



# Benefits Observer

## President's Message

What a wild and crazy year 2008 was. Our country faced many challenges in 2008 – recession, high unemployment, mortgage defaults, declining home values, credit crisis, bank failures, government bailouts, extreme oil price volatility, Ponzi schemes, etc. These events may have also changed many people's perception of retirement plans as Americans lost over \$1 trillion in the value of their 401(k)s in 2008.



The outlook for 2009 does not look much better as we try to recover from this economic turmoil. However, many Americans still have reasons for hope. One main reason for this optimism is our country's new president Barack Obama. Many American were inspired by his vision of change during his presidential election campaign. Although President Obama may offer a new sense of hope, his inaugural address was relatively somber. He made an appeal to every American to take individual responsibility with statements such as "...the challenges we face are real, they are serious and they are many. They will not be met easily or in a short span of time. But know this America: They will be met."

In tough times like these, many businesses are faced with hard decisions. Many organizations are carefully reconsidering almost every fundamental aspect of their retirement plans such as expenses, benefits, investments, design and administration. Many have already decided to make the hard decision to suspend their employer contributions to retirement plans (see enclosed "Retirement Plan Cuts" update). Before making any of your own tough decisions, please feel free to contact me if there is anything you would like to discuss – even if it's not about retirement plans.

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## Employer Contribution Deadline

The deadline for employers to submit contributions earmarked for their 2008 plan year depends on the business entity type and its fiscal year end. Businesses with a tax year-end of December 31, 2008, will have a deadline of:

- **March 16, 2009** (plus any extension) if incorporated;
- **April 15, 2009** (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 should have received information in 2008 about the process 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 no later than April 30, 2010.

Please note that the EGTRRA restatement process is underway. We have been reviewing each plan individually and preparing documents accordingly. If you have not received any information recently, more detailed information will be mailed in the upcoming months.

## National Employee Benefits Day

The International Foundation of Employee Benefit Plans sets aside April 2nd each year to recognize individuals and businesses that sponsor benefit plans. As a member of the Foundation, Lawrence & Pearson Associates would like to commend you for recognizing and understanding the role benefit plans play in your employees' and your organization's well-being.



This year's theme is financial literacy. In the spirit of this theme, we would like to remind you that we continue to collaborate with Sunmark Federal Credit Union to offer free financial education programs at your workplace. If you feel your employees would benefit from a 45-minute financial seminar, please contact our office.

## Important Updates and Retirement Related News

**Retirement Plan Cuts:** Many nationally recognized companies such as FedEx, GM, Sears and Motorola recently joined a growing list of employers who are suspending their company 401(k) match. Regionally recognized companies also made big retirement plan changes. Albany International froze its pension plan while Momentive and St. Peter's Hospital suspended their employer 401(k) and 403(b) match. Many of these organizations made these cuts as a way to reduce expenses during these difficult economic times.

**Social Security Stimulus:** In 2009, Social Security recipients will receive the largest cost-of-living-adjustment (COLA) increase (5.8%) since 1982. Couples, both receiving social security benefits, would likely see their monthly payments increase about \$100 more each month. Some hope that this increase, which amounts to about an extra \$38 billion, will have a stimulative effect on our economy.

**Fidelity Bonding:** On November 25, 2008, the Employee Benefit Security Administration (EBSA) issued Field Assistance Bulletin (FAB) 2008-04 – Guidance regarding ERISA fidelity bonding requirements. The bulletin uses a question & answer format to clarify common issues raised during ERISA plan examinations. Visit [www.dol.gov/ebsa/regs/fab2008-4.html](http://www.dol.gov/ebsa/regs/fab2008-4.html) for more information.

**403(b) Plan Document Relief:** On December 11, 2008, the IRS issued relief for 403(b) plans that did not have a written plan in place for January 1, 2009. As a result, 403(b) plan sponsors now have until December 31, 2009 to adopt a written 403(b) plan to satisfy the written plan requirements of the final 403(b) regulations.

**2009 Minimum Distribution Relief:** On December 23, 2008, the Worker, Retiree, and Employer Recovery Act of 2008 (H.R. 7327) was signed into law. It enables participants who are subject to required minimum distributions (RMDs) in 2009 to suspend payments without penalty.

**Investment Advice Final Regulations:** On January 16, 2009, the U.S. Department of Labor (DOL) announced the publication of the final rule to make investment advice more accessible for participants in retirement plans and IRAs. The new rule implements a new statutory exemption for investment advice. It also provides general guidance on the exemption's requirements, including computer model certification and fiduciary disclosures. The final rule was set to be published in the Federal Register on January 21st before an executive order delayed its implementation date.

**Supreme Court's Beneficiary Ruling:** On January 26, 2009, the U.S. Supreme Court unanimously agreed that a deceased employee's retirement benefits were correctly paid to his ex-wife. William Kennedy had named his wife, Liv Kennedy, as his pension's primary beneficiary soon after they married. They divorced 22 years later and William's ex-wife, Liv waived her rights to his retirement money during the divorce proceedings. However, William never changed his retirement account's beneficiary and their divorce decree was not a qualified domestic relations order (QDRO). After William died in 2001, William's employer, DuPont, paid the pension benefits of over \$400,000 to his ex-wife. William's daughter, Kari Kennedy, sued DuPont to recover her father's pension benefits but the Supreme Court ruled that the ex-wife was the legal beneficiary. This case should serve as a reminder to update retirement plan beneficiaries whenever a family status change occurs due to marriage, divorce, birth or death.

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



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