRMs are for Simplified Employee Pensions, including ones with salary reduction features (SEPs and SARSEPs); SIMPLE IRA plans; and other IRAs (traditional, Roth and SIMPLE).

LRMs contain samples of language that the Service considers as satisfying the rules applicable to a particular type of plan. Practitioners use the LRMs to draft plans. Reviewers at the Service use the LRMs to determine if a prototype plan submission meets the requirements for issuance of a favorable opinion letter.

The new LRMs reflect changes made by the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA"), technical corrections made by the Job Creation and Worker Assistance Act of 2002 ("JCWAA"), and the final and temporary regulations under Code section 401(a)(9).

For example, among the substantial changes made by EGTRRA to IRAs are:

- Increased maximum annual contribution amounts,
- Catch-up contributions for individuals age 50 or over, and
- Expanded rollover rules.

Among the substantial changes made by EGTRRA to SEPs and SIMPLE IRA plans are:

- Increased maximum annual deferral amounts,
- Increased deductible limits, compensation limits and section 415 limits,
- Catch-up elective deferral contributions for participants age 50 or over, and
- Revised top-heavy rules.

Because of these recent changes (and changes made by several previous statutes), IRAs, SEPs and SIMPLE IRA plans no longer reflect current law. Therefore, Rev. Proc. 2002-10 states that all IRA owners and all employers that sponsor SEPs and SIMPLE IRA plans must revise their documents to comply with current law. Note that nearly all of the recent changes are favorable to IRA owners and employers.

Pre-approved documents (i.e., ones for prototype plans and the 5305-series model forms) are available to individuals and employers. Prototype IRAs, SEPs and SIMPLE IRA plans are offered by financial institutions, such as banks, mutual funds and insurance companies, which often offer advice and administration services packaged with the documents. Individuals and employers can download the model forms from the EP Forms and Publications section of the Retirement Plans web page. However, an IRA must have an approved trustee, custodian or issuer (in the case of annuities).

Previously, Rev. Proc. 2002-10 set June 1, 2002, as the last day that old model forms could be used to establish new IRAs, SEPs or SIMPLE IRA plans, but [Announcement 2002-49](#) extended this date to October 1, 2002. The deadline for submitting revised prototype documents to the Service for an opinion letter is December 31, 2002. ■

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## GUST REMINDER

In general, the remedial amendment period for GUST ends on the later of February 28, 2002, or the last day of the first plan year beginning on or after January 1, 2001. If an employer files an application for a GUST determination letter after this deadline in reliance of the extension granted by Section 19 of [Rev. Proc. 2000-20](#), the employer must include evidence of eligibility for the extension with the application. Specific items of evidence that must be enclosed with an application package include a copy of the prior plan or adoption agreement, including opinion, advisory and/or determination letters, or a copy of a timely completed certification to adopt a GUST-approved M&P or volume submitter plan. See [Revenue Procedure 2002-6](#) section 6.10.

## Retirement Plan Life Cycle

In the coming weeks and months, the Service will be promoting the concept of the "Retirement Plan Life Cycle." We are developing an educational campaign to help our customers understand the benefits and responsibilities of retirement plans at various stages in their life cycle.

There are four stages to this Cycle. The first stage is when an employer is **Choosing** a retirement plan. Next comes **Establishing** the plan that is chosen. Once a plan is established it must be maintained and updated, this is the **Operating** stage. Finally, there comes a time when the plan enters the **Terminating** stage and the employer, perhaps, "Chooses" a new type of retirement plan. These four stages form the Retirement Plan Life Cycle.

The Service will be discussing the Life Cycle concept in greater detail at a variety of events this summer. The focus of the events this summer will be the **Choosing** stage of the life cycle. In the coming years we will cover the **Establishing**, **Operating** and **Terminating** stages.

At the 2002 IRS Nationwide Tax Forums, the Service will make a presentation on the Life Cycle concept. The PowerPoint portion of the presentation will be available on the Retirement Plans web page at [www.irs.gov/ep](http://www.irs.gov/ep) at that time. At the same time, we plan on unveiling the first in a series of Life Cycle publications dealing with the **Choosing** stage. We will also be presenting the Life Cycle concept on August 13, 2002 on the [Tax Talk Today](#) webcast in a panel setting with Craig Hoffman, President of the American Society of Pension Actuaries (ASPA) and Brian Anderson, Attorney and CPA. Both Mr. Hoffman and Mr. Anderson are members of the Advisory Committee on Tax Exempt and Government Entities (ACT). For more information concerning Tax Forums and Tax Talk Today look further in this edition of the *Employee Plans News!* ■

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## Streamlined Procedures for GUST Late Amenders

The Service has announced streamlined procedures that allow plans to avoid disqualification and obtain favorable determination letters even though the plans were not amended for GUST within the GUST remedial amendment period.

