Retirement and
Institutional Services

BENEFITS EDGE

A RESOURCE FOR PLAN SPONSORS

WINTER 2013

FIVE STEPS ALL PLAN SPONSORS SHOULD TAKE IN 2013

Is it time to revisit your retirement plan's goals and objectives?
Many aspects of your plan need to be reviewed each year to be certain the plan meets its objectives. Following are a few steps you should take to ensure your plan satisfies the needs of your participants.

1. **Define Success** – What does success look like for your plan? For many plan sponsors, a successful plan means a high number of employees participating in the plan. For others, it means participants are actively increasing their savings amount and investing properly. As a plan sponsor, you should determine the definition of a successful plan based on your company demographics and employee behavior.

2. **Check your plan's default options** – Now is a good time to evaluate the level of auto-enrollment and auto-escalation in your plan. The goal should be for each participant to accumulate sufficient assets to meet their retirement needs. Auto-enrollment plans are designed to overcome the drawbacks of voluntary enrollment by getting more workers to save. Auto-enrollment plans have demonstrated substantial benefits for those employees that would not otherwise take the steps to save for retirement.

3. **Focus on your communication strategy** – Educating participants about their retirement plan is extremely important. Participants need to know the importance of saving for their retirement, as well as all of the administrative and investment options of their plan. Put a communication plan in place for the year to ensure participants understand how to enroll, how to increase their deferral percentages, and where to find information on their plan investments.

4. **Understand your fiduciary responsibilities** – Take an active role in your plan. Remember that you are a fiduciary, and it is your responsibility as plan sponsor to ensure that decisions are made from an unbiased point of view.

5. **Contemplate a discretionary relationship** – This is not an "all or nothing" service. Appointing an advisor to help select and monitor investment options can reduce the amount of fiduciary responsibility on you. This could result in more time savings for your retirement advisory board and potentially increase diversification and improve performance.

Partner with BB&T to design and oversee a plan that will meet your definition of success. Your BB&T Retirement and Institutional Services consultant will assist you in reviewing your plan objectives, and engaging your participants to help them meet their retirement goals.

NEW EPCRS PROVISIONS

On December 31, 2012, the IRS updated its Employee Plans Compliance Resolution System (EPCRS). EPCRS provides plan sponsors with the opportunity to correct operational and plan document errors in order to preserve a plan's tax-qualified status.

The IRS understands that no one is perfect. That's why they created the EPCRS. Depending on the nature of the error and how it is to be corrected, EPCRS contains three separate component programs. They are known as:

- The Self-Correction Program (SCP)
- The Voluntary Correction Program (VCP)
- The Audit Closing Agreement Program (Audit CAP)

The most significant change to the EPCRS program in 2013 is that Section 403(b) plan errors are now covered. 403(b) plan sponsors can now address plan document errors in a similar fashion as 401(k) plan sponsors. In addition, the program now describes how to correct the failure to satisfy the "universal availability" requirement that applies to 403(b) plans. While these changes in the updated EPCRS make the correction of 403(b) errors more similar to the correction of other qualified plans, due to their unique characteristics there can still be differences in how corrections must be implemented for 403(b) plans.

Another feature of the new EPCRS is that corrective matching contributions can now be subject to vesting. In the past, sponsors had been required to correct a failure of making a prescribed matching contribution by using a qualified nonelective contribution (QNEC). QNECs are required to be fully vested when contributed and are subject to special distribution restrictions. Now, a plan sponsor can make corrective matching contributions that will be subject to the plan's vesting and distribution rules.

The new EPCRS also clarifies that the amounts in the plan's forfeiture account may not be used to make contributions or allocations to correct nondiscrimination testing errors. Contributions to correct testing errors must be QNECs and fully vested when contributed. For this reason, forfeitures do not qualify for this purpose.

Under the new EPCRS, plan sponsors are required to take reasonable steps to locate missing participants. In August 2012, the IRS suspended the use of its letter-forwarding program to help sponsors locate missing participants. Sponsors should mail a letter to the participant's last known address using certified mail. If that fails, another search method such as the Social Security letter-forwarding program, a commercial locator service, a credit reporting agency, or the Internet must be used.

A few changes have been made on the procedural and administrative side as well. Beginning April 1, 2013, plan sponsors will be required to use new IRS Form 8950 "Application for Voluntary Correction Program (VCP)," and IRS Form 8951 "Compliance Fee for Application for Voluntary Correction Program Submission under the Employee Plans Compliance Resolution System (EPCRS)" to apply for correction under VCP. Submissions prepared using these forms should be sent to the IRS Service Center in Covington, KY.

Application fees for the EPCRS plans have been adjusted. There is a reduced $500 fee for a VCP submission covering only a failure to timely adopt an amendment conditioned by a favorable determination letter, as long as the amendment was adopted no more than three months following the date on which it should have otherwise been adopted. Also, fees for multiple employer plans and multiemployer plans are based on the number of participants in the plan and not the plan assets.

