

2008 JF Actuarial DV Newsletter

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2007/2008 Update

Roth 401(k)

Effective January 1, 2006, a new type of contribution became available. Some of you have already started to deposit Roth 401(k) contributions. The rest of you may add this feature at any time after January 1, 2006. If you are interested in adding the Roth 401(k) feature to your plan, or for more information, please contact JF Actuarial.

Forceout to IRAs

The regulations regarding forceouts to IRAs were effective March 28, 2005 and we now have the capacity to process this type of distribution. If you have not received information regarding setting up accounts with Schwab or have not yet responded, please contact JF Actuarial as soon as possible.

2007 SAS 70 Audit Report

Our 2007 SAS 70 Audit Report is available for review. Please contact JF Actuarial if you would like to receive a copy.

IRS Limits

| | 2007 | 2008 |
|------------------------|-----------|-----------|
| Annual Compensation: | \$225,000 | \$230,000 |
| 401(k) Deferral Limit: | \$15,500 | \$15,500 |
| 401(k) Catch-Up Limit: | \$5,000 | \$5,000 |
| SS Taxable Wage Base: | \$97,500 | \$102,000 |
| 415 Limit: | \$45,000 | \$46,000 |

Section 404(c) – What is it?

Under ERISA, plan fiduciaries (employers and trustees) are responsible for investment results, even if participants direct their own investments. A participant who invests poorly can claim that plan fiduciaries should have overridden his or her bad decisions to prevent the loss.

The Department of Labor issued regulations under ERISA §404(c) in 1992 which can protect plan fiduciaries from liability in these situations. Plans seeking protection under §404(c) must:

- offer at least three diversified “core funds”

spanning a broad range of investment alternatives;

- allow participants to switch investments frequently, but at least quarterly;
- provide participants information on each investment that will allow them to make informed investment decisions.

JF Actuarial provides our plan sponsors with materials to comply with the 404(c) regs, but we rely on plan sponsors to provide participants the following without delay:

- Enrollment kits to new participants
- Quarterly statements
- Fund Fact Sheets once a year
- Prospectuses upon request
- Summary Annual Reports
- Updated Summary Plan Descriptions or Summaries of Material Modifications
- Responses to all inquiries

Please call JF Actuarial if you would like additional information regarding §404(c) compliance.

Deferrals after Severance of Employment



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- Cross-tested Contribution Calcs
- Investment Questions
- Prospective Clients

Clients often ask if deferrals can be made from severance, vacation pay, etc. Previously, there was a large grey area surrounding the issue of contributions after termination. IRS has now established real guidelines with the final regulations issued in 2007.

Amounts received following severance aren't considered compensation. However, IRS has provided exceptions for certain payments made

within 2½ months after severance from employment, or in the year of severance.

- 1) Commissions
- 2) Regular Compensation
- 3) Payment of Overtime
- 4) Bonuses
- 5) Accrued Sick Time
- 6) Accrued Vacation

7) Other Accrued Leave
The criterion is that the money would have been payable or the leave available if employment had not been terminated.

Note: *Severance Pay is not available for deferral.*

Individuals who don't currently perform services due to qualified military leave are exempt from this rule provided the amounts they receive are not greater than what they would have normally received.



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- All other Tax Reporting
- Plan Documents
- New Clients

Cross-Testing/New Comparability

Employees save for their own retirement under 401(k) plans, sometimes encouraged by an employer matching contribution.

Many employers make additional contributions to their plans to attract, retain and compensate high-quality employees. Traditional contribution formulas allocate a flat % of pay to all eligible employees, perhaps with an additional % of pay in excess of Social Security taxable pay. These plans meet nondiscrimination rules without special testing.

But some employers have adopted "cross-tested" or "new comparability" plans that "skew" employer contributions in favor of

certain employees or groups of employees. Employers can contribute a higher % of pay for older employees than for younger employees. Plans of this type may provide a contribution of 5% of pay for younger rank and file employees, while older business owners receive over 15% of pay, if a series of complicated mathematical tests work out.

There are several caveats in the use of these plans:

- The group to be favored must be, on average, older than other employees
- Additional special testing is required
- All normal plan limits on individual contributions remain

in effect (ie. top-heavy, \$225,000 maximum pay, \$45,000 maximum allocation per participant)

- The "gateway" contribution rate for nonhighly compensated employees cannot be less than 5% or, if less, 1/3 of the contribution rate for the highest highly compensated employee

The laws governing these plans are complex.

If you are interested in an illustration for your plan, or for more information regarding "Cross-Testing/New Comparability," please contact JF Actuarial.



Barbara Johnson – DV Supervisor
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- Termination/Distribution Paperwork Requests

Reporting Rehires on the Annual Census

Employees are listed as "terminated" for all kinds of reasons. They've been fired, laid off, quit, or simply left for greener pastures. But on occasion, an old employee will return to you for new employment opportunities.