For calendar year individually designed plans, the GUST remedial amendment period generally ended on February 28, 2002. Plans that were not timely amended for GUST faced disqualification unless the defects could be resolved under EPCRS. [Rev. Proc. 2002-35](#) provides a simpler and less costly way for these plans to preserve their qualified status under section 401(a) or section 403(a) of the Code. These streamlined procedures are available only if the plan sponsor applies for a determination letter by September 3, 2002, and the plan is not a late amender without regard to GUST. The streamlined procedures apply to plans eligible under Rev. Proc. 2002-35 in lieu of the procedures in [Rev. Proc. 2001-17](#) (EPCRS). Under Rev. Proc. 2002-35, provided the sponsor has submitted the required fee, the Service will (upon resolution of a determination letter application for an eligible plan) treat the plan as having been amended for GUST within the GUST remedial amendment period and issue a favorable determination letter. No closing agreements or compliance statements are involved.

Rev. Proc. 2002-35 applies to any plan that is a GUST late amender provided the plan is not otherwise a late amender (for example, with respect to TRA '86). A GUST late amender includes:

*continued on page 6*

## Streamlined GUST Procedures *continued from page 5*

- A plan that was not timely amended for any of the requirements of GUST.
- A plan that was not amended within the GUST remedial amendment period to reflect changes made to sections 414(s) and 415(c) by the Community Renewal Tax Relief Act of 2000, even if the plan was otherwise timely amended for GUST.
- A plan that was timely amended for GUST, submitted for a determination letter after the end of the GUST remedial amendment period and determined to have defective GUST provisions.

Sponsors of plans that are GUST late amenders should take advantage of Rev. Proc. 2002-35 and file GUST determination letter applications by September 3, 2002, if they have not already done so.

If filing an application for a GUST late amender on or after July 17, 2002, write "Rev. Proc. 2002-35" in bold at the top of the application form and include payment of the fee required under the procedure. If filing before July 17, 2002, the Service will contact you, and, if the plan is not a late amender without regard to GUST, you will be asked to submit payment of the fee required under Rev. Proc. 2002-35 at that time.

Rev. Proc. 2002-35 will appear in I.R.B. 2002-24 on June 17, 2002. ■

## What Do You Get When You Cross an EGTRRA amendment with a GUST Determination Letter Request?

The Economic Growth and Tax Relief Reconciliation Act ([EGTRRA](#)) made numerous changes to existing pension law that are generally effective for plan years beginning in 2002. Anticipating the impact of EGTRRA on qualified plans, the Service issued [Notice 2001-42, 2001-30 I.R.B. 70](#), which provides guidance on amending plans for EGTRRA. The notice describes the requirements for good-faith compliance with EGTRRA, including the adoption of good-faith amendments to conform plan terms to an EGTRRA provision that becomes effective in the same plan year. The notice also extends the EGTRRA remedial amendment period to the last day of the first plan year beginning on or after January 1, 2005.

As a qualified-plan sponsor, you may be wondering if the Service will rule on EGTRRA amendments submitted with a GUST determination letter application. The answer to this is no. We will caveat the determination letter to reflect the amendments, but the letter will include another caveat: "This letter may not be relied on with respect to whether the plan satisfies the requirements of section 401(a) of the Code, as amended by (EGTRRA)."

So, EGTRRA amendments may be submitted with a GUST determination letter request, but the GUST determination letter may not be relied upon if the Service subsequently challenges the merits of the EGTRRA amendments. At first glance, this seems like a contradiction doesn't it? But a closer look at Notice 2001-42 will clarify the Service's approach.

The final paragraph of section I of Notice 2001-42 confirms that individually designed plans submitted for GUST determination letters may be amended to reflect the EGTRRA changes. Also, pre-approved plans submitted for GUST determination letters may include EGTRRA amendments by using a separate, clearly identified addendum to the plan and/or adoption agreement that is limited to the EGTRRA provisions. However, the last sentence of that paragraph clearly states that, until further notice, determination, opinion and advisory letters will not consider the EGTRRA changes.

