

CERINI & ASSOCIATES, LLP | CERTIFIED PUBLIC ACCOUNTANTS
PRESENTS



PENSION PLANNER

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FROM THE EDITOR - TANIA QUIGLEY, CPA

Welcome to 2023 everyone ...

With the current lull in the labor market, many companies have focused on ways to better attract and retain staff. A key component of that process has been helping employees prepare for their retirement. As part of this process, we have seen employers investing more energy in communication and financial education to assist their employees in making retirement-based decisions. This was especially important during 2022 and will continue to be important during 2023, with the downturn in the overall economy. Some of the big issues that will continue to impact pensions during 2023 are:

- ▶ The rise in inflation and interest rates has had a significant impact on the stock market during 2022. Unfortunately, expect additional rate hikes during the beginning of 2023 until the labor market cools off. This means additional anticipated declines in the market.
- ▶ Similarly, geopolitical concerns (*Russia's invasion of Ukraine and China's zero COVID-19 policies*) continue to put pressure on supply chains. We anticipate that this will loosen up during 2023 with declines in consumer spending.
- ▶ President Biden signed the Secure 2.0 bill into law. Secure 2.0 includes certain provisions that are favorable to pension participants, including the expanding automatic enrollment in new 401(k) and 403(b) plans, enhancing the tax credit for small businesses establishing a retirement plan, and allowing employers to make matching contributions to 401(k) plans, 403(b) plans, or SIMPLE IRAs based upon qualified student loan payments.
- ▶ Expect public pension funds to see declines in the early part of 2023 in excess of the rest of the market due to alternative investment returns which traditionally lag by a quarter. As a result, the 4th quarter of 2022 results will not hit these pensions until the first quarter of 2023.
- ▶ There will continue to be a need to benchmark plans, from a fee perspective and a fund perspective. With the market down and a high level of movement within fund managers, it will be important to pay more attention to funds within your portfolio than ever before.
- ▶ There is a new form 5500 that plans will need to file for their 2022 plan year in 2023 ([see page 2 for a discussion of the new form](#)).
- ▶ The IRS and the Department of Labor have both increased their respective staff levels. This could mean increased audits of plans. Please [see page 5](#) for a discussion of what triggers a DOL audit and [page 3](#) for some tips on performing a self-audit of your plan.

As you can see, there is never a dull moment in the area of pension plans. [On page 7](#) Priority Pension Services, Inc. (AFI) have provided a calendar of all the respective deadlines to help you stay in compliance.

If there is any way we can help throughout the year, please don't hesitate to reach out. We would love to connect.

Tania Quigley

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CHANGES IN
FORM 5500

On May 23, 2022, the combined collaboration of the U.S. Department of Labor's Employee Benefits Security Administration, the IRS, and the Pension Benefit Guaranty Corp. released a Federal Register Notice regarding changes for the upcoming plan year. The notice announced changes to the IRS Form 5500 and IRS Form 5500-SF "Short Form" that would apply to 2022 plan year reports. To figure out the changes, we must first understand what a Form 5500 is and if it'll apply to you.

WHAT IS A FORM 5500?

The IRS Form 5500 is an annual report that's filed with the U.S. Department of Labor that contains pertinent information about a pension plan's financial condition. The main purpose of the form is to provide both the IRS and DOL with information about the plan's operation and its compliance with Federal government regulations. For the most part, all retirement plans, are required to file a Form 5500 for every year the plan holds assets. Such retirement plans include profit sharing and 401(k) plans.

An IRS Form 5500-SF is a simplified version of the 5500 that is generally used by small pension plans. The requirements to be eligible to use a Form 5500-SF per the IRS include:

- ▶ A small pension plan with one to fewer than 100 participants at the beginning of the plan year,
- ▶ Meet the conditions for being exempt from the requirement that the plan's books and records be audited by an independent qualified public accountant,
- ▶ Have 100% of its assets invested in certain secure investments with a readily determined fair value,
- ▶ Hold no employer securities,
- ▶ Not be a multiemployer plan.

