

THE ASPPA Journal

ASPPA's Bi-monthly Journal for Actuaries, Consultants, Administrators and Other Retirement Plan Professionals

WASHINGTON UPDATE



Whither Portman-Cardin?



by Brian H. Graff, Esq., APM

As many of you know, Representative Rob Portman (R-OH) will soon be leaving the US House of Representatives (assuming a very likely Senate confirmation) to be the US Trade Representative, which is a Cabinet position. Meanwhile, Representative Ben Cardin (D-MD) recently announced that he is running for the Senate seat being vacated by Senator Paul Sarbanes (D-MD; well known for the Sarbanes-Oxley bill), although he will first have fairly stiff competition just to get the democratic nomination. Saying that their combined presence in the House of Representatives will be sorely missed is an enormous understatement.

For over a decade, Representatives Portman and Cardin (the Portman-Cardin duo, as they have become affectionately

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It's Time for a Little Spring Cleaning

by Chris L. Stroud, MSPA

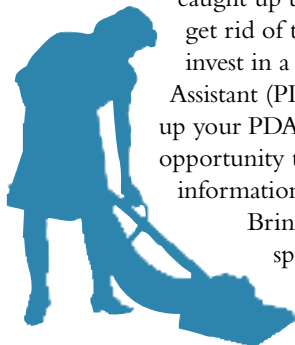
Spring is in the air. The grass is green and flowers are blooming. Somehow, it seems we often have more energy during this time of year. Maybe it's the better weather or that extra hour of sunshine from Daylight Savings Time. Or maybe it's because we made it through March and survived April 15 once again! Whatever the reason, it is therapeutic to expend some of this extra energy on spring cleaning.

Although spring cleaning usually brings to mind scrubbing baseboards and cleaning closets, the truth is that it can take many forms. Spring cleaning can apply to all aspects of your life—your home, your computer, your work, your office, your relationships, your body and your mind.

Spring cleaning often includes “cleaning out” something, and you can use the popular “four box” method. Label four boxes—Pack Away, Throw Out, Give Away and Put Away—and sort items accordingly. (I often have a fifth box—“Ponder.” Of course, when I revisit the “Ponder” box, I find I *can* live without most of the contents, and I end up throwing away or giving away most of the items anyway.) Doing some form of cleaning gives you a real sense of accomplishment, often results in charitable giveaways and can be especially therapeutic after a stressful time.

Most likely, your computer has “closets” that are crying out for some spring cleaning. Set aside some time to purge e-mails and files, organize bookmarks, perform scans and defrags and update software. And, if you haven't totally caught up to the 21st century, get rid of that Rolodex and invest in a Personal Data Assistant (PDA). While setting up your PDA, you'll have a great opportunity to clean out contact information.

Bring some of your spring cleaning energy to work with you. Think about



how you approach certain tasks. Do you have the right software to perform the functions that need to get done? Is it time to make some changes? Are your processes effective and efficient? This issue of *The ASPPA Journal* has a great article, *Compliance Reviews—“Spring Cleaning” in the Retirement Planning World*, that will help you evaluate many of your processes and your clients' processes.

The Japanese have an interesting custom called “oosooji” (the big clean)—a year-end cleanup that applies to home, work, schools, etc. During “oosooji,” co-workers arrive at the office in comfortable clothing, clean and organize their own work area and work together to clean and organize common areas. Employees bring in treats, and a special blend of tea is served. Since late spring and summer tend to be slower times in our business (if there are any slow times any more!), think about planning an “oosooji” day in your office. It's a great way to promote teamwork and to give everyone an opportunity to interact in a stress free environment. Interestingly enough, the Japanese also try to resolve personal issues during “oosooji,” knowing that interpersonal problems with co-workers can make everyone less productive.

Don't forget that just as dirt and clutter build up in our homes and offices, toxins build up in our bodies over time. You can “detoxify” with herbal treatments, massages and other wonderful indulgences. You can also apply the spring cleaning concept to your mind. “Clean out the cobwebs” by letting go of worries, unhappy memories and regrets. Setting aside a little time for self-reflection and self-indulgence can make you a happier and more productive person.

Taking the first step—getting started—is the hardest part of any spring cleaning task. However, once you successfully begin that first task and complete it, the feeling of accomplishment is a great reward.

Good luck! ▲

Letters to the Editor

On *The ASPPA Journal's* New Look

A vast improvement...

Best improvement is that you can read the entire article without “jumping”...feel more “complete” when finished with the entire Journal. Also seems to be a little “cleaner”—not so crammed together...easier to read...more “white space.”

Nice job!

*Randall L. Reese, QPA, QKA
Boulay Financial Advisors, LLC*

Wow!

I just got my latest copy and absolutely love the new look. It's much more professional in appearance and easier to read. The articles were particularly interesting to me in this edition. Congratulations on all your hard work to upgrade our Journal.

*Carol J. Skinner, QPA
Sterling Retirement Plan Services, Inc.*

I think the new format is classy and will be easier to use.

One possible suggestion: three-hole punch it.

*John K. Seymour, MSPA
National Retirement Plan Advisors*

Thanks for your thoughts. We will check into the three-hole punch idea—but I'm not sure it will fly due to use of margins, etc. However, I put each issue in a three-hole punched clear page protector, and store the issues in a binder. Although you have to take the issue out of the page protector to refer to it, it keeps all issues neatly stored in one place and easily accessible. Maybe that could work for you, too.

—Chris

The ASPPA Journal: Past and Present

How do I obtain past and future copies of *The ASPPA Journal*? I recently was advised by another ASPPA member in our office to use this tool to obtain CE credits.

*Leanne M. Stokes, QKA
Ceridian*

The easiest way is to go online to www.asppa.org. After you have logged in, the Members Only section has a link to The ASPPA Journal location of the site. If you scroll down the Journal page, you can either select and pull up PDF files of past issues (and print or save them), you can search for a particular title or author from a past issue, or you can access The ASPPA Journal CE quizzes (worth 2 CE credits per passing quiz).

—Chris



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WASHINGTON UPDATE



known) have been stalwart defenders of the employer-based retirement plan system. Through these leading members of the House Ways and Means Committee, it became well understood that all retirement plan proposals ultimately had to be vetted and funneled through them. Both Chairmen Bill Thomas (R-CA) and his predecessor Bill Archer (R-TX) came to rely principally on Representatives Portman and Cardin to steer retirement policy through the committee. It began with the Small Business Job Protection Act of 1996. For the first time in a long time, Congress passed legislation, developed

by Representatives Portman and Cardin, which actually promoted retirement plan coverage as opposed to imposing new limits on the private retirement plan system merely to pay for other, unrelated tax breaks. Although that bill provided only \$2 billion in tax incentives for the retirement plan system, it represented a significant policy shift in the right direction.

Representatives Portman and Cardin understood a basic premise that, unfortunately, escaped most members of Congress prior to them—that given a voluntary retirement plan system, employers and decision makers, particularly small business owners, need adequate incentives in order to be persuaded to adopt and maintain retirement plans for their workers. They further understood that previous Congressional action to cut various limits, and to sometimes cut them again, only served to reduce these incentives and to make it less likely for employees to be covered by a plan.

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Despite pressures from both sides of the aisle, Representatives Portman and Cardin forged a truly impressive alliance that achieved impressive results.



Rep Rob J. Portman (R-OH)

Most importantly, they realized that employer-based retirement plans were the only effective way to get low-to-moderate income workers to save. Consequently, expanding, not just maintaining, existing retirement plan coverage became a paramount legislative priority for each of them. For example, there have been numerous instances where Representative Portman fought with the House Republican

leadership over the importance of promoting employer-sponsored retirement plans, despite some views that the current system should be abandoned in favor of solely individual savings vehicles (*i.e.*, tax reform).

Years of effort in this regard culminated in the passage of the \$50 billion pension reform package included in the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA). Many people do not appreciate the extraordinary efforts undertaken by Representatives Portman and Cardin to get the pension reform package into EGTRRA. In fact, the Bush Administration initially opposed including the package, due to cost considerations. Despite strong pressure

from the White House, Representative Portman (with Representative Cardin lending support) continued to press for inclusion and ultimately prevailed.