In short, under this provision of the notice, the Service is obligated to accept EGTRRA amendments enclosed with a GUST determination letter application. And yet there is a

prohibition of reliance on the letter with respect to EGTRRA. A caveat for an EGTRRA amendment merely acknowledges its receipt by the Service. We are **not** currently reviewing EGTRRA amendments for compliance with the requirements of Code section 401(a).

So, without reliance on a determination letter for the time being, what can you do to avoid a qualification problem? Clearly, the easiest way to fully comply with EGTRRA is to adopt the sample EGTRRA plan amendments provided by [Notice 2001-57, 2001-38 I.R.B. 279](#). The sample amendments, or any individually designed amendments that are materially similar, will enable your plan to satisfy the good-faith amendment requirement of Notice 2001-42. Of course, you can adopt custom-made amendments that don't resemble the sample amendments. Notice 2001-57 provides that a good-faith EGTRRA amendment also includes one that represents a reasonable effort to meet the requirements of the applicable provision and does not reflect an unreasonable or inconsistent interpretation. Assuming the amendments meet the good-faith requirement, any additional EGTRRA amendments that become necessary can be retroactively adopted before the expiration of the EGTRRA remedial amendment period.

Remember that each good-faith amendment must be adopted by the later of:

1. The end of the plan year in which the related EGTRRA provision is first applied in operation, whether optionally or as required by law, or
2. The end of the GUST remedial amendment period for your plan.

There is no remedial amendment period to adopt an initial good-faith amendment. Your plan will be subject to disqualification if you fail to amend your plan for any EGTRRA provision before the close of the plan year in which it was effective, unless the deadline to amend your plan for GUST occurs in a subsequent year. For example, if the GUST remedial amendment period for a calendar year plan expires May 31, 2003, any good-faith amendments for EGTRRA provisions that became effective in 2002 must be adopted by this date. If the GUST remedial amendment period for this plan expired on February 28, 2002, the good-faith amendments must be adopted during 2002. ■

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## Tax Talk Today

On August 13, 2002, the Service will sponsor in part a new session of *Tax Talk Today*. The session is called "Advising Clients on Retirement Plans". Topics to be discussed include:

- Retirement plan options,
- Advantages for employers and their employees, and
- How to keep a plan up to date and in compliance.

If you are interested in viewing the session, *Tax Talk Today* will have a live webcast from 2:00 to 3:00, Eastern Time. You will hear about new plan ideas as well as new spins on old favorites. You can also earn CPE credit for watching the session.

Scheduled guests from the Service participating in the session include Carol D. Gold, Director, Employee Plans, and Donna Prestia, Senior Analyst, EP Customer Education & Outreach. In addition, there are scheduled guests from American Society of Pension Actuaries (ASPA) and the American Bar Association (ABA).

For further information about this event, see [www.taxtalktoday.tv](http://www.taxtalktoday.tv). ■

## Comment Period on White Paper Extended

On April 1, 2002, the Service issued [Announcement 2002-36, 2002-13 703](#), announcing an extension of the comment period on our "White Paper" about the long-term future of the EP determination letter program.

In [Announcement 2001-83, 2001-35 I.R.B. 205](#), the Service invited the public to provide input on the future of the EP determination letter program. To facilitate this interaction, the Service issued a white paper entitled *The Future of the Employee Plans Determination Letter Program: Some Possible Options*. This White Paper was published in August 2001 and it may be downloaded from the Retirement Plans web page at [www.irs.gov/ep](http://www.irs.gov/ep).

Announcement 2001-83 asked for written comments on the white paper to be submitted by March 31, 2002. However, the Service realizes that because of the February 28, 2002 deadline for submitting determination letter requests many practitioners who may have wished to comment were unable to do so. Accordingly, the Service is extending the comment period under Announcement 2001-83 to July 1, 2002.

Paul T. Shultz, Director, EP Rulings & Agreements, stated, "We in EP are very pleased both at the quantity and the quality of the comments received to date. We look forward to receiving additional comments and suggestions regarding this integral part of EP. Also, concerning the determination program itself, we are quite satisfied with the general high quality in terms of relative lack of errors in the applications and in the plan documents that we have so far received. Practitioners, please keep up the good work!"