If an employee is rehired, it's essential that you inform us of this status rather than listing them as active.

If the employee has less than a five-year break in service, we will need to recalculate their vesting.

If the employee has more than a five-year break in service, they begin as a new employee. They will need to meet all eligibility requirements before they can begin participating.

Each rehire requires an adjustment!



Karen West – DV Specialist
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- Web/800# Access Problems
- Mutual Fund Family Correspondence

Loan Payoffs

Many Plans offer participant loans to their employees as part of the Retirement Plan. From time to time participants choose to payoff their loan before the end of the loan term, in order to avoid paying interest. When this occurs, it is very important to contact JF for the exact payoff amount before the participant writes a check to pay the loan off.

This is important because occasionally participants do not follow the loan

schedule exactly. Generally this will occur if the loan payments started with an earlier or later payroll than what was originally specified on the loan schedule; or if a participant did not receive a paycheck for a certain payroll due to sickness or other unpaid leave, and did not make up the payment.

JF tries to ensure that all loans are up to date and suggests that missed payments are made up, but discrepancies do

occur from time to time.

Therefore, when a participant is interested in paying off a loan in full, please contact JF Actuarial with the participant's name and the date of the last payroll in which a normal loan payment will be made. JF Actuarial will then check the participant's account and compare the current loan balance to the original loan schedule and inform you of the exact amount the payoff should be.



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- Self-Directed Accounts
- Annual Testing
- 5500 Reporting

Automatic Enrollment

Many companies have difficulty getting employees interested in the 401(k) Plan that they offer. When employees, especially non-highly compensated employees, are not contributing to the plan, many Plans have problems passing ADP/ACP testing and Top-Heavy testing, which can cause the Employer to make unexpected and costly contributions to the Plan.

Frequently this lack of interest is due to employees not fully understanding the benefits that pre-tax

contributions can offer or because they lose their initial information and forget to sign up.

One solution to the lack of participation is Automatic Enrollment. With Automatic Enrollment, a Plan includes a provision in the Plan that automatically begins a specified deferral percentage upon eligibility into the Plan. Participants may increase or decrease this percentage upon request, but each participant will begin contributing as soon as they are eligible.

These contributions are

deposited in a diversified investment fund which includes both stocks and bonds, such as the Vanguard Wellington Fund until a different election is made at the request of the employee.

Contributions made under this provision would be considered when applying any matching provision under the plan.

Please contact JF Actuarial if you are interested in adding this provision to your plan, or if you have any questions.



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- Vanguard Quarterly Newsletters
- Enrollment Kits
- Contribution Processing



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FAQ



Q. What is a forfeiture?

A. When a participant terminates with less than a 100% vested balance in any Employer money, the unvested portion is called a “forfeiture”. This money is separated from the participant’s account when a distribution is made. The money can then be used for various purposes, depending on the Plan Document.

Q. Who should I contact when a participant wants to change their deferral amount?

A. If an employee wants to change their deferral amount, you need to contact whoever prepares your payroll. JF Actuarial has no control over the actual deferral procedures of your company. However, you should fax JF a copy of the updated amount on a new Enrollment Form.

Q. What is the necessary documentation to prove that a hardship withdrawal satisfies one of the requirements?

A. The amount of documentation required to approve a hardship withdrawal is determined by the Plan Administrator. IRS allows Administrators to rely on an employee’s written representation; but if it is later determined that the distribution was not qualified because it did not meet one of the specific reasons for a Hardship Withdrawal, and was, therefore, a prohibited transaction, the plan could be disqualified.

Q. I reported a termination on my contribution, census, etc., but why hasn’t the account been updated or a termination package sent?

A. Termination requests should be sent separately to JF Actuarial to ensure prompt attention. When a termination is included with other data such as contributions or census, it is more likely that they will be accidentally overlooked due to the sheer volume of data we receive on a regular basis. We do a yearly review of the census at which time we update the records with new and revised data. However, since the time at which we receive the census is extremely busy, this review is usually not done until a few months after the data is received. If you have data which needs to be updated sooner, you can either fax or email us, and we will update the system immediately.

Q. We have a participant that has never contributed before but is receiving a profit sharing contribution/forfeiture allocation. I don’t have an enrollment form completed for them yet, but would like to deposit the contribution. Where will their money be invested?

A. In the past it was acceptable to deposit this type of money in a money market or stable value fund. However, it has recently come to light that these types of funds should be invested in a diversified investment which includes both stocks and bonds, such as the Vanguard Wellington Fund. When this situation arises JF Actuarial will contact you and confirm into which fund the money will be invested for your Plan.



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