Given the many years that Representatives Portman and Cardin have been working together, the fact that they have achieved their accomplishments on a bipartisan basis is often taken for granted. However, the significance of this should not be overlooked, given the increasingly partisan atmosphere in Congress. Both of them often took a great deal of heat from their respective party brethren. For example, Representative Cardin was frequently chastised by the Democratic Party leadership for “giving the controlling Republicans a bipartisan legislative victory.” At the same time, Representative Portman was certainly not immune from criticism. Conservatives often accused him of “unnecessarily cow-towing to liberal constituencies.” Despite pressures from both sides of the aisle, Representatives Portman and Cardin forged a truly impressive alliance that achieved impressive results. Prior to its ultimate enactment, the pension reform package passed the House several times with more than 400 votes.

If this rhetoric sounds somewhat like an obituary, perhaps that is somewhat intentional. The demise of this effective retirement policy leadership is, without question, a substantial loss. Portman and Cardin will be extremely difficult to replace. Although there are certainly both Republican and Democratic candidates to

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replace Representatives Portman and Cardin as the retirement policy leaders on the Ways and Means Committee, it will most likely take some time before a Republican and Democrat form such a solid partnership. The prospect for a partnership like theirs is made that much more difficult by the very partisan atmosphere that exists today in the House.

Given this void, it is quite possible that leadership on retirement policy issues in the near future, at least from a comprehensive big picture perspective, may shift from the House to the Senate. Fortunately, there are members of the Senate, including Chairman Grassley (R-IA) and ranking Democrat Senator Baucus (D-MT), who have a long history of working on retirement policy issues. They were lead sponsors on the Senate version of the EGTRRA pension reform package, have excellent staff and are great friends of ASPPA. Other key Senators will no doubt play an increasingly larger role in these issues, as well.

From a retirement policy perspective, we have had a great ride over the last decade with Representatives Portman and Cardin at the helm. We will need to forge ahead without their steadfast leadership. The last thing we want is to go back to the days when the employer-based retirement plan system was used as a piggy-bank to pay for other special interest tax breaks. We can assure you that ASPPA's Government Affairs Committee will always be around to make sure that does not happen again. ▲



Rep Ben L. Cardin (D-MD)

From a retirement policy perspective, we have had a great ride over the last decade with Representatives Portman and Cardin at the helm.



Brian H. Graff, Esq., APM, is the Executive Director/CEO of ASPPA. Before joining ASPPA, he was pension and benefits counsel to the US Congress Joint Committee on Taxation. Brian is a nationally recognized leader in retirement policy, frequently speaking at pension conferences throughout the country. He has served as a delegate to the White House/Congressional Summit on Retirement Savings, and he serves on the employee benefits committee of the US Chamber of Commerce and the board of the Small Business Council of America.

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ASPPA, a national organization made up of more than 5,400 retirement plan professionals, is dedicated to the preservation and enhancement of the private retirement plan system in the United States. ASPPA is the only organization comprised exclusively of pension professionals that actively advocates for legislative and regulatory changes to expand and improve the private pension system. In addition, ASPPA offers an extensive credentialing program with a reputation for high quality training that is thorough and specialized.

ASPPA credentials are bestowed on administrators, consultants, actuaries and other professionals associated with the retirement plan industry.

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Compliance Reviews—“Spring Cleaning” in the Retirement Planning World

by Rebecca L. Froberg, QKA

A qualified plan must comply with the terms of the Internal Revenue Code in both form and operation. This statement means the plan has to be written to conform to the requirements of the Code and that the plan’s provisions must be followed.

If ever there was a “golden rule” of plan administration, it is this: *a qualified plan must be operated in accordance with the terms of the plan document.* If a qualified plan is not operated in accordance with these terms, the resulting situation creates what the Internal Revenue Service refers to as an “operational failure.” The IRS may disqualify plans that have operational failures. As pension professionals, we can make a difference in helping avoid such failures by performing periodic compliance reviews. Think of it as a sort of “spring cleaning” for a qualified plan.

A comprehensive compliance review audits the practices and procedures of the plan sponsor, identifies problems and offers solutions. Such an in-depth review should be done periodically since the tax laws change constantly and may necessitate changes in your client’s processes, procedures and/or plan design. It is our job, as pension professionals, to digest the avalanche of information and determine what applies to whom, how it applies and when it applies. Compliance is about developing prudent procedures and then implementing, monitoring and documenting those procedures. Among other things, a thorough compliance review should determine whether:

- Every eligible participant is covered;
- Distributions are calculated correctly;
- Hardship distributions are handled appropriately;
- Spousal consents are properly documented;
- Deductions made on tax returns correspond to contributions made to the trust fund; and
- Investments are proper and accounted for properly.



If a qualified plan is not operated in accordance with these terms, the resulting situation creates what the Internal Revenue Service refers to as an “operational failure.”

Internal Revenue Service Issues

Plan Document

The plan’s documentation is the basis for its compliance with IRS qualification requirements; therefore, it is vital that your files contain a complete copy of the signed and dated plan document and any amendments, together with proof that the document was adopted in a timely fashion. In addition, it is becoming increasingly necessary to keep every iteration of the plan document and the applicable determination letters. In the event of an IRS audit, the chances are quite good that this information will be requested by the auditor.

The plan document should be reviewed to determine compliance with current tax laws. Where operational compliance is in place, as in a remedial amendment period, choices as to operation and administration should be documented so that the appropriate provisions can be incorporated into the plan document at the time of restatement.

If “material” amendments were adopted after the determination letter was issued, a new determination letter might be needed. Remember that “material” is not defined in ERISA or the regulations. The general rule of thumb is that any amendment that changes the contents of the Summary Plan Description is material and must be disclosed. A restated plan is required

to be submitted for a new determination letter if four or more material amendments have been made since the last restated plan was submitted. A plan that is up-to-date with current legislation will have been restated for GUST, will include the CRA amendment, the §401(a)(9) amendment, an EGTRRA amendment and, for defined benefit plans, a GAR amendment.

Eligibility and Coverage

Review procedures for eligibility, coverage and “special status” employees. Although the coverage rules are a longstanding aspect of plan administration, it is still common to see errors. Coverage testing must include all employees of all entities that constitute the employer. It is imperative to ask about controlled groups and affiliated service groups. It is not unusual for a plan sponsor that has made several acquisitions to have the various plans of the group handled by different TPAs. The coverage test must include all employees unless they meet criteria that allows them to be specifically excluded under the Code. Permitted exclusions are: nonresident aliens, employees subject to collective bargaining (assuming the good faith bargaining standard applies) and employees terminated with less than 500 hours (assuming that is the only reason the employee is not eligible for an allocation). Leased employees must be included in the test and must be covered unless the test is otherwise passed. Furthermore, if the profit sharing portion of a plan is a design-based safe harbor, participants who receive only the top heavy minimum contribution for the year are not considered to be “benefiting.” Remember also to disaggregate the 401(k), 401(m) and profit sharing portions of the plan when testing for coverage.

There are two minimum coverage tests under §410(b): the ratio test and the average benefits test. The plan must pass either one of these tests for every plan year. The plan need not pass the same test each year as long as it passes at least one of the tests. *Failure to satisfy one of the tests for a plan year results in disqualification, even if the plan has met the minimum coverage tests in all prior years.*

To determine whether the plan passes the ratio test or the average benefits test, the coverage testing group and the benefiting group must be identified. Within each group, the non-highly compensated and highly compensated employees (HCE) must also be determined. To determine the testing group, start with the total work force for the testing period and subtract the excludable employees. Depending on the plan’s terms, the coverage testing group may include more

employees than are included in the benefiting group (that is, those who are actually benefiting under the plan). If the coverage testing group is greater than the benefiting group, the plan might not pass coverage.

Upon reemployment, pursuant to USERRA, employers must give individuals credit for their military service for purposes of vesting requirements and accruals under any employer-provided retirement plan. Military service may not be treated as a “break in service” for retirement plan purposes.