Under the new Announcement, the Service is also asking for comment on whether the Service should hold a series of nationwide town meetings to foster increased dialogue on the future of the EP determination letter program.

Information on where and how to send your comments are contained in Announcement 2001-83. ■

## POA Area Assignments

Starting June 17, 2002, the Service will issue a unique number to any Power of Attorney (POA) who wishes to have their submissions (Forms 5307 &/or 5300 **only**) kept together to be worked in the same area of the country.

To participate, the POA must have at least 30 applications that will be filed at one time. The POA cannot request that a specific area and/or agent receive their submissions.

A request for a number should be e-mailed to [Jennifer.L.Frederick@IRS.gov](mailto:Jennifer.L.Frederick@IRS.gov). The request should include the firm name, all the POA names from the firm who will be making the submissions, the telephone number, the estimated number of submissions, and the expected date of the submission. Sponsors will be issued a number that must be written on every application in green ink on the upper left-hand corner of the first page of the application.

The Service will make every effort to keep cases from sponsors together. However, workload requirements might mandate that certain cases be split from the group. ■



## The Forms Corner

Beginning with this edition of *Employee Plans News*, we will present a column devoted to issues concerning Service forms used in the EP world. The information in The Forms Corner will usually be brief. Topics that need detailed discussion will have full-length articles (such as the article on the Schedule F suspension contained later in this newsletter). For further details about topics in The Forms Corner we suggest that you visit the Retirement Plans web page at [www.irs.gov/ep](http://www.irs.gov/ep) and go to the EP Forms and Publications section. Our lead story in this first edition of the Forms Corner concerns the arrival of the Form 5500 packages:

- It's true. As of press time, the printing contracts for the Form 5500 and Form 5500-EZ mailout packages have been awarded. The 5500-EZ is scheduled for mailing to all filers of record between June 12 and 14, 2002 (which means they won't show-up in your mailbox until the following week). No similar date for the mailing of the Form 5500 package has been determined. The over-the-counter products, however, have been printed and can currently be obtained from IRS Distribution Centers by calling 1-800-TAX-FORM. First time filers, or those who need additional material, should wait until early June and request the specific forms, schedules, and instructions that are needed. The distribution centers will not stock the mailout packages.
- In March 2002, the [Instructions for Form 5330](#) were revised to include the new Where To File instructions (all submissions now go to Ogden, Utah) and the provisions for those filers who need to report the excise tax required under Code section 4980F (imposed by EGTRRA). These instructions apply to the August 1998 revision of the Form 5330.
- Also in March 2002, the Model Forms referred to in [Rev. Proc. 2002-10](#) for those who want to use a pre-approved document to establish an IRA, SEP, or SIMPLE-IRA plan without using a prototype document were revised. These forms are available under the EP Forms & Publications section of the Retirement Plans web page at [www.irs.gov/ep](http://www.irs.gov/ep).
- Since Fall 2001, most of the determination letter application forms have been revised. These documents no longer require the use of a duplicate first page (or pink sheet). The next application to be revised will be the Form 5310, Application for Determination for Terminating Plans. This revision is expected to be available in June 2002.
- The [Instructions for 2001 Form 5500-EZ](#) reflect a change in the *Who May Not Have To File* instructions that should be noted. Employers who meet the five conditions mentioned earlier in the instructions have traditionally not been required to file a Form 5500-EZ at all. This exemption, however, was not meant for those filers who also had an Accumulated Funding Deficiency. The revised instructions now say that filers who meet all five conditions but "have an Accumulated Funding Deficiency for the plan year" are not exempt from filing a Form 5500-EZ (and attaching a Schedule B).
- The Pension and Welfare Benefits Administration (PWBA) is in the process of revising its popular Troubleshooter's Guide To Filing the ERISA Annual Report (Form 5500). You can access the current edition (and revised version, when available) by visiting the PWBA Web Site at <http://www.dol.gov/pwba/pubs/troubleleg.pdf>.