CHANGES FOR THE 2022 PLAN YEAR

When the **Setting Every Community Up for Retirement Enhancement Act (SECURE Act)** passed in 2019, the act included the proposal of additional changes by the IRS, DOL, and **Pension Benefit Guaranty Corporation (PBGC)** to Form 5500 and Form 5500-SF. The proposed changes are structured on improving the actuarial and retirement plan schedules filed by defined benefit pension plans subject to Title IV of the **Employee Retirement Income Security Act (ERISA)** of 1974. The final rule also adopts additions to the plan characteristics codes reported on line 8 of Form 5500, and on line 9 of Form 5500-SF, to improve the data reported on defined contribution multiple employer plans, including pooled employer plans. The instructions also contain clarifying additions related to Part II of Form 5500 and Form 5500-SF that collect plan sponsor and plan administrator information. No changes to the department's implementing regulations are required for these changes.

It should be noted that as of the writing of this article, the three agencies are still reviewing public comments made during the initial proposed changes made in September 2021. This is due to the agencies wanting to ensure the best way to go about the changes to many of the schedules within the EFAST2 filing system. As for planning ahead for these upcoming changes, any pre-requisites that require you to file a Form 5500/5500 SF could mean that these changes will apply to you. In order to ensure compliance this year, please consult with your public accountant to see if the changes will apply to your benefit plan.





SELF-AUDIT OF A RETIREMENT PLAN

A periodic self-audit of your company’s retirement plan is crucial to ensure compliance with rules and regulations set by governing bodies such as the **Internal Revenue Service (“IRS”)** and the **United States Department of Labor (“DOL”)**. Selecting provisions for your retirement plan is one thing, but ensuring those provisions are consistently met is another. Self-auditing can prevent exorbitant penalties and interest. If there are any issues occurring within your plan’s operations, it’s significantly better to discover and correct those issues on your own than to have the IRS, DOL, or participant discover them for you.

The very first step in self-auditing any area of your plan is to read the plan document and any subsequent amendments. The provisions specific to your plan are identified and should be consistently complied with. It’s important to note that provisions governing employee contributions could be different than the provisions governing employer contributions. A few areas of self-audit are mentioned below, however a self-audit of your retirement plan should not be limited to these.

ELIGIBILITY REQUIREMENTS

Eligibility to participate in a retirement plan could require a minimum age, a minimum number of hours worked per year, or it could even have no requirements to allow entry into the plan.

If your plan requires something along the lines of a minimum age or minimum number of hours worked per year, it can easily be checked by reviewing employees’ dates of birth on file or by reviewing total hours worked for the year to ensure that those who are eligible to participate are participating or have elected not to, and those that are not eligible to participate are not remitting to the plan.

When it comes to employer contributions, there could be additional eligibility requirements, such as requiring that the employee be employed on the last day of the plan year.

DEFINITION OF COMPENSATION

The definition of compensation varies from plan to plan. Some may indicate that any taxable wages are considered eligible compensation for retirement plan contributions, while other plans may exclude certain types of compensation like bonus compensation.

To review eligible compensation with your payroll service provider, each payroll code or type of compensation per the payroll system should be reviewed to see what is being included or excluded in the calculation of employee retirement plan remittances. If any inconsistencies are found between the payroll service provider and the retirement plan document, then any compensation relating to the erroneously included or excluded payroll codes should be reviewed retroactively to see how that may have affected the employees’ deferrals and make whatever corrections are necessary.

If your plan provides employer contributions, it’s important to note that the definition of compensation as it relates to employer contributions could be different than that of employee contributions.

Eligible compensation should be reviewed regularly to ensure that the payroll service provider is consistent. This is also an area of higher risk when new payroll codes are added, existing payroll codes are revised, or when there is a change in the payroll service provider for your company.

TIMELY IMPLEMENTATION OF DEFERRAL ELECTIONS

With time comes technological advances and automated systems. While this can be advantageous in many ways, it can be negative by creating areas of oversight. Payroll service providers and plan administrators don’t always have software that are compatible with each other, therefore this requires the employer to be the director and ensure that whatever is happening with the retirement plan is being communicated to the payroll service provider and vice versa.

In many cases, the ability exists to allow paperless elections, declinations, and changes to elections. As a result, employees can easily log onto their retirement plan account with the plan administrator and make whatever changes they’d like with the click of a button. The issue is that the payroll service provider may have no way of knowing about those participant-directed changes unless the employer notifies them.

Timely implementation of elections can also be affected by auto-enrollment provisions, whereby employee’s may be automatically enrolled into the plan upon reaching minimum eligibility requirements unless the employee affirmatively elects against it. This is an additional provision to consider when self-auditing timely implementation of deferral elections if it exists within your plan.