Nondiscrimination Testing

Review information collecting procedures to determine that the correct information is being gathered. Accurate data is critical to accurate testing. Review the procedures used for nondiscrimination testing, including determining compensation, minimum participation (if applicable), §415 benefit and contribution testing, top heavy testing, minimum coverage testing, ADP/ACP testing and identification of HCEs. The goal of the compliance review is to determine that HCEs are determined correctly, that the correct definition of compensation is used in testing, that the correct employees are included in the testing, that the correct deferral amounts are included in testing and that the correct matching contributions are included in testing.

Also important is the review of refund procedures for excess contributions (and/or excess aggregate contributions) and §415 violations. If there was a correction of excess contributions, review copies of all participant communications regarding corrections, method of correction and copies of checks and Form 1099R as proof of correction. (This review applies for excess aggregate contributions as well.)

There are some top heavy testing issues to note. In a deferral-only 401(k) plan, deferrals by key employees are counted when determining the rate of contributions received by key employees, which determines the top heavy

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minimum contribution. Deferrals by non-key employees do not count when determining the rate of contributions received, which determines whether the top heavy minimum contribution has been met. Therefore, a deferral-only 401(k) plan can require top heavy minimum contributions. Remember also that there is no 1,000 hour requirement for a defined contribution top heavy minimum contribution.

Contribution and Benefit Limits

Review procedures for imposing various IRS contribution and benefit limits including §415 limits, §404 deduction limits, §402(g) \$14,000 elective deferral limit, §414(v) \$4,000 catch-up contribution limit and the §401(a)(17) \$210,000 compensation limit (limits specified apply for 2005 plan years). Also review the application of the plan's contribution formula and allocation formula. Under a defined contribution plan, there are two formulas in the plan that will affect an employee's account balance. One is the contribution formula, by which the employer will determine its annual contribution to the plan. The other is the allocation formula, by which the employer's contribution is allocated to the participants' accounts. If permitted disparity is being used, review whether the requirements have been met.

Review the procedures the employer has in place for transmitting or depositing contributions to the trust. Any timing issues depend on what

type of plan the employer sponsors. For 401(k) plans, review the procedures the plan sponsor has in place to ensure that deferrals are deposited as soon as feasible, but no later than the 15th business day of the month following the month in which the deferrals were withheld. For other types of plans, review the procedures the plan sponsor has in place to ensure that contributions were made to the trust no later than the due date of the employer's tax return (including extensions). For plans where matching and/or profit sharing contributions are made periodically throughout the year, review the amounts contributed to ensure that each employee satisfied the accrual requirements and is actually entitled to the matching contribution; and that the amount contributed actually complies with the formula in the plan. In particular, review whether any cap on the matching contribution and the definition of compensation used to determine the match have been correctly applied.

It is also important to review whether contributions received by the plan agree with the deduction claimed on the employer's income tax return. Check whether there were any contributions made to the plan after the plan year end but before the due date of the employer's income tax return (including extensions of time to file) that are designated as contributions for the plan year for which the return is being prepared. It is also important to cross-check that the contribution amount shown on the Form 5500 agrees with the deduction taken on the company's tax return.

Service Crediting

Review procedures for crediting service for eligibility, participation, vesting, accrual and other purposes, forfeitures/buybacks and breaks in service.

If the plan is using the hours of service method, review the procedures by which hours are counted, identify the period used to count hours and determine which hours are to be counted. If the plan is using the elapsed time method, review the plan to make sure that periods of employment, rather than hours, are being counted. Be especially aware of part-time employees and how they are treated under the terms of the plan.

How a break in service is determined depends on whether the plan uses the hours of service method or the elapsed time method to determine service for eligibility purposes. Review whether the rules as laid out in the plan are being properly applied. Under the hours of service method, an employee incurs a break in service for



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eligibility purposes if he/she is credited with 500 or fewer hours of service during an eligibility computation period. Under the elapsed time method, a break in service is measured as a "period of severance."

Review how service is credited to rehired employees if they are immediately eligible at rehire and whether the "buy back" rules have been properly applied. If a participant returns to covered employment under the plan, he/she must have an opportunity to repay his/her cash-out distribution and "buy back" the forfeited benefit. The right to repay the distribution only applies if the participant returns before incurring five consecutive breaks in service.

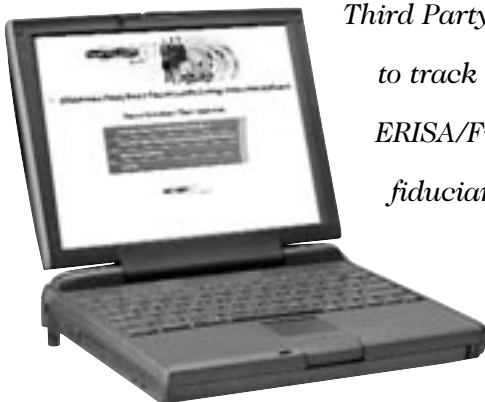
Rollovers

Review procedures for handling incoming and outgoing rollovers (conventional and direct), including the notice requirements, and whether the rollover qualifies as an "eligible rollover distribution." Review the contents of the Pension Rollover Rights Notice and be sure it reflects IRS Notice 2002-3.

All employees, even those with vested benefits of less than \$5,000, must have an opportunity to direct a rollover of their distribution if the distribution meets the definition of an "eligible rollover distribution." In general, an eligible rollover distribution is a distribution that is made in a single sum or a distribution that is made as a part of a series of substantially equal payments that will be completed in less than ten years.

The DOL has issued final rules authorizing the automatic rollover of involuntary cash-out amounts of less than \$5,000. Under the final rules, amounts under \$1,000 may also be automatically rolled. The final rules became effective six months after the September 28, 2004, publication date, which was March 28, 2005. Plans will have to be amended to reflect these new regulations.

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ESOP Requirements

Review procedures for administration of leveraged ESOPs, including allocations, §404(k) dividend rules, etc.

Distributions

When a participant will receive his/her distribution of benefits is determined by the plan terms; therefore, there is no employer discretion as to whether or not a participant will receive a distribution. Areas to be reviewed include:

- **Timing of Distributions:** Timing issues include restrictions on involuntary cashouts and the general requirement to distribute at normal retirement age [§§401(a)(11) and (14)], as well as 401(k) distribution restrictions. Review forms for content, the timing and method of distribution and the appropriateness of the form to the type of distribution. The plan cannot postpone an employee's right to commence benefits beyond the date described in §401(a)(14), but a plan could prohibit the payment of benefits before a participant reaches normal retirement age.
- **Spousal Consent:** The plan must comply with certain notice and consent requirements. Even if the plan is subject to spousal consent requirements, the requirements can be different among participants because of the distribution options available, the value of the vested benefit

and the age of the participant. Spousal consent includes applicable QJSA/QPSA waiver procedures and spousal consent for beneficiary designations. The lack of spousal consent occurs many times because the participant is incorrectly classified as unmarried. Lack of spousal consent can also occur when the plan sponsor does not really understand the terms of the plan or may have inadequate help in administering the plan.

- **Minimum Required Distributions (MRDs):** A compliance review of the procedures for MRDs includes IRS rules for pre- and post-death distributions, determining a required beginning date, the deadline for designating a beneficiary using the correct life expectancy tables, determining marital status, separate account rules and determining the account balance used for the distribution.
- **Special Amounts (“Anti-Cutback” Protection):** Review the administration of accounts, all or part of which (because of the anti-cutback rule) are restricted as to distribution, eligible for distribution under special payment options, subject to special spousal consent requirements, etc.
- **Withholding and Reporting Procedures:** Review withholding procedures and guidelines, including notices and elections, and completion and filing of IRS Form 1099R with the IRS.

