



Winter 2010



Benefits Observer

President's Message

The end of the year is typically a time for reflection. Although there were signs of recovery in 2009, the past decade is one that many investors would like to forget. As we enter 2010, many old challenges still exist and new ones are destined to arise.

In President Barack Obama's first State of the Union address on January 27th, he indicated that job creation will be his administration's top priority. President Obama also offered ideas aimed at retirement security by "... making it easier to save for retirement by giving access to every worker a retirement account and expanding the tax credit for those who start a nest egg."

These retirement savings ideas are a preview of recommendations from a soon-to-be-released report from the Middle Class Task Force. We can appreciate this retirement security initiative but can only hope that it is handled with the respect it deserves.

Making tough business and retirement planning decisions have become commonplace today. With any difficult decision, you may need to seek a second opinion to determine the most effective measures to take. If you ever need a second opinion or if there is anything you would like to discuss — even if it's not about retirement plans — please feel free to contact me.

S. Scott Lusher



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EFAST2 Launched for 5500 Filings

On December 31, 2009, the U.S. Department of Labor's Employee Benefits Security Administration (EBSA) converted to EFAST2, a total electronic online system, for IRS Form 5500 filings. Under the new ERISA Filing Acceptance System 2 (EFAST2), you must electronically file your Form 5500 starting with the 2009 plan year. You will **no longer be able** to submit the 5500 using a paper document or through the previous EFAST system. New EFAST2 electronic credentials to sign a Form 5500 are required. If you already have a PIN and ID for electronic filing in EFAST, you will still need to register for new credentials under EFAST2. Please watch for more information in the mail in the upcoming months.

Employer Contribution Deadline

The deadline for employers to submit contributions earmarked for their 2009 plan year depends on the business entity type and its fiscal year end. Businesses with a tax year-end of December 31, 2009, will have a deadline of:

- **March 15, 2010** (plus any extension) if incorporated;
- **April 15, 2010** (plus any extension) if unincorporated;

If a business has a tax year-end other than December 31st, the deadline is the tax-filing deadline, including any tax extension.

Business owners and tax professionals typically rely on our final contribution calculation before remitting the final contributions. To secure a timely calculation, an employee census must be submitted with reasonable lead-time prior to the tax-filing deadline. Please contact us with any special calculation requests.

Plan Restatement for EGTRRA

All Employers using Lawrence & Pearson Associates' pre-approved Prototype and Volume Submitter plan documents need to amend and restate the plan for the Economic Growth and Tax Relief Reconciliation Act (EGTRRA) and other plan qualification changes. The EGTRRA approved plan document must be adopted by April 30, 2010.

America Saves Week

The week of February 21-28, 2010 is America Saves Week. During this week, individuals should be encouraged to review their personal savings progress and makes plans for improving their financial security. Employers should encourage and make it easier for employees to participate in their employer-sponsored retirement programs. See www.americasavesweek.org for a list of suggested activities.

National Employee Benefits Day

The International Foundation of Employee Benefit Plans (IFEBP) sets aside April 6th each year to recognize individuals and businesses that sponsor benefit plans. As a member of the IFEBP, Lawrence & Pearson Associates would like to commend you for recognizing and understanding the role benefit plans play in your employees' and organization's well-being.



This year's focus is on Workplace Wellness. IFEBP encourages you to use this day to reach out to your plan participants with suggestions on living a healthier lifestyle — both at work and at home.

Important Reminders, Updates and Retirement Related News

\$250,000 Question: When Does a One-Participant Plan Need to File IRS Form 5500?: One-participant 401(k) plans that are marketed under such names as solo(k), single(k), indy(k), uni(k), etc., need to satisfy the annual return filing requirements by filing Form 5500-EZ once the plan assets exceed \$250,000. Prior to 2007, one-participant 401(k) plans needed to file the 5500 once the plan assets exceeded \$100,000. Since these one-participant 401(k) plans have been around since 2002, it may be a good idea to review the plan assets. If you need to file a 5500, you should contact a third-party administrator (TPA) such as Lawrence and Pearson Associates.

Retirement Plan Start-Up Tax Credit up to \$1,500: Since 2002, a tax credit has been available to small employers to alleviate start-up costs for establishing a new retirement plan, such as a 401(k). The tax credit is 50% of the 1st \$1,000 of set-up or administrative expenses for each of the 1st 3-years the plan is in effect. The remaining amount of retirement plan expenses (less the tax credit) should be deducted as an ordinary and necessary business expense.

New York State Pension Reform: On December 10, 2009, Governor David Paterson signed pension reform legislation into law that creates a new Tier V (Tier 5) pension level for state employees hired after January 1, 2010 and provides long-term savings to New York State taxpayers. Key components of the new Tier V pension include: raising the minimum retirement age from 55 to 62; imposing stiffer penalties for early retirement; increasing the minimum years of service from 5 years to 10 years; and capping the amount of includible overtime compensation.

IRS Oversight for Tax Preparers: On January 4, 2010, the IRS kicked off the tax filing season by proposing new registration, testing and continuing education of tax return preparers. The initiatives may take several years to fully implement but the IRS is taking immediate action. As part of an outreach effort, they are sending letters to those paid tax return preparers with the greatest immediate need for enforcement and education.

7-business Day Safe Harbor for Small 401(k) Plans: On January 14, 2010, the DOL issued final regulations (effective immediately) establishing an optional 7-day “safe harbor” period for small employers to timely deposit participant contributions and loan repayments. The 7-day safe harbor applies only to small ERISA-covered plans (fewer than 100 participants) such as 401(k) plan and is available on a deposit-by-deposit basis.

Compliance with the 7-day safe harbor period is not mandatory. The final regulations did not change the general rule that employers are required to transmit participant contributions by the earliest date on which the contributions can reasonably be segregated from the employer’s general assets. It also did not change the outside dates by which participant contributions must be deposited — 15th business day (ERISA-covered plans) and 30th calendar day (SIMPLE plans) following the month in which contributions are withheld. Therefore, employers may be able to show that participant contributions deposited after the safe harbor period are still made as soon as administratively feasible.

BrightScope Personal 401(k) Fee Report: On January 19, 2010, BrightScope launched the Personal 401(k) Fee Report, a tool to help 401(k) participants better understand the fees they pay within their 401(k) plans. For more information visit www.brightscope.com.

Contact Phil Glackin at (518) 374-5726 or pjg@lawrence-pearson.com to request more information on topics in this newsletter.



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