

# THE HARBRIDGE ADVISOR

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## *Special Interest Articles:*

### Year-End Reminders

- All Qualified Retirement Plans
- 401(k)/Defined Contribution Plans
- Defined Benefit Pension Plans
- Health and Welfare Plans

## Year-End Reminders

As the end of 2007 approaches and we prepare to enter a brave new world in 2008 under the Pension Protection Act ("PPA"), now is the time for plan sponsors to review all of their benefit plans to ensure year-end compliance issues do not get overlooked.

Here is a list of items, organized by plan type, to help you take inventory of the relevant issues that may need your attention. Most of the timing requirements shown apply to calendar year plans. Issues where timing applies to the calendar year, regardless of the plan year, are so noted.

### ALL QUALIFIED RETIREMENT PLANS

- Summary Annual Report (Form 5500 "narrative") must be distributed to participants by 12/15 for any plan Form 5500 that went on extension.
- Required Minimum Distributions (RMDs) for 2007 for participants who had previously commenced RMDs upon attaining age 70 ½ in a prior year are due by 12/31, regardless of the plan year.
- RMDs for 5% owners or retired/terminated participants who attained age 70 ½ in 2007 are due 4/15/2008 (for 2007), but participants may want to take 2007 RMD by 12/31 to avoid two taxable RMDs in 2008, regardless of the plan year.

### 401(K)/DEFINED CONTRIBUTION PLANS

- Review compliance with PPA provisions effective for 2007 such as accelerated vesting for employer non-matching contributions (6-year graded or 3-year cliff) and participant benefit statement frequency and disclosure information.
- Return excess contributions and interest to highly compensated employees by 12/31 if 2006 ADP and/or ACP test failed and corrective distributions have not yet been made. Review projected testing for 2007 to avoid surprises, if possible.
- Distribute 401(k) Safe Harbor Notice to participants by 12/1 for 2008 safe harbor status. Remember to provide the Notice to newly eligible participants throughout 2008 as well.
- Communicate 2008 compensation and contribution limits to affected participants and verify necessary changes with external provider or internal payroll system.

### DEFINED BENEFIT PENSION PLANS

- FAS#158 accounting for non-publicly traded employers became effective for fiscal years ending after June 15, 2007. This affects balance sheet disclosures for pension plans and other post-retirement benefits, and could affect debt covenants. Consider plan changes or gauge impact on balance sheet if no changes made.

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### Year-End Reminders (cont'd.)

- Benefit statements must be provided once every three years (or on request), with the first statement due in 2009. Alternatively, sponsors can issue an annual notice to participants informing them of their ability to request (not more frequently than annually) a benefit statement. The first annual notice under this alternative compliance method is due in 2007.
- Plans should make their involuntary/mandatory distributions to terminated participants before year-end (lump sums less than \$5,000 with default rollover provision, or \$1,000 without). This reduces number of participants for 2008 PBGC premiums, and 2008 plan audit requirement can be eliminated if participant count drops below 100.
- Beginning in 2008 under PPA, credit balances are deducted from assets for determining a plan's funded percentage. Benefit restrictions begin to apply if the percentage is less than 80% and become severe if the percentage is less than 60%. Sponsors should consider waiving some or all of their credit balance if in this position.
- Cash balance plans must vest benefits on a 3-year cliff (or better) schedule vesting beginning in 2008. Unlike defined contribution plans, benefits accrued through 2007 cannot remain on the 2007 schedule for participants with service in 2008.
- Beginning in 2008, 75% joint and survivor annuities (75% J&S) must be offered as an optional form of benefit unless a plan's designated "qualified" joint and survivor annuity is at least a 75% J&S (e.g., 100% J&S), in which case a 50% J&S must then be offered as an option.
- Beginning in 2008, plans may elect to use valuation interest rates (to be published by IRS) as of the first day of the plan year or up to 4 months prior to the beginning of the plan year. Once an election is made, future changes will require IRS approval. Sponsors should consider whether electing an earlier month may be beneficial for cash flow planning (i.e., projecting estimated contribution requirements during the last quarter of the current plan year).

### HEALTH & WELFARE PLANS

- Remind employees with medical reimbursement and/or dependent care accounts of the "use it or lose it" by year-end requirement. Medical and/or dependent care expenses incurred through 3/15/2008 may also be reimbursed with 2007 contributions if the plan provides for this.
- COBRA participants must be notified by 12/1 of any rate changes effective 1/1/2008.
- The Medicare Modernization Act (MMA) imposes a late enrollment penalty on individuals who do not maintain Creditable Coverage for a period of 63 days or longer following their initial enrollment period for the Medicare prescription drug benefit. MMA mandates that certain entities offering prescription drug coverage, including employer and union group health plan sponsors, disclose to all Medicare eligible individuals with prescription drug coverage under the plan whether such coverage is "creditable." This information is essential to an individual's decision whether to enroll in a Medicare Part D prescription drug plan.

### Harbridge Consulting Group

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