On September 28, 2004, the Department of Labor published final regulations affecting the changes EGTRRA made to automatic rollovers of certain mandatory distributions (*i.e.*, “cash-outs”). These regulations are effective for rollovers of mandatory distributions made on or after March 28, 2005. The bottom line is that qualified retirement plans cannot cash out benefits worth more than \$1,000 unless the participant affirmatively elects to receive cash. Without the participant's election, any involuntary distribution must be done as an automatic rollover to an IRA.

The DOL provides four mandatory search methods that must be used by all fiduciaries to ensure that participants receive information regarding their benefits and distribution options. These are considered efficient and relatively inexpensive methods. The mandatory methods are:

1. Use certified mail
2. Check related plan records
3. Check with the participant's beneficiary
4. Make use of either the IRS or Social Security Administration's letter forwarding services [The IRS (www.irs.gov) and SSA (www.ssa.gov) have published guidelines.]

QDROs

Review procedures for determining whether domestic relations orders are QDROs. These procedures must be in writing, be reasonable and provide that each person specified in a domestic relations order will be notified of the plan's procedures for making QDRO determinations. The procedures must permit an alternate payee to designate a representative for receipt of copies of notices and plan information that are sent to the alternate payee with respect to a domestic relations order.

The DOL has indicated that QDRO procedures are not reasonable if they hamper the determination of a QDRO or the distribution of QDRO payments. For example, a procedure that requires a participant or alternate payee to pay a fee, or charges a participant's account to qualify the QDRO, is not reasonable.

Loans

Review procedures for making, documenting and administering plan loans in compliance with IRS rules, including limitations on amounts, tax reporting and restrictions on offsetting account balances. Loans are not protected benefits under Code §411(d)(6).

The plan must permit loans, and loan procedures should be in the plan document or in a separate written loan program. Pay particular attention to whether spousal consent must be obtained and, if it should have been, that it was, in fact, obtained. Also, review whether loans that are suspended have been properly suspended (*e.g.*, due to military leave or unpaid leave) and are accruing interest, and check whether loans are sufficiently collateralized.

Plan provisions or procedures *must* designate a loan administrator, state the basis for denial or approval of the loan, describe limits on types or amounts of any loan, describe permissible collateral and list default events and steps used to execute on and protect collateral. In addition, the plan provisions or procedures *may* provide a "cure" period, permit suspension of payments for unpaid leave or require payment through payroll deduction. Note that in the event a participant files for bankruptcy, payroll deductions must cease. Note also that loan repayments made via payroll deduction are treated as "plan assets" and must follow the same deposit rules as salary deferrals. Also, as part of the loan documentation, for plans with more than 25 loans or plans with five loans secured by a dwelling, a Federal Truth in Lending Notice must be provided to the participant.

If the participant fails to repay an installment when due, the loan becomes a deemed distribution at the time of failure to make the required payment. The Plan Administrator may permit a cure period not later than the last day of the calendar quarter following the quarter in which the default occurred. Check Form 1099R and whether the appropriate amount (unpaid principal and accrued interest at the time of default) was indicated as taxable income. The deemed distribution is subject to the 10% premature distribution penalty and must also be reflected on the 1099R.

Beginning January 1, 2004, in the event a participant who defaulted on a loan and has not repaid the loan (including by offset) wants to borrow from the plan again, any further borrowing will not be treated as a loan unless there is an enforceable arrangement to repay the new loan through payroll deduction or the new loan is adequately secured with property in addition to the account balance. In addition, the deemed distribution affects the calculation of the maximum amount of the new loan. Payment of the deemed distribution is permitted, but not required. Pay attention to how those repayments are treated. They should be treated as after-tax contributions.

The DOL has indicated that QDRO procedures are not reasonable if they hamper the determination of a QDRO or the distribution of QDRO payments.



If the defaulted loan is being repaid via loan offset at the distribution event, the offset should include the amount of the outstanding loan and accrued interest. The taxable amount of the distribution does not include accrued interest on a loan that was previously deemed distributed. Withholding is calculated on the total distribution.

Deemed distributions are not eligible for rollover. Offsets, on the other hand, are eligible if they are not preceded by a deemed distribution. Loans cannot be rolled over to an IRA. Loans can, however, be directly transferred to another plan, provided the recipient plan agrees to accept the loan and the terms remain the same.

Department of Labor Issues

Allocation and Delegation of Fiduciary Authority

Review the plan document, trust agreement and investment policy statement for the allocation of responsibilities among named fiduciaries, trustees and investment managers and for delegations to other fiduciaries, including boards, committees and advisers. While ERISA requires fiduciaries to adopt and adhere to an investment policy, it does not require that this policy be in writing. However, it is prudent for fiduciaries to outline the systematic and disciplined guidelines they employ in selecting and monitoring the plan investments in a written statement to provide the fiduciaries protection from liability resulting from investment losses incurred by the plan (or its participants, if the plan permits participant-directed investments).

Trust and Bonding Requirements

Review compliance regarding the ERISA requirement that plan assets be held in trust, including custody arrangements for international investments, and that all persons handling plan assets are bonded. Review the small plan audit requirements to determine whether the plan can claim the exemption. Another protection available to plan fiduciaries is the purchase of fiduciary insurance. ERISA permits the purchase of fiduciary liability insurance. It is important to know from what source the premium was paid for this insurance. Personal liability cannot be relieved by policies purchased with plan assets.

Recordkeeping

Review recordkeeping practices and procedures for plan and participant-level recordkeeping, records retention policy, documentation of fiduciary decision making and compliance with prohibited transaction exemptions.

Handling of Plan Assets

Review cash flows to identify fiduciary concerns relating, for example, to participant contributions, affecting participant investment elections, correction of errors and “true-ups,” distributions, overdrafts and settlement of investment transactions.

Plan Expenses

Review practices and procedures for payment or reimbursement of plan-related expenses. Procedures should reflect the fact that the IRS issued guidance allowing a reasonable, prorated share of the plan’s administration expenses to be allocated to the accounts of former participants, while choosing to pay the administration expense for active participants. If the plan is using a per-capita method, for example, the burden of proof requirement to be met is that the method is both reasonable and nondiscriminatory. If the Summary Plan Description (SPD) addresses plan expenses, this method should be disclosed in that document, or a Summary of Material Modifications (SMM) should be issued. In addition, any fees charged should be proper plan expenses; fees related to “settlor” functions must be paid by the employer.

Investments

Review investment management and investment advisory arrangements to identify fiduciary concerns relating to such things as brokerage practices, soft dollars, directed commissions and brokerage recapture, valuation practices, participant education, proxy voting and tender offers, employer securities, foreign exchange transactions, performance fees, compliance with prohibited transaction exemptions, etc.

Employer Securities and Real Property

Identify treatment of fiduciary issues arising in connection with investments in qualifying employer securities and real property in both defined benefit and defined contribution plans.

ERISA §404(c) Requirements

If the plan allows participant investment direction, review the structure and its operation for compliance with §404(c) regulations. If the plan is changing asset custodians and funds are mapped, §404(c) protection may be lost. To comply with §404(c), plan sponsors primarily need to meet three minimum requirements: (1) provide participants with at least three diverse, core investment options; (2) let employees make their own choices among the investment options at least once per quarter; and (3) provide legal disclosures and loosely defined access to education.

ERISA §404(c) protection depends to a large extent on the retirement plan’s policies and procedures followed by its administrators, such as prudently selecting and monitoring plan investment alternatives, providing specified information to participants, implementing participant instructions and complying with administrative procedures. The majority of plans that fail to comply with §404(c) fail because they do not comply with these minimum requirements.

Claims Procedures

Review claims procedures for compliance with ERISA §503. A plan must establish and maintain reasonable claims procedures, which must be described in the plan’s SPD; must not be administered in any way that would interfere with making or processing a claim; must permit a participant’s authorized representative to pursue a claim; must inform participants in writing and in a timely manner of the time limits for filing a benefit claim and requesting a review of a denied claim; and must contain administrative safeguards to ensure consistency.

Reporting and Disclosure

Review forms and documents, including Form 5500, SPD, SMM, Summary Annual Report

(SAR) and reports of accrued benefits and account balances, and review plan operations for compliance with these requirements. Of particular importance, 2004 filings may be rejected if they include Social Security numbers on the form or on any attachment that is open to public inspection.