We hope that you found this information useful. If you have questions or comments about form topics, please contact us at [RetirementPlanQuestions@irs.gov](mailto:RetirementPlanQuestions@irs.gov). ■

## Good News For Some Fringe Benefit Plan Sponsors

On April 4, 2002, the Service issued [Notice 2002-24, 2002-16 I.R.B. 785](#), announcing the indefinite suspension of the requirement for taxpayers to file Schedule F (Form 5500) Fringe Benefit Plan Annual Information Return. Specifically, Notice 2002-24 suspended the filing requirement imposed by Code section 6039D on certain fringe benefit plans, such as cafeteria plans, educational assistance programs, and adoption assistance programs.

Since the release of this notice, questions have arisen over how this suspension affects the completion of the [2001 Form 5500](#). Some filers are confused as to whether they need to file a Form 5500 at all or, if they do, how to complete lines 8c and 10c of the form. Here is the key point:

*Employers who in the past had filed the Form 5500 (and attached the Schedule F) solely to meet the reporting requirements of section 6039D, need no longer file either the Form 5500 or Schedule F.*

The Service has not suspended (in fact, it does not have the jurisdiction to suspend) the Form 5500 reporting requirements for welfare benefit plans. Therefore, an employer who maintains a welfare benefit plan (not otherwise exempt from the Form 5500 filing requirements), together with a cafeteria plan, educational assistance or adoption assistance program, **must** continue to file the Form 5500. In these cases, however, the employer no longer needs to attach a Schedule F. Also, in these situations, boxes 8c and 10c on the Form 5500 are to be left blank. ■

## Free CD-ROM on 403(b) and 457 Plans Available From the Service

You can now order a free - yes, free! - Resource Guide for Tax-Sheltered Annuities and section 457 Plans on CD-ROM.

For Personnel and Human Resource directors, payroll professionals, plan administrators, employer sponsors and anyone who works with tax-sheltered annuities (403(b) plans) or section 457 plans, this free, new CD-ROM is a must! Contents of the CD include many of the reference materials used in administering these plans such as:

- Basic information about 403(b) and section 457 plans.
- The latest Service Publications that deal with tax-sheltered annuities and section 457 plans.
- Code sections and regulations that govern 403(b) and section 457 plans.
- Copies of recent laws (and Conference reports) impacting 403(b) and section 457 plans.
- IRS guidance related to these important retirement programs.
- The most commonly asked questions the Service receives about tax-sheltered annuities and section 457 plans - and answers!
- Information about correction programs that will help tax-sheltered annuities keep their important tax advantages and a video message from Employee Plans Voluntary Correction manager Joyce Kahn.

This CD-ROM is designed to run on Microsoft and Mac platforms.

Order your FREE single copy at the Educational Outreach Products section of the Retirement Plans web page at [www.irs.gov/ep](http://www.irs.gov/ep).

After this cdrom went to press, new proposed regulations under section 457 were [released](#); these regs should be reviewed for potential impact. ■

## Need to Get a Copy of a Filed Form 5500?

With the recent changes to Form 5500 processing, there is some confusion on how to get copies filed of Forms 5500.

Under an agreement between the Service and the Department of Labor (DOL), DOL handles requests for public inspection of all categories of Form 5500 (except Forms 5500-EZ, which are not open to public inspection through the DOL).

The Public Disclosure Office of DOL handles written requests for copies of filed Forms 5500. Their address is given below. To process your request, the DOL asks that you send the following information:

- The name of the plan sponsor,
- The EIN,
- The plan number and
- The plan year.

Additional information regarding DOL policy and copying costs can be found at their web page at <http://www.dol.gov/pwba/pubs/howtob/howtobt.htm>. The phone number for the Public Disclosure Office of the Department of Labor is (202) 693-8673.

Their address is: U.S. Department of Labor  
Public Disclosure Office, Room N-1513  
200 Constitution Ave. NW  
Washington D.C. 20210

The Service handles written requests for copies of filed Forms 5500-EZ. You should use [Form 4506](#) (indicating the plan number on line 11 along with the tax period/plan year) to request the copy of the filed Form 5500-EZ. Or, you may submit a written request that includes the same information as outlined above. The current charge for each tax period/plan year requested is \$23.00 per Form 5500-EZ return. The request should be sent to:

Ogden IRS Campus  
PO Box 9941, Stop 6734  
Ogden, UT 84409

## Can't Find A Beneficiary?

Many employers discover that finding missing participants can be next to impossible. However, plan sponsors are required to take all reasonable means to locate a participant. One option available to a sponsor is the Service's Letter Forwarding Program.

