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METRO NEWS – Report #70
December 2, 2008

To our clients and friends:

This is another in a series of newsletters designed to keep you clearly informed of current events in the area of employee benefit plans.

2009 Limits:

The IRS has released the 2009 plan limitations:

- 401(k) plan limits
  - individual deferral limit = $ 16,500 per year
  - overall plan limit (employer + employee funding) = $ 49,000; this includes the $ 16,500
  - extra catch up limit (over age 50) = $ 5,500 per year
  - overall limit for anyone over age 50 = 49,000 + 5,500 = $ 54,500 per year

- Profit sharing plan limit = $ 49,000 per year

- Defined benefit limit = You can fund for an annual benefit of $ 195,000 per year, starting at age 62. This means that you can fund perhaps $ 200,000 – 225,000 per year if you are old enough (over age 55 or so)

Holiday Greetings:

We at Metro sincerely wish you a Happy Holiday Season! We stopped sending out corporate cards last year, as we believe this is a more efficient (but less beautiful) way to let you all know how much we enjoy working with you.

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2008 Minimum Distributions due soon:

If you are over age 70.5, then the IRS requires that you take a "distribution" from your plan. Note that they changed the rule on this a few years ago, so that as long as (a) you do not own 5%+ of a firm and (b) you are still actively employed, you do not need to take this minimum. This rule applies only to qualified plans, and not to IRA payouts. The first year that your minimum payout is due, you may defer it until April 1 of the following year (i.e., 4/1/09). However, if you choose to do this, then you will have two required 2009 payouts (4/1/09 for the 2008 minimum, plus 12/31/09 for 2009.)

Also, note that Congress and Treasury are both actively considering providing relief in this area, due to the recent financial downturn. The feeling is that the required payout in 2008 is based on the 12/31/07 balance, so since this has probably gone down so much, it may be unfair to base your 2008 minimum on this today. They may even waive it for 2008, but if the past is any indication, final guidance may not be out until it is almost too late to act. So be careful and call us if questions!

DOL and fee disclosure:

The big news in our industry is that the DOL and Congress have a very strong interest in making sure that plan members and employers understand the level of 401(k) fees being charged. They call this "transparency". As long as it can be done efficiently (and fairly), I am all for it.

There are three main areas of fee reporting under consideration, and all three are under "proposed" regulations. The problem is that the proposed regs have an effective date of 1/1/09, so people are starting to get nervous. Many of us are hoping for a delay until 1/1/10.

The DOL has one proposed reg for each potential "audience":

- Plan sponsors ("the Employer") – they want a summary of fees presented at the time of sale. No work can begin without an "appropriate" engagement letter signed. (Ours will likely require some tweaking.) Note that we do pass thru almost all rebates (over $ 150K/year) that we get, so we have nothing to hide in this area.

- Plan participants – they want a statement of both investment fees and administrative fees. There is some concern that they have not created a "level playing field" here between "bundled" and "unbundled" providers. Bundled providers do both the investments and the administration for the plan. (ex: Fidelity). The proposed regs allow them to lump everything (investment + administration) together, which we unbundled people think may not be fair.

- Regulators – they will require enhanced fee reporting on the tax form (5500). This will apply only to plans of over 100 employees.

On top of this, Congress has a strong interest, as some Members are not fully comfortable with the direction the DOL is going. (this is a clash of the legislative and executive branches.) Finally, post-election politics will play a role. Stay tuned.

Metro updates:

Welcome to Alyssa Carcia, our new receptionist. Alyssa joins us from the Bradford School. Also, several Metro Analysts are taking their professional exams now, so we will hopefully have some good news to report to you shortly.

Also, please join me in congratulating LeAnn Malloy as our new bowling champion. (I always start to worry when they bring their own ball.)

Finally, some of you may have realized that we lost our internet connectivity for most of this week (it is back now thank goodness!) This was not a good thing, and we are taking steps to have a back up connection, so this does not recur.

More efficient plan documents!

One of the more annoying developments of recent years has been a shift in IRS policy in their requirements regarding how often plan documents must be amended. I think you realize by now that Congress/IRS/DOL change the rules almost every year. The IRS now wants these minor changes to be reflected in a plan amendment, which I suppose you may have noticed over the past few years. On top of this, the entire document must be restated every 6 years or so. It is turning into an expensive, hi-maintenance arrangement, especially for small plans.

One recent change in IRS regs allows us to adopt these annual ("interim") amendments for you. We do this by having Metro "sponsor" the plan document, so that we are empowered to adopt these amendments on your behalf. You need not do anything. This is a much better arrangement for you, as you avoid the cost and hassle of adopting these "interim" amendments.

Three strikes and …..

Our roving actuarial reporter (my son Brian who just passed the MA bar!) passed along a study ("The Physician and Sports Medicine", May, 2000) that shows that major league baseball umpires have normal mortality. They studied 441 current and former umpires, and found that they lived to an average age of 69.71, vs. an expected average of 68.75.

I'll bet (and hope) that hockey referees live even longer! And good luck to you as well!

What's Up with you?

Drop me a line at:

david@metrobenfits.com

We'd like to understand your needs and concerns more, and find out what we can do better.

Best Wishes, David M. Lipkin, F.S.A., Editor