Conclusion

After the compliance review is completed, it is time to sit down with your client and review your findings. If your client has not already done so, in light of your review of the plan, your client may want to adopt an Administration Guide—a written set of practices and procedures designed to ensure compliance with plan qualification requirements. Following set guidelines for even the most mundane practices and procedures will not only help prevent operational failures from occurring, it allows self-correction under the Employee Plans Compliance Resolution System (EPCRS) in the event such failures do occur. The purpose of having an Administration Guide is to provide a checklist that should be followed when performing multiple-step tasks such as enrolling

new participants, processing hardship requests, processing loans and processing distributions. By following such a checklist rather than relying on memory, mistakes are less likely to occur.

The compliance audit procedure is intended to identify most of the compliance issues concerning qualified retirement plans. The procedures will not necessarily identify all such problems, but rather provide a framework that should help to identify obvious problems that might be uncovered during a government audit of a plan. The ultimate goal of a compliance audit is to minimize risk. ▲



Rebecca L. Froberg, QKA, is a certified employee benefits paralegal, having graduated from The Institute for Employee Benefits Training. Becky has 20 years of experience in various aspects of employee benefit plans, including plan design and implementation, ongoing plan administration, financial audit considerations, regulatory compliance and consulting with clients on practical administrative concerns and technical issues. Becky has attained the QKA credential and is currently pursuing the QPA and CPC credentials.

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DOL Speaks

The 2005 Employee Benefits Conference

Luncheon Speaker

Elaine L. Chao, Secretary of Labor



On Tuesday, April 26, 2005, R. Bradford Huss, APM, introduced luncheon speaker, the Honorable Elaine L. Chao, Secretary of Labor. She addressed the challenges of retirement security and supported President Bush's plans to strengthen the retirement security of America's workers. She stated that retirement security is one of the highest priorities of the President's second term. A critical component of his agenda is ensuring that the defined benefit pension system is viable and that the promises made to workers enrolled in these plans are kept. The luncheon was sponsored by Trucker Huss.



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2005 Conference Highlights

William S. Harmon, Bud Scully, Sean P. Kelly, William P. Hicks, Stephen J. Davis, Michael J. Finnegan, Edward O'Neal, Peggy Whitmore and Christopher H. Barlow instructed attendees on how to achieve sales goals during a Wholesalers Workshop.



Nevin E. Adams, executive director of *PLANSPONSOR* magazine and Kristine J. Coffey, CPC, Conference Co-chair, congratulate John B. Mott of Smith Barney. Smith Barney received the *PLANSPONSOR* Retirement Plan Advisor of the Year award.



Robert Ossey, all the way from Australia, taught lessons from "down under" during one of the conference's general sessions.



Keynote speaker Ben Stein addressed the audience on "A Vision for America."



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ASPPA Executive Director/CEO, Brian H. Graff, Esq., APM, presents his always popular and informative Washington Update.

See You
Feb. 26-28 in
Orlando, FL,
at The SUMMIT!



C. Frederick Reish, APM, a member of The 401(k) SUMMIT Steering Committee, spoke during the Fiduciary Issues: Broker vs. Advisor; Co-Fiduciary vs. Alliance Fiduciary session. Fred also presented a congratulatory plaque to Conference Co-chairs Kristine J. Coffey, CPC, and Mark A. Davis.



Members of ASPPA's staff coordinating The 401(k) SUMMIT took a rare break during one of the conference's many activities.



401(k) Advisors USA, gold sponsor, shared a wealth of information in their double-wide booth space.

SUMMIT photos by Chip Chabot

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Thank you to all of the speakers at The 401(k) SUMMIT

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“Demystifying” Church Plans

by Kerry L. Oetting, CPC, QPA, QKA

What is a church plan? At first glance, this question seems like a simple one. Many people would answer, “It’s a retirement plan sponsored by a church, of course!” Unfortunately, as with most things in the pension industry, it is not that simple.

Although qualified under IRC §401(a), a church plan is actually defined under IRC §414(e) and ERISA §3(33) as a plan that is established and maintained for its employees by a church or by a convention or association of churches that are exempt from federal income tax under IRC §501. An organization is associated with a church if it shares common religious bonds and convictions with that church, convention or association of churches. The term “church” also includes a religious order or a religious organization if it is an integral part of a church and is actively engaged in carrying out the functions of the church.

A church-controlled organization may also sponsor a church plan. To be considered a church-controlled organization, the entity must be operated by or have a significant affiliation with a church. This list includes church schools, church-operated tax-exempt hospitals, church-operated nursing homes, etc.

In contrast, a plan is *not* considered a church plan if the plan was established primarily for the benefit of employees who are employed in connection with an unrelated business or trade. In addition, if substantially all of the individuals included in the plan are not employees (or their beneficiaries) of a church, association of churches or a tax-exempt church-controlled organization, then the plan would not qualify as a church plan.

Only employees of the adopting employer may participate in a church plan. Independent contractors may not. Special rules apply to ministers. The term “employee” includes a duly ordained, commissioned or licensed minister of a church, regardless of the source of his/her compensation. Ministers are often self-employed. In this instance, a minister is treated as his/her own employer, earned income is treated as the minister’s compensation and the minister may deduct his/her



Church plans are generally exempt from Title I of ERISA, unless they have specifically elected to be subject to ERISA.

contribution to the church plan. In addition, if a minister is an employee of an organization that is not tax-exempt under IRC §501(c)(3), he/she may be treated as employed by a tax-exempt employer for purposes of church plan eligibility.

Electing vs. Non-Electing Plans

Church plans are generally exempt from Title I of ERISA, unless they have specifically elected to be subject to ERISA. Non-electing church plans are not required to comply with ERISA Title I reporting and disclosure, minimum participation, minimum vesting, benefit accrual, funding, fiduciary responsibility and prohibited transaction provisions. In addition, defined benefit church plans are exempt from ERISA Title IV PBGC coverage provisions.

Plans that elect ERISA coverage are referred to as electing church plans. The election is made under Internal Revenue Code §410(d) by filing a statement indicating the intention to elect ERISA coverage and the effective date of the election. The statement is then included with the plan’s Form 5500 or IRS determination letter request. Once made, the election is irrevocable. There is one exception, however. If the election was made in conjunction with a request for determination and the expected determination letter is not issued, the election may be revoked.

Electing ERISA coverage offers some protection for the plan sponsor and the plan participants. Participants are protected in the event of a fiduciary breach against the plan. Electing church plan assets are protected against creditors in a bankruptcy situation, while unfunded non-electing plans are