Revenue Procedure 94-22 provides information on the use of the letter-forwarding program. The program is available to individuals, companies and federal agencies that are trying to locate missing individuals. It may be especially useful to plan sponsors or administrators who are attempting to locate missing participants.

The Service's Disclosure Office can forward letters from plan administrators to missing individuals if the administrator provides the following information:

*continued on page 12*

**Can't Find A Beneficiary?** *continued from page 11*

- A brief explanation why they want to use the program (for example, to locate a missing plan participant is sufficient),
- The names of the missing individuals,
- The social security numbers (SSN) of the missing individuals, and
- The letters being forwarded. A separate letter should be addressed to each participant involved and it should include a statement asking the participant to contact the plan administrator **directly**.

IMPORTANT: The SSN is the key element used to access the right tax account and get a mailing address. The request cannot be processed if a SSN is not furnished.

If an address is located, the letter will be forwarded in an IRS envelope. The recipient (missing participant) will be advised that:

1. The Service is forwarding the letter in accordance with current policy,
2. We have not divulged the recipient's address nor any other tax information, or the fact that the letter has even been forwarded,
3. We have no involvement in the matter aside from forwarding the letter, and
4. The decision of whether to respond is entirely up to the recipient.

Due to disclosure laws, the Service cannot provide the requester with the results of the request. We will only state that we will forward the letter if an address for the individual is located. All letters returned undeliverable will be destroyed.

For requests involving less than 50 recipients **there is no charge**. Each request should be sent to the attention of the Disclosure Officer at the Service's district office nearest the requester (It does not matter where the recipient last resided.). To find the office nearest you go to [www.irs.gov](http://www.irs.gov) and click on *About The IRS* and then *Contact My Local Office*.

Requests involving 50 or more potential recipients, including multiple requests from a single entity that can be expected to total at least 50 recipients, are processed separately from the free program. **There is a charge for this service**. Customers who want to use this program should call the Disclosure Office in Washington, DC at (202) 622-3324 for additional information. The mailing address for this service is:

Internal Revenue Service  
Director Governmental Liaison & Disclosure  
CL:GLD, Room 1603  
Attn: Irving C. Porter  
1111 Constitution Ave., NW  
Washington, DC 20224

Mr. Porter said that in 2001 alone, there were requests for nearly 800,000 letters to be forwarded. He estimated that the majority of these requests were for missing retirement plan participants. The Washington office received 750,000 of the requests under the program for more than 50 participants. Because of the volume of requests, the response time is based on overall workload of the Disclosure Officer. ■

## 2002 IRS Nationwide Tax Forums

The 2002 IRS Nationwide Tax Forums will be held in six locations across the country starting in July. Each seminar runs for 3 days and contains a variety of sessions and an exhibit hall. These sessions are designed for tax professionals who can earn up to 18 Continuing Professional Education credits at each forum site. Sessions will include:

- How the Service e-file can revolutionize your business,
- Retirement benefits,
- Exploring the 21st century marketing practices, and
- How to apply for tax-exemption.

Employee Plans will present a session titled *“Retire With A Plan”*. This session will focus on how to help your clients choose a retirement plan for them and their employees. A full array of tax favored retirement plans for small business owners will be discussed.

Exempt Organizations (EO) will present a session titled *“Does Non-Profit Really = Tax-Free?”* This session will focus on how to apply for tax-exemption, Form 990 filing requirements and the EO E-file Program. Whether it’s a booster club, a church group or a sports league, if you work with tax-exempt organizations you need to attend this session!

The IRS Tax Forum Exhibit Hall gives practitioners an opportunity to interact with Service employees and other tax professionals. At the Exhibit Hall you can also check out the latest tax products and services offered by the operating divisions within the Service. Top firms in the industry will also display their booths at the Exhibit Hall.

The locations, dates and site phone numbers are:

Atlantic City, NJ	July 9-11	Sheraton Atlantic City
Ft. Lauderdale, FL	July 23-25	Wyndham Resort & Spa
St. Louis, MO	August 6-8	Millennium Hotel
Atlanta, GA	August 20-22	Hyatt Regency Atlanta
New Orleans, LA	September 3-5	New Orleans Marriott
Reno, NV	September 17-19	Atlantis Casino Resort

If you’re interested in attending the 2002 IRS Nationwide Tax Forums register at [www.paintl.com/fver/](http://www.paintl.com/fver/) or call 301-593-0200. You can also get information about Tax Forums at [www.irs.gov/efile](http://www.irs.gov/efile) and then going to the Tax Professionals section and clicking on Tax Professionals Corner. ■



## CONTACTING EMPLOYEE PLANS

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The *Employee Plans News* welcomes your comments about this edition and/or your suggestions for future articles.

