



Keeping Current with Qualified Plans

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Jodi H. Epstein

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Robin M. Solomon and Jodi H. Epstein

Employee Benefits Bulletin

September 10, 2002

Now that Labor Day weekend is behind us, we know that the end-of-year crunch will soon begin. We thought it might be helpful to send a reminder of qualified plan items that need to be addressed before the end of the year, and one item that will pop up soon in 2003.

Catch-up contributions by October 1, 2002. If you want to allow catch-up contributions in 2002, you must allow them in all the applicable qualified plans in the controlled group by October 1, 2002.

Good-faith EGTRRA amendments. Qualified plans must be amended by the end of the current plan year (the end of 2002 for calendar year plans) to put in place EGTRRA amendments effective during the year. This is a significant change from past practice, which had often allowed plans to operate consistent with legislative changes but delayed the deadline for making actual plan amendments for many years. Thus, amendments may be needed on the following items:

- Increasing the limits: This means amending plans to increase the 401(a)(17) compensation limit, the 415(c) annual addition limit (for defined contribution plans), the 415(b) annual benefit limit (in defined benefit plans), and the 401(k) elective deferral limit.
- Speeding up vesting of employer matching contributions (3-year cliff or 6-year graded) in 401(k) plans.
- Adding catch-up contributions for participants age 50 and older.
- Implementing hardship withdrawal safe harbor changes.
- Disregarding rollover contributions in determining accounts that can be automatically cashed out.
- Revising the top heavy rules.

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- Revising the rollover rules.

Notice before blackouts in defined contribution plans. The Sarbanes-Oxley Act of 2002 (a law intended to increase corporate accountability) includes a provision that will affect many qualified plans. Effective January 26, 2003, a new 30-day notice period is required before a blackout. There is an exception for blackouts that occur in connection with M&A; in these instances, notice must be provided as soon as reasonably practicable rather than 30 days before the blackout. This new notice provision does not involve any plan amendments. However, many clients have language in their plans to allow for blackouts and other limitations on plan investment activity. You may wish to add such a provision to your plans.