Internal Revenue Code:	Requirement:
IRC §72	The rules regarding distribution taxation are generally applicable, including the penalty tax for early withdrawals.
IRC §401(a)(1)	Church plans must be set forth in writing and must be communicated to employees (although for non-electing church plans, the communication requirements are lax in comparison to those of electing church plans). For example, in lieu of a Summary Plan Description, a non-electing church plan sponsor may simply post a notice about the plan on a bulletin board.
IRC §401(a)(2)	If a church plan is funded, then the exclusive benefit rule applies. The plan must be for the exclusive benefit of employees and their beneficiaries. Funding is not required, but is permitted, if desired.
IRC §401(a)(3)	Pre-ERISA coverage rules apply. Generally, at least 70% of all employees must benefit under the plan. Otherwise, the plan must benefit at least 70% of the eligible employees if at least 80% of all employees are eligible to participate in the plan. Coverage requirements for electing church plans differ. (See below.)
IRC §401(a)(4)	Church plans are subject to nondiscrimination testing. This requirement includes §401(k) testing (ADP test) if the plan allows for elective deferrals and also §401(m) testing (ACP test) if employer matching contributions are made to the plan.
IRC §401(a)(5)	Other special nondiscrimination rules apply. For example, church plans that elect not to pay Social Security taxes may not use integrated allocation formulas.
IRC §401(a)(7)	Church plans are subject to pre-ERISA vesting rules. There is no minimum required vesting schedule; however, the plan's vesting schedule may not discriminate in favor of highly compensated employees, officers or shareholders (if applicable). In addition, benefits must become 100% vested at Normal Retirement Age. Upon plan termination or complete cessation of contributions, all funded benefits must become 100% vested. Electing church plans have different vesting requirements. (See below.)
IRC §401(a)(9)	Minimum distribution requirements apply to church plans, although the 5% owner rule does not apply. Thus, the required beginning date is April 1 of the year following either the year in which the participant attains age 70½ or retires (whichever comes later).
IRC §§401(10) and 416	Church plans are subject to top heavy rules.
IRC §401(a)(17)	The compensation limits apply (\$210,000, as indexed for 2005).
IRC §401(a)(25)	A defined benefit church plan must state the actuarial assumptions used to determine optional forms of benefit.
IRC §401(a)(27)	Defined contribution church plans must indicate whether the plan intends to be a money purchase or a profit sharing plan.
IRC §401(a)(30)	The limitation on elective deferral contributions also applies (\$14,000 for 2005, \$15,000 for 2006, etc.).
IRC §401(a)(31)	Distributions from church plans are subject to normal withholding requirements and direct rollover requirements.
IRC §415	Church plans are subject to the limitations on contributions and benefits. In addition, special IRC §415(b) benefit limits apply to defined benefit church plans.
IRC §503	The pre-ERISA prohibited transaction rules apply. A non-electing church plan may lose its tax-exempt status if it engages in a prohibited transaction (although non-electing church plans are not subject to the prohibited transaction excise tax provisions under IRC §4975).
IRC §4974	Failure to make required minimum distributions will result in taxation.

not subject to anti-alienation rules and plan assets may be seized. In addition, ERISA §502 generally restricts court damages to the recovery of benefits due under the plan. Trials are unusual in ERISA cases. In contrast, state law typically applies to non-electing plans. Plan disputes are likely to go to trial when punitive damages and/or compensation for emotional distress may be sought. PBGC insurance coverage is also available for an electing defined benefit church plan, provided that the PBGC premiums are paid.

Despite the advantages of ERISA coverage, most church plans elect not to be covered by ERISA (a.k.a. non-electing plans). The primary reason is because ERISA exemption often leads to cost savings and greater flexibility for the plan. Non-electing plans are not required to file Form 5500 and are not required to provide plan participants with a formal Summary Plan Description. They have more leeway with eligibility and vesting provisions. In addition, non-electing plans are not subject to the ERISA minimum funding rules and non-electing defined benefit church plans are not required to pay PBGC premiums.

Universal Requirements

Many of the statutory requirements that normally apply to qualified plans do not apply or are applied differently to church plans; however, a church plan is still treated as a qualified plan under IRC §401(a), provided it meets certain requirements. The table on the left lists many of the Code sections that apply to both non-electing and electing church plans (unless otherwise indicated).

Although non-electing church plans are exempt from ERISA Title I reporting and disclosure requirements, there are several reporting requirements that still apply. Reporting requirements that apply to both non-electing and electing church plans include:

- **Benefit Statements:** Defined contribution church plans must provide quarterly benefit statements. Defined benefit church plans must provide benefit statements every three years or upon request.
- **Form 945:** Church plans must report income tax withheld from plan distributions.
- **Form 1042S:** Distributions made to certain nonresident aliens must be reported.
- **Form 1099R:** Church plans must report distributions, including direct rollovers from qualified plans.

- **Investment Guidelines Statement:** If a church plan allows for individual participant accounts, participants must receive an investment guideline statement.
- **IRC §402(f) Notice:** Church plans must provide a notice explaining rollover, withholding and tax rules that apply to eligible rollover distributions.
- **IRC §4980G Blackout Notice:** Church plan participants must be notified of a 30-day blackout period (if applicable).
- **Reporting of Survivor Annuity Rules:** Although non-electing church plans are not subject to the survivor benefit requirements, non-electing church plans may opt to provide pre-retirement survivor or joint and survivor benefits. In this instance, the plan may contain participant notification requirements, requiring that participants and their spouses receive written explanation of such benefits. Electing church plans must always provide written explanation of such benefits. [Note: Non-electing plans may remove survivor benefit provisions without violating IRC §411(d)(6) anti-cutback rules.]

Permissible church plan contributions and their corresponding requirements are similar to those of other qualified plans. Church plans may allow employee elective deferral contributions, and catch-up contributions are permitted. Employer contributions are also permitted and are determined by the type of plan that is adopted. Defined contribution plan contributions from all sources cannot exceed the IRC §415(c) limit, which is the lesser of \$42,000 (as indexed for 2005) or 100% of compensation.

Additional Requirements for Electing Church Plans

If a church plan *elects* to be covered by ERISA, the following *additional* qualification requirements apply:

- **ERISA Title I:** Fiduciaries of electing church plans are subject to ERISA Title I rules regarding reporting and disclosure (including the limited completion of Form 5500), minimum participation, minimum vesting, benefit accrual, funding, fiduciary responsibility and prohibited transactions.
- **IRC §401(a)(11):** Distributions are subject to the Qualified Joint and Survivor Annuity (QJSA) requirements. The Qualified Preretirement Survivor Annuity (QPSA) requirements also apply.
- **IRC §401(a)(13):** The prohibition against assignment or alienation of benefits applies.
- **IRC §410(a):** Qualified plan rules for eligibility (generally age 21 and one year of service for employer contributions) apply.
- **IRC §410(b):** Minimum coverage requirements apply, rather than the pre-ERISA coverage rules.
- **IRC §411:** Current minimum vesting requirements apply, rather than the pre-ERISA vesting rules.
- **IRC §411(d)(6):** The anti-cutback rules must be met. Once a benefit has been accrued, it may not be reduced or eliminated.
- **IRC §412:** Electing defined benefit church plans are subject to minimum funding standards.

Many of the statutory requirements that normally apply to qualified plans do not apply or are applied differently to church plans; however, a church plan is still treated as a qualified plan under IRC §401(a), provided it meets certain requirements.

New Legislation

In an effort to increase retirement savings, recently enacted legislation has changed pre-World War II securities laws to allow both electing and non-electing church plans to pool their assets with private and government retirement plans. The Church Pensions Fairness Act amended current law so that church plans may now participate in “collective trusts” in which corporate and other secular retirement plans unite for investment purposes. Collective trusts allow church plans the benefits of collective buying power, making it easier to diversify plan investments and enabling church plans to share transaction costs with other retirement plans.

Conclusion

The relevant rules regarding electing and non-electing church plans contain a lot of information to digest. Pension consultants should note that churches are not limited to only sponsoring church plans. They may also sponsor SEPs (Simplified Employee Pension plans), SIMPLE-IRA plans, SIMPLE-401(k) plans, 403(b) tax-sheltered annuities and Internal Revenue Code §451 nonqualified deferred compensation plans. A church may also sponsor a SARSEP (a SEP that includes a salary reduction agreement), provided that the plan was in existence prior to July 1, 1986. Churches and church-controlled organizations that want to sponsor a retirement plan have many options to consider before selecting the appropriate plan. ▲



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A Guide to Interest Rates for Defined Benefit Plans

by Charles Stipelman, FSPA

Since the dawn of civilization, great minds have pondered many complex thoughts. What is the meaning of life? Is there a God? If these great thinkers were around today in the defined benefit world, one question would be “What interest rate is being used for my defined benefit plan?”

The fact that there is no single correct answer to this question is often the basis of much confusion. There are many different areas in which interest rates are associated with defined benefit plans. The most important ones to note are:

- Pre-Retirement
- Post-Retirement
- Actuarial Equivalence
- Funding
- Termination Liability
- PBGC Liability
- Current Liability
- Deficit Reduction Contribution
- Quarterly Funding Penalty
- FASB Reporting

Some of these interest rates are set forth in the plan document and can only be changed by amendment. Others are published by the IRS and other agencies, are variable and are applied at specific times. Some can be changed without amendment or notice. This article will examine the uses of the various interest rates and how they are determined.

