

TPS pensioninsider.com newsletter

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ThePensionSpecialists, Ltd.



Restating Your Plan For EGTRRA

Your plan was restated in 2002 or 2003 to comply with the various GUST laws and TPS sent you several mailings to keep clients informed about this process. The IRS has now issued some guidance on the next plan document restatement period referred to as the EGTRRA Amendment Period. Although the IRS has not yet issued exact deadlines for most plans, currently they anticipate most defined contribution plans will need to be restated in 2007 or 2008, and that defined benefit plans will need to be restated in 2009 or 2010. TPS will keep you updated on the progress of this restatement. For more information, refer to IRS Rev. Proc. 2005-16 and Announcement 2004-33.

Preventing Fraud in Retirement Plans

Retirement plans have shown an increase in incidence of fraud and theft. A Department of Labor report for the fiscal year ending September 30 found 1,269 instances of missing 401(k) money, 37 times the number from 1995.

Here are a few recent examples:

Example 1: Compliance officer at Atlanta investment-advisory firm was indicted in January on federal charges of stealing \$5.4 million in retirement savings from 220 workers at a car dealer, two medical practices and an audio/visual specialist. She spent the money on beach houses, a Porsche, a diamond ring, and a 1,600 bottle wine collection. This theft went undetected for 4 years. One of the business owners spotted two suspicious

transactions, and the fraud was uncovered.

Example 2: Lodging & Gaming Systems, Inc of Reno, NV failed to deposit \$237,295 in 401(k) contributions and interest, and used the money to pay operating expenses. The company then filed for bankruptcy protection under Chapter 11. The Department of Labor got involved and is working out a proposal to have these contributions paid back as part of the restructuring process.

Example 3: Office manager for retirement plan in Chicago area who controlled all aspects of plan administration, created fake plan loan documents for various participants, took money out of plan assets, cast as a participant loan, then recast 401k contributions as loan payments on the plan records. The manager retyped participant statements so that the participant did not see the loan on the assets or through their payroll deductions. She embezzled more than \$1 million before being caught.

Administration Services

- Actuarial Valuation
- Government Filings
- Termination Services
- Human Resource Administration
- Payroll Administration

Communication Services

- Group Orientation Meetings
- One-on-One Enrollments
- DOL 404(c) Compliance
- Employee Booklets

Who are the victims?

According to the Association of Certified Fraud Examiners 2004 Report to the Nation Occupational Fraud and Abuse:

- Companies with 10,000+ employees were involved in 13% of cases, with highest median loss of \$105,500
- Companies with 1-99 employees were involved in 46% of the cases and had 2nd highest medial loss at \$98,000

This report also found that 2 key factors contribute to the large losses by small companies:

1. Lack of basic accounting controls
2. High level of trust existing between co-workers in small organizations

The most common method of detection was a tip from an employee.

- 39.6% Tip from employee
- 23.8% Internal audit
- 21.3% By accident
- 18.4% Internal controls
- 10.9% External audit

What are your plan sponsor responsibilities?

- Plan sponsor may be held accountable as fiduciary under ERISA
- Must directly or through plan administrative committee ensure that management has designed and

implemented a quality system of internal controls and that they have appropriate monitoring systems in place to determine if the system operating efficiently

What can you do to prevent fraud?

Some examples of anti-fraud controls that you can put in place are:

- Reconcile employee contributions between payroll and plan records on a periodic basis
- Reconcile plan distributions between 1099R and plan records on an annual basis
- Conduct independent reviews of reconciliations
- Implement user controls in office – i.e. different employee makes payment & reconciles bank statements
- Reconcile plan expenses to related invoices
- Re-compute plan expenses based on service agreements
- Examine employee approvals for plan loans
- Send employee statements directly to home address
- Make sure your fiduciary-liability and fidelity-bond insurance are up-to-date on your plan. Even so, these policies may not cover embezzlement, and usually do not cover all plan assets.

ThePensionSpecialists,Ltd. continually stresses the importance of issues such as those published in this quarterly newsletter. Our specialists make every attempt to share such information directly with our clients through a variety of means including our website and broadcast emails. This newsletter is published as general information and is not intended to constitute legal advice in any manner. Specific information related to this topic can be obtained from the DOL and IRS.

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About ThePensionSpecialists,Ltd.

ThePensionSpecialists,Ltd. is an independent retirement plan administrator. Our mission is to provide the highest quality services to assist clients in reaching their objectives.

Formed in 1987, we have grown to service over 930 employer retirement plans, with services covering over 25,000 plan participants with over \$350 million of retirement plan assets. We consult with clients to implement plans and proactively service them with interactive communication aimed at maximizing

benefits, while solving problems. Our in-house staff performs all plan administration.

ThePensionSpecialists,Ltd. provides services to many well known companies, which include Broker Dealers, Investment Firms, CPA Firms, Law Firms, Medical Groups, hospitals, Engineers and Retail Businesses.

For more information about us, access our website at www.pensioninsider.com, or call us at 815.394.5500, or toll free at 800.963.5501.