It’s imperative that a step exists within your company’s internal controls that requires someone to review any elections, declinations, or changes every pay period to ensure appropriate timeliness of these changes are taking effect within the employee’s paychecks.

TIMELY REMITTANCES

There are regulations that specifically govern when employee deferrals must be segregated from the general assets of the employer and transmitted to the plan. Those regulations, specifically with the DOL, requires amounts withheld from employees’ wages be transmitted to the plan as soon as they reasonably can be segregated from the employer’s general assets, but in no event later than the 15th business day of the month following the month of withholding. This 15th business day is not a safe harbor. If remittances are transmitted late, lost earnings should be calculated and remitted to each participant’s account. Lost earnings are calculated from the time of error to the time of discovery to ensure that participants’ accounts are made whole.

To summarize, always start with the plan document to determine the provisions specific to your plan. If errors are found during your self-audit, it’s important to correct these issues as soon as possible. The longer the issue has been ongoing, the higher the potential penalties. Find errors that could be occurring within your company’s plan before anyone else does. There are voluntary correction programs in place that could help mitigate the penalties and interest that could’ve been imposed had those errors been found by the IRS or DOL. Consider reviewing the internal controls of your plan to ensure that there are checks and balances in place and that these self-audits are occurring regularly throughout the year.



CRYSTAL HARVEY
SUPERVISOR



PREPARING FOR A DOL AUDIT

With the **Department of Labor (“DOL”)**’s recent expansion of audits of employee benefit plans it’s important to consider the various factors that may trigger an audit and whether or not your organization is at risk. While some plans are chosen at random, factors that could contribute to the likelihood of being selected for audit include:

- ▶ *Complaints to the DOL from employees or participants*
- ▶ *Delinquent or incomplete 5500 filing*
- ▶ *Excessive or improper administrative expenses*
- ▶ *Untimely remittances to the plan*
- ▶ *Improper contribution calculations*
- ▶ *Prohibited transactions*

A DOL audit’s main purpose is to identify violations of the **Employee Retirement Income Security Act of 1974 (“ERISA”)**. While the IRS has jurisdiction over the qualified status of a plan, ERISA guidelines dictate fiduciary responsibilities, reporting, and disclosure requirements and other rules that don’t affect the status of the qualified plan.

A plan sponsor has a fiduciary responsibility to act in the best possible interest of the plan participants for the purpose of providing benefits and paying expenses of the plan. Additionally, fiduciaries are responsible for reviewing the plan document and its compliance with ERISA. The DOL has prepared a Reporting and Disclosure Guide for employee benefit plans which details the required disclosures, and the parties to which disclosure should be made. Some examples of documents required to be disclosed to participants of the plan are the summary plan description, summary of material modification, summary annual report, notification of benefit determination, and plan document.

The best way to prepare for an audit is to build ERISA compliance into your internal controls systems and to periodically review and test the system. Examples of areas to test include:

ELIGIBILITY AND PARTICIPATION:

Verifying eligibility, participation, and coverage to ensure that all employees are aware of the plan as they become eligible and either join the plan or document the declination to join the plan.

VESTING:

Check vesting requirements and ensure that contributions are vested as set forth in the plan document.

DISCRIMINATION:

Plan benefits, rights, and compensation should not favor certain employees or groups and classes of employees.

COMPENSATION AND CONTRIBUTION CALCULATIONS:

Contributions to the plan should be calculated using eligible contributions as detailed in the plan document.

LIMITATIONS ON BENEFITS:

Contributions shouldn’t exceed allowable limits.

TIMELINESS OF REMITTANCES:

Contributions to the plan should be made on a consistent basis.

Additionally, the plan sponsor should maintain proper documentation, including the current plan document, including any amendments, policies, and summary plan description.

Should your internal controls testing identify any errors, we encourage you to use the DOL self-reporting tool. This allows you to notify the DOL of errors identified and rectified and significantly reduces any potential penalties associated with the error.

A DOL audit can be a time-consuming and stressful process. DOL auditors will request employee and other records, conduct onsite visits, and may interview employees. By implementing policies and procedures to oversee the plan’s compliance with ERISA you can minimize the risk that the audit will result in any findings. You can also expedite the audit process by having documentation readily available to be provided to the auditors as requested.