### Send comments/ suggestions to:

- EP Customer Education & Outreach T:EP:CEO  
Room 4C3  
1111 Constitution Ave., NW  
Washington, DC 20224
- FAX: (202) 283-9525
- E-mail:  
[RetirementPlanQuestions@irs.gov](mailto:RetirementPlanQuestions@irs.gov)

### For EP Taxpayer Assistance

For retirement plans Technical and procedural questions:

- Please call (877) 829-5500
- Or visit the EP Customer Account Services section of the Retirement Plans web page at [www.irs.gov/ep](http://www.irs.gov/ep).

For questions relating to retirement income, IRAs, ROTH IRAs educational IRAs, medical savings accounts and section 125 cafeteria plans:  
Please call (800) 829-1040

### For further Employee Plans Information:

- Please go to the Retirement Plans Web page at: [www.irs.gov/ep](http://www.irs.gov/ep)

## Employee Plans Published Guidance

(March 2002 - May 2002)

### Revenue Rulings

[Rev. Rul. 2002-27, 2002-20 I.R.B. 925](#)

This revenue ruling pertains to automatic enrollment under §125, 106, and 415.

### Notices

[Notice 2002-23, 2002-15 I.R.B. 742](#)

Non-application of certain penalties in conjunction with amendments to DOL's DFVC program for Form 5500.

[Notice 2002-27, 2002-18 I.R.B. 814](#)

IRA minimum distribution reporting requirements.

### Announcements

[Announcement 2002-31, 2002-15 I.R.B. 747](#)

This announcement sets forth the Service's non-enforcement policy in conjunction with a DOL proposed class exemption.

[Announcement 2002-36, 2002-13 I.R.B. 703](#)

This announcement extends to July 1, 2002, the comment period described in Announcement 2001-83.

[Announcement 2002-46, 2002-18 I.R.B. 834](#)

This announcement repeats in Spanish the safe harbor explanations in Notice 2002-3.

[Announcement 2002-49, 2002-19 I.R.B. 919](#)

This announcement extends the June 1, 2002, date in section 4.01 and 4.05 of Rev. Proc. 2002-10.

### Regulations

[REG. 108697-02, 67 Fed. Reg. 18834](#)  
(April 17, 2002)

These proposed Income Tax Regulations under §401(a)(9) of the Code mirror the temporary regulations in T.D. 8987 pertaining to minimum distributions from qualified defined benefit plans and annuity plans.

[T.D. 8987, 67 Fed. Reg. 18988](#)  
(April 17, 2002)

These final and temporary Income Tax Regulations under §401(a)(9) of the Code pertain to minimum distribution requirements.

[REG-136193-01, 67 Fed. Reg. 19713](#)  
(April 23, 2002)

These proposed Pension Excise Tax Regulations under §4980F of the Code implement section 659 of the Economic Growth and Tax Relief Reconciliation Act of 2001.

[REG-105885-99, 67 Fed. Reg. 30829](#)  
(May 8, 2002)

These proposed Income Tax Regulations revise and update existing regulations under §457 of the Code to conform with current law.

### Revenue Procedures

[Revenue Procedure 2002-21, 2002-19 I.R.B. 911](#)

This revenue procedure provides relief for Professional Employee Organizations (leasing organizations).