Treasury rates of varying durations, averaged and/or weighted, as well as corporate bond rates are the basis for determining many of these interest rates. At the end of this article, there is a copy of the March 29, 2005, *ASPPA asap* Government Rates Summary (referred to as GRS). This summary is published quarterly by ASPPA and contains 11 numeric columns illustrating various interest rates as published by the PBGC and the IRS. Where applicable in this article, the corresponding GRS column is noted.

Pre-Retirement

The **pre-retirement interest rate** is the discount or accumulation rate used to calculate liabilities and/or costs. It is measured from a given point



in time to a retirement date. The lower the interest rate, the greater the liability—and vice versa. For example, the present value of \$100,000 at age 65, determined at age 40, at a rate of 6% would be \$23,300. The annual contribution required to fund \$100,000 at age 65, starting at age 40, would be \$1,720.

Post-Retirement

The **post-retirement interest rate** is the discount or accumulation rate commencing at a retirement date over a specific future length of time or the participant's life expectancy. This rate is used in conjunction with a mortality table. For example, the 1994 Group Annuity Reserve Table (GAR) would produce an Annuity Purchase Rate (APR) factor of 130.398 to produce a \$1 monthly pension (life annuity) commencing at age 65, assuming a 6% future rate of return. Similarly, a 5% future rate of return would produce an APR factor of 141.539. The lower the post-retirement interest rate, the greater the liability and the associated annuity factor.

Actuarial Equivalence

Actuarial equivalence is defined in the plan document. It is a means of determining comparable benefits under different payout structures. The specific pre- and post-retirement interest rates are specified along with the use of any mortality tables. As a hypothetical example, the plan may state that equivalent benefits are determined by using a 6% pre-retirement interest rate and a 5.5% post-retirement interest rate. As an example, if the normal form of benefit under the plan is a life annuity (payable for the life of the annuitant,

ceasing at death), then a \$1,000 monthly benefit may have as an “actuarial equivalent” a lump sum of \$125,000 or a ten-year certain and life annuity of \$960 per month. Any change in the equivalence rates requires a plan amendment and consideration as to protected benefits should the change produce lower benefits.

Funding

Funding rates are chosen by the Enrolled Actuary with the acceptance of the plan administrator and/or sponsor. These are the rates used to determine the annual contribution. They may differ from the actuarial equivalence rates after considering current investment returns and the degree to which the sponsor wishes to maintain the plan’s funded status. These rates can be changed periodically without plan amendment as they have no impact on the actual value of the benefits to be paid (payment of benefits, as previously noted, depends on actuarial equivalence rates). For example, a plan may use an interest rate of 7% for actuarial equivalence and a funding interest rate of 5.5%, which is more conservative and would allow the plan to accumulate some excess assets.



Termination Liability

When a **participant terminates employment** or when the **plan itself terminates** and there is a lump sum payout option, two calculations are required. First, the benefit is determined by using the actuarial equivalence rates specified in the plan. A second calculation is performed using an average **30-year Treasury securities rate**. This rate, often referred to as the “GATT rate,” is published monthly by the IRS in accordance with IRC §417(e)(3). [See GRS, column 4.] The participant is entitled to the greater of the two results. This rate can be determined as of the last day of the plan year preceding the year in which the distribution is made, or the calendar quarter or the month. Please note the following example for a plan that contains three participants, with a normal retirement age of 65:

<u>Current Age</u>	<u>Accrued Benefit</u>	<u>Present Value-Plan</u>	<u>Present Value-§417(e)(3)</u>
25	\$500	\$6,339	\$10,730
40	\$2,500	\$75,956	\$109,322
55	\$4,000	<u>\$291,254</u>	<u>\$356,425</u>
		\$373,549	\$476,477

In this example, the plan rate is based on a 6% pre- and post-retirement rate and the 1994 GAR unisex post retirement mortality table. The §417(e)(3) interest rate is the 30-year Treasury securities rate in effect on December 31, 2004, which was 4.86% (APR factor of 143.221). These values assume that distributions will be made sometime in 2005.

As you can see, the liabilities under the §417(e)(3) rates are significantly higher. Let us assume that the plan had \$400,000 of assets. The employer would be content to know that the plan assets exceed its liabilities. Unfortunately, if the plan were to terminate, it would actually be significantly underfunded. This situation creates timing problems with respect to payments.

The plan rate is essentially a guaranteed minimum, while the §417(e)(3) interest rate liability fluctuates. Expanding our example, if the §417(e)(3) rate increased to 5.5% (APR factor of 135.759), the liabilities would decrease to \$414,884. This example points out the fragility and volatility of how a plan appears to be funded. The fluctuation of the §417(e)(3) interest rates actually contradicts the basic concept of a defined benefit plan, which is that benefits should be definitely determinable.

Theoretically, Employee A and Employee B, who are the same age, can both have vested accrued benefits of \$2,500 per month at age 65 with present values of \$75,000 as of a given date. If Employee A is paid out in a given month, he/she could be entitled to a §417(e) payout of \$109,000. If Employee B is paid out two months later, he/she could receive a benefit of \$100,000 because the §417(e) rate in effect was higher at that time, yielding a lower payout.

The fluctuation of the §417(e)(3) interest rates actually contradicts the basic concept of a defined benefit plan, which is that benefits should be definitely determinable.

PBGC Liability

The **PBGC variable rate premium** is determined by taking 85% of the previous month's **Composite Corporate Bond Rate**. This rate is used to determine the vested liabilities and, subsequently, the annual premium. [See GRS, column 3.] For example, the PBGC interest rate of 4.73% for plan years commencing January 1, 2005, was determined by taking 85% of 5.57%, which was the previous month's Composite Corporate Bond Rate. If the PBGC interest rate is lower than the plan's equivalence rate, the PBGC liability will be higher than the plan liability, but may or may not be higher than the termination liability.

Current Liability and Deficit Reduction Contributions

The **four-year weighted average Treasury rate**, which is an average determined by using a weighting factor of 4 for the most recent year, and weighting factors of 3, 2 and 1 for the preceding prior years, is used in determining the **Current Liability rate** and **Deficit Reduction Contributions rate**.

Current liability is a measure used to determine minimum allowable deductible contributions and determine the plan's funded status in the event of an early termination or distribution to a highly compensated employee. The current liability is the present value of the accrued benefits calculated by using the specific required interest rate.

There is a range of interest rates that can be used for specific circumstances. The **minimum current liability interest rate** is 90% of the aforementioned four-year weighted average Treasury rate. [See GRS, column 6.] An interest rate up to 105% can be used for **deductibility limits**. An alternate calculation of 90% to 100% of the **weighted composite corporate bond rate** can be used to determine the minimum interest rate. [See GRS, column 5.]

The lower the current liability interest rate, the higher the current liability will be and, therefore, the higher the "full funding limit." The current liability full funding limit determines the maximum allowable contribution. It is calculated by taking 90% of the current liability and subtracting the plan's adjusted assets. The **maximum current liability interest rate**, which is used for minimum funding purposes, is also a function of the four-year weighted average rate. The current multiple is 120%. [See GRS, column 6.] Defined benefit plans with more than 100 participants are subject to a potential additional contribution known as the **Deficit Reduction Contribution**. The current liability rate determined by the composite corporate bond rate is used to compute this liability.

Other Liabilities

The **Federal Mid-Term Rate**, which is usually announced in the latter part of each month and applies to the plan year beginning in that month, is used to determine several different liability measurements. **120% of the rate** is used in the **determination of accumulating employee contributions**. **150% of the rate** is used for the **Funding Standard Account of the Schedule B with respect to waived contributions or amortization period extensions for non-multi employer plans**. **175% of the rate** is used for the **late quarterly contribution penalty calculation**. [See GRS, columns 8-11.]

FASB Reporting

Companies often report their plan liabilities for their balance sheets based on **Federal Accounting Standards Board (FASB)** guidelines.