We can help you establish a strong system of controls over your employee benefit plan and should your plan be selected for audit, we can facilitate communication with the DOL to help it go as smoothly as possible.

MAHNAZ CAVALLUZZI, CPA
MANAGER





INTERACTIVE CALENDAR: CLICK ON THE DATES TO VIEW THE DEADLINES

2023 KEY DATES FOR DEFINED CONTRIBUTION CALENDAR YEAR PLANS

HAVING TROUBLE VIEWING? PLEASE [CLICK HERE](#) FOR A VIRTUAL CALENDAR.

So, you are the plan sponsor of a 401K and or Profit-Sharing Plan. An excellent way to attract and retain top talent and receive significant tax deductions for your business! **Please note this is for a December 31st year-end, if your year-end is June 30th add 6 months.**

Maintaining a plan does not need to be overwhelming. We’ve noted some significant due dates below so there are no surprises. While not comprehensive, it includes most responsibilities to keep you informed and on track.

JANUARY						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31	1	2	3	4
5	6	7	8	9	10	11

FEBRUARY						
S	M	T	W	T	F	S
29	30	31	1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	1	2	3	4
5	6	7	8	9	10	11

MARCH						
S	M	T	W	T	F	S
26	27	28	1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	1
2	3	4	5	6	7	8

APRIL						
S	M	T	W	T	F	S
26	27	28	29	30	31	1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	1	2	3	4	5	6

MAY						
S	M	T	W	T	F	S
30	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31	1	2	3
4	5	6	7	8	9	10

JUNE						
S	M	T	W	T	F	S
28	29	30	31	1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	1
2	3	4	5	6	7	8

JULY						
S	M	T	W	T	F	S
25	26	27	28	29	30	1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31	1	2	3	4	5

AUGUST						
S	M	T	W	T	F	S
30	31	1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31	1	2
3	4	5	6	7	8	9

SEPTEMBER						
S	M	T	W	T	F	S
27	28	29	30	31	1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
1	2	3	4	5	6	7

OCTOBER						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31	1	2	3	4
5	6	7	8	9	10	11

NOVEMBER						
S	M	T	W	T	F	S
29	30	31	1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	1	2
3	4	5	6	7	8	9

DECEMBER						
S	M	T	W	T	F	S
26	27	28	29	30	1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31	1	2	3	4	5	6

2023 RETIREMENT PLAN LIMITS

	2021	2022	2023
401(K)/403(B)/457(B) ELECTIVE DEFERRAL LIMIT	\$19,500	\$20,500	\$22,500
CATCH-UP CONTRIBUTION LIMITS (FOR PLAN PARTICIPANTS AGE 50 AND OLDER):			
401(K)/403(B)/457(B) PLANS	\$6,500	\$6,500	\$7,500
SIMPLE PLANS	\$3,000	\$3,000	\$3,500
TRADITIONAL IRA/ROTH IRA	\$1,000	\$1,000	\$1,000
DEFINED CONTRIBUTION PLAN CONTRIBUTION LIMITS (THE MAXIMUM 'ANNUAL ADDITION' IS THE LESSER OF 100% OF COMPENSATION OR THIS DOLLAR AMOUNT).	\$58,000	\$61,000	\$66,000
HIGHLY COMPENSATED EMPLOYEE INCOME LIMITS			
ANY PERSON WHO OWNS MORE THAN 5% OF THE COMPANY OR WHO EARNED MORE THAN THIS AMOUNT IN THE PRIOR YEAR:	\$130,000	\$135,000	\$150,000
COVERED COMPENSATION LIMIT	\$290,000	\$305,000	\$330,000
SIMPLE ELECTIVE DEFERRAL LIMIT	\$13,500	\$14,000	\$15,500
INDIVIDUAL RETIREMENT ACCOUNT (IRA) CONTRIBUTION LIMIT	\$6,000	\$6,000	\$6,500
DEFINED BENEFIT PLAN LIMIT THE MAXIMUM ANNUAL BENEFIT ALLOWED AT SOCIAL SECURITY RETIREMENT AGE IF THE LESSER OF THE HIGHEST THREE-YEAR AVERAGE COMPENSATION OF THIS ADJUSTED LIMIT.	\$230,000	\$245,000	\$265,000
FICA TAXABLE WAGE BASE	\$142,800	\$147,000	\$160,200



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