Your BB&T Retirement and Institutional Services consultant can help you navigate the complicated world of EPCRS. If you have any issues or concerns in your plan, contact your consultant immediately.

EXECUTIVE COMPENSATION

Do Your Key Employees Want More Workplace Saving Options?

Your key employees are concerned about their retirement. This group of highly compensated employees wants more ways to save for their retirement, above and beyond the limits set forth in their qualified plan. So how can you, as their employer, help them reach these goals?

A Nonqualified Plan can optimize the effectiveness of your employee benefit program. Using a Nonqualified Plan, covered employees can make contributions that exceed the contribution limits placed on traditional qualified plans. These plans offer the same features of the qualified plan, but without many of the restrictions.

How It Works

- Participation in a Nonqualified Plan is limited to a select group of management and/or highly compensated and key employees.
- Covered employees elect to defer a percentage of their compensation to the Nonqualified Plan, above the amount they can defer into the qualified plan.
- Each participant has the ability to choose their own investments, which mirror the investments offered in the qualified plan.
- All of the assets held in the Nonqualified Plan are subject to the general creditor rights of the employer.
- Employer matching or profit sharing contributions are allowed, and they can be subject to a vesting schedule.

Benefits of a Nonqualified Plan

- This select group of employees can defer more money for their retirement, allowing them to save enough to maintain their preretirement lifestyles.
- ADP/ACP testing failures can be avoided, as highly compensated employees can defer the maximum allowable into the qualified plan (based on ADP/ACP testing results) and put the rest into the Nonqualified Plan.
- Employers have an attractive benefits package to present to key employees, aiding in recruitment and retention of this important group.

Your BB&T Retirement and Institutional Services consultant can help you design a retirement solution to maximize savings opportunities for your high level employees. Talk to your consultant today to learn more about this option.

Important 2013 ERISA Compliance Dates for DB/DC/403(b) Plans

- **February 28:** Estimated PBGC premium due for 2013 for large Defined Benefit plans (500 or more participants)
- **March 15:** ADP/ACP refunds without excise tax on employer (2-½ months after plan year ends for fiscal plans)
- **March 15:** Contribution Deadline/Deductions without extension for corporations (75 days after corporate tax year ends for all plans). If corporate taxes are extended, due date is 9/15/13, or six months after original filing deadline.
- **March 15:** Funding Waiver Request Deadline for Pension Plans
- **April 1:** Initial Required Minimum Distribution due for participants needing their first RMD in 2012 and opted to delay until April 2013
- **April 15:** 402(g) Refunds and 457(b) Excess Deferral Refunds
- **April 15:** Contribution Deadline Deductions without extension for partnerships and LLCs (or 3-½ months after tax year end).
- **April 30:** PBGC covered DB plans must provide notice of funded status to PBGC, participants and beneficiaries. Plans that cover 100 participants or less must provide by their 5500 due date.
- **April 30:** PBGC premium due for 2012 for small Defined Benefit plans (fewer than 100 participants)

IN-PLAN ROTH CONVERSIONS

On January 2, 2013, the President signed into law the American Taxpayer Relief Act of 2012 which includes a provision of particular interest to retirement plans. The law allows money in a pre-tax 401(k) account to be converted into a Roth 401(k) account.

Similar to legislation created in 2010, the new in-plan Roth Conversion is available for a 401(k) plan, 403(b) plan, or governmental 457(b) plan which accepts Roth deferrals. The difference in the 2010 provision and the current one is the requirement that the amount converted to Roth contributions be "distributable." In-plan Roth Conversions no longer have the distributable restriction, which means participants do not have to wait for a qualifying event (termination of employment, retirement, attainment of age 59-½) to convert their accounts. All amounts in a participant's account can be converted to Roth. This includes elective deferral accounts, as well as money purchase plan accounts that have been transferred into a 401(k). The change is effective immediately.

The transferred amounts will be subject to the distribution rules that applied to the source of the amounts transferred. This was not the case with amounts subject to the previous in-plan Roth rollover.

The strategy behind this is much like converting a traditional IRA into a Roth IRA. Participants pay income tax on the amount converted. The Roth grows tax-free and eventual distributions are tax-free.

From a participant standpoint, this provision appears to be more popular than the previous in-plan Roth rollover provision. Participants that will benefit the most from Roth Conversions are:

- Those that have the funds to pay taxes outside of the plan
- Those who expect their tax rates to rise at the time of distribution
- Those who would save a significant amount on Social Security taxes because their income is low at distribution
- Those that need their retirement money prior to turning age 59-1/2

To give your participants the ability to make these in-plan Roth conversions, talk to your BB&T Retirement and Institutional Services consultant. Your consultant can get started on amending your plan to allow Roth contributions (if it does not already allow) and creating an amendment for the in-plan conversions.