Government Rates Summary as published by ASPPA, March 29, 2005

Month	PBGC Interest Rates			IRS Interest Rates							
	Immediate i_1 i_2 i_3 Calculating Lump	Var. rate premium, single-emp. plans	30-year Trs. Sec. Rate [417(e)(3)-GATT Rate]	Current Liability Permissible Ranges				Federal Mid-Term Rates (Annual)			
				90-100% Notice 2004-34	90-105% Jan 2004 – present	90-110%	90-110%	100%	120%	150%	175%
May 03	3.50	4.00	4.90	4.53	6.25-6.94	4.89-6.52	4.89-5.97	3.17	3.82	4.79	5.59
Jun 03	3.50	4.00	4.53	4.37	6.19-6.87	4.85-6.46	4.85-5.93	3.06	3.68	4.61	5.39
Jul 03	3.00	4.00	4.37	4.93	6.12-6.80	4.81-6.41	4.81-5.87	2.55	3.06	3.84	4.48
Aug 03	3.00	4.00	4.93	5.31	6.08-6.75	4.78-6.38	4.78-5.85	2.70	3.25	4.06	4.74
Sep 03	3.50	4.00	5.31	5.14	6.05-6.72	4.77-6.37	4.77-5.84	3.43	4.12	5.17	6.04
Oct 03	3.50	4.00	5.14	5.16	6.01-6.68	4.76-6.35	4.76-5.82	3.65	4.39	5.50	6.44
Nov 03	3.25	4.00	5.16	5.12	5.97-6.63	4.75-6.33	4.75-5.81	3.32	3.99	5.00	5.84
Dec 03	3.25	4.00	5.12	5.07	5.93-6.59	4.74-6.32	4.74-5.79	3.55	4.26	5.35	6.25
Jan 04	3.25	4.00	4.94	4.98	5.89-6.55	4.72-5.51	4.72-5.77	3.52	4.23	5.31	6.20
Feb 04	3.25	4.00	4.83	4.93	5.85-6.50	4.70-5.49	4.70-5.75	3.44	4.13	5.19	6.06
Mar 04	3.00	4.00	4.79	4.74	5.81-6.45	4.69-5.47	4.69-5.73	3.34	4.01	5.03	5.87
Apr 04	3.00	4.00	4.62	5.14	5.76-6.40	4.67-5.44	4.67-5.70	3.15	3.80	4.76	5.56
May 04	3.00	4.00	4.98	5.42	5.73-6.36	4.65-5.43	4.65-5.69	3.16	3.81	4.77	5.58
Jun 04	3.50	4.00	5.26	5.41	5.70-6.34	4.65-5.43	4.65-5.68	3.89	4.67	5.86	6.85
Jul 04	3.50	4.00	5.25	5.22	5.69-6.32	4.65-5.43	4.65-5.69	4.11	4.94	6.20	7.25
Aug 04	3.50	4.00	5.10	5.06	5.66-6.29	4.65-5.42	4.65-5.68	4.00	4.81	6.03	7.05
Sep 04	3.25	4.00	4.95	4.90	5.63-6.25	4.64-5.41	4.64-5.67	3.84	4.61	5.78	6.76
Oct 04	3.00	4.00	4.79	4.86	5.59-6.21	4.62-5.39	4.62-5.65	3.62	4.36	5.46	6.38
Nov 04	2.75	4.00	4.73	4.89	5.56-6.17	4.61-5.38	4.61-5.63	3.55	4.26	5.35	6.25
Dec 04	2.75	4.00	4.75	4.86	5.52-6.14	4.60-5.37	4.60-5.62	3.56	4.28	5.37	6.28
Jan 05	3.00	4.00	4.73	4.73	5.49-6.10	4.59-5.35	4.59-5.61	3.76	4.53	5.68	6.64
Feb 05	3.00	4.00	4.66	4.55	5.46-6.07	4.57-5.33	4.57-5.59	3.83	4.60	5.77	6.74
Mar 05	2.75	4.00	4.56		5.43-6.03	4.55-5.31	4.55-5.57	3.83	4.60	5.77	6.74
Apr 05	2.75	4.00						4.09	4.92	6.17	7.22

The determination of the liabilities is not subject to Internal Revenue Code requirements. The interest rates used do not have to be the same rates used in the plan. Often different rates are used to calculate liabilities under FASB than those used for projecting plan asset returns. These rates can change from year to year as decided upon by the sponsor and the actuary.

The unfunded liability under plan rates or termination rates that may determine contribution levels is *not* the liability reported on the company's balance sheet. A special liability known as an **Accumulated Benefit Obligation (ABO)** is determined under actuarial methods and interest assumptions that may be entirely different than those used in the plan. Other components of the FASB report involve comparisons between projected liabilities and asset growth with the actual figures. Again, the rates used in determining these results can vary from year to year and do not have to correspond to the plan equivalence or funding rates.

Conclusion

It is easy to see that there are many interest rates associated with defined benefit plans. Just like the philosophers of old who pondered issues and reasoned answers with contrasting results, the current day "actuarial equivalence" of these philosophers in the defined benefit world, today's actuaries, must do the same with respect to interest rates! ▲

Charles Stipelman, FSPA, is an Enrolled Actuary and president of CMS Pension Associates, Inc., an actuarial consulting firm in New Jersey. Charles is a former Chairman of the Education and Examination Committee and was co-author of the original Part 1 Study Guide.



Results from the 2004 Membership Survey

by Stephen H. Rosen, MSPA, CPC

In November 2004, ASPPA conducted a membership satisfaction survey. The results of the survey indicate that our members remain very pleased with our organization and its programs and services. Our Government Affairs program received the highest rating. The other critical part of our mission, education, also had extremely high satisfaction ratings. We feel confident that the results show that we are providing educational products and services that positively affect the day-to-day work that our members perform. The satisfaction with our educational products runs the gamut from the Education & Examination (E&E) program, to conferences, webcasts and *ASPPA asaps*.

Consistent with previous surveys, ASPPA members think that ASPPA membership is a very good to excellent value for their investment and find ASPPA credentials to have a perceived high value in the industry and to the public. Members also want to continue receiving printed copies of the *ASPPA Yearbook* and *The ASPPA Journal*.

Specific questions regarding defined benefit plans were coordinated with the American Academy of Actuaries (AAA), the Society of Actuaries (SOA) and ASPPA's own E&E Committee. We involved our sister organizations and E&E in the survey in order to have a clearer picture of what additional programs and services were needed for our members who deal with defined benefit plans. The vast majority of responses to the defined benefit portion of the survey (71%) were received from actuaries who are members of ASPPA only, so ASPPA received a very clear picture of the programs and services that our actuarial members find most important.

ASPPA's Board of Directors now plans to analyze and utilize this information in order to better meet the needs of those members who provide services for defined benefit plans. It is important that members of our actuarial component help to identify and achieve the initiatives that are most important to actuaries.

More than half (53%) of the total membership responses indicated an interest in defined benefit plans. More than half of the responses (51%) indicated an interest in more education and training

in the defined benefit area. The responses were also fairly evenly split between the importance of large plan issues (48%) and small plan issues (52%).

These results leave us with some interesting questions, such as:

- What should ASPPA's educational program for defined benefit plans look like?
- Should ASPPA develop a series of webcasts that focus solely on defined benefit issues?
- Should ASPPA develop an additional credential for non-actuaries who deal with defined benefit plans and, if so, at what level?
- Should we have more actuarial sessions at our conferences?
- Should we hold review sessions for the actuarial exams at our conferences?
- Should we also begin to focus on large plan issues as part of our program services?

ASPPA has committed to holding an actuarial conference in 2006 that will focus on advanced, technical issues. Watch *The ASPPA Journal* and the ASPPA Web site for more information about this new conference.

The survey results were presented at the March Board of Directors meeting. The Board and many of our committees, primarily E&E, Conferences and our newest committee, the Actuarial Issues Committee, have begun discussing the survey results and where we go from here. I am very interested in your responses to the questions in this article and in your opinions on this topic in general. Please send your feedback to srosen@asppa.org. Each and every e-mail will be reviewed as we set the direction for the future. ▲

Stephen H. Rosen