## 2002 Calendar of EP Benefits Conferences

### UPCOMING EVENTS :

Name	Date(s)	Location	Non-IRS Co-Sponsor(s)	For Further Information, Please Contact
<b>SWBA/IRS 13th Annual Employee Benefits Conference</b>	10/21/02 thru 10/22/02	Dallas, TX	Southwest Benefits Association (SWBA)	<a href="http://www.swba.org">www.swba.org</a> or SWBA (214) 382-3035

### RECENT EVENTS :

Name	Date(s)	Location	Non-IRS Co-Sponsor(s)	For Information, See
<b>15th Annual Cincinnati Employee Benefits Conference</b>	06/20/02 thru 06/21/02	Cincinnati, OH	Department of Labor & Cincinnati Bar Association	EP Benefits Conferences Calendar at <a href="http://www.irs.gov/ep">www.irs.gov/ep</a>
<b>Northeast Benefits Conference</b> (2 Locations)	06/13/02 thru 06/14/02	Natick (Boston), MA & White Plains, NY	American Society of Pension Actuaries (ASPA) & Northeast Area's Pension Liaison Group	
<b>11th Annual Mid-Atlantic Employee Benefits Conference</b>	05/16/02 thru 05/17/02	Philadelphia, PA	ASPA	
<b>Great Lakes Benefits Conference</b>	05/02/02 thru 05/03/02	Chicago, IL	ASPA & more than 20 cooperating sponsors	
<b>Los Angeles Benefits Conference</b>	01/31/02 thru 02/01/02	Los Angeles, CA	ASPA	

## ALL YOU EVER NEEDED TO KNOW ABOUT DOLLAR LIMITATIONS

Have you ever had the need to know what the dollar threshold for determining who was a highly compensated employee (HCE) in 1994? Or the dollar limit on deferrals under a section 457 plan in 1999? Now, as part of our ongoing mission to provide you with the information that you need, Employee Plans has gathered those numbers and more, from the present and going back to 1989, and put them on the Retirement Plans web page at [www.irs.gov/ep](http://www.irs.gov/ep).

Besides the better known limits such as the defined benefit and defined contribution dollar limits and the section 401(a)(17) compensation limit, we have included some less well-known figures. For example, we have amounts for determining who is a "Control Employee" (for purposes of valuing fringe benefits) as defined by section 1.61-21(f)(5) of the Income Tax Regulations. We also have information for those who need to find some historical dollar amounts. These historical amounts even include ones for Code sections that have been repealed (such as section 414(q)(1)(C), repealed for years after 1996 and which was used to determine if someone was an HCE by having a certain minimum compensation and being in the top-paid group).

So, if there are some dollar limitations that you have been searching for but didn't know where to look, click on the Retirement Plans web page at [www.irs.gov/ep](http://www.irs.gov/ep) and then scroll down to Published Guidance and click on cost-of-living-increases. ■

## Quick Hits - Sound Bites in Print

Welcome to a new feature of Employee Plans News: Quick Hits. This column aims to provide you with headlines of recent and expected developments.

- **New Alert Guidelines** - Recently, the Vesting Alert Guidelines were updated to reflect the section 411(d)(6) regulations, which were published on and made effective as of September 6, 2000. The regulations expand the changes that may be made to alternative payment forms under a defined contribution plan. However, these regulations do not affect the survivor annuity requirements of sections 401(a)(11) and 417 or the direct rollover requirements of section 401(a)(31). Also, while there is a transition period for participants taking distributions in the near future, all benefits with annuity starting dates prior to September 6, 2000 are protected from elimination or restriction. For further details go to the Retirement Plans web page at [www.irs.gov/ep](http://www.irs.gov/ep), then to Determination Letter Program and click on Tools Used by EP Specialists. Look for other revised Alert Guidelines in the coming weeks.
- **Weighted Average Interest Rates** - Now you can access the monthly weighted average interest rate (used for determining a defined benefit plan's current liability). Just go to the Retirement Plans web page at [www.irs.gov/ep](http://www.irs.gov/ep) and then to Published Guidance. There you will find a table going from the present all the way back to 1990. The table also has the applicable 30-year Treasury rates used for section 417(e) purposes.
- **New Regulations for Section 457 Plans** - Proposed regulations were published on May 8, 2002 for eligible deferred compensation plans described in section 457(b). The regulations reflect changes made to section 457 beginning with the Tax Reform Act of 1986 and ending with the Job Creation and Worker Assistance Act of 2002.
- **Upcoming Guidance** - In the coming weeks watch for guidance from the Service about 401(k) plans, restorative payments and section 415, section 417 and IRA issues. Other guidance is also likely to be forthcoming. Go to the Retirement Plans web page for all the latest news on published guidance. ■



Department of the Treasury  
Internal Revenue Service

[www.irs.gov](http://www.irs.gov)

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**Internal Revenue Service**  
**Tax Exempt and Government**  
**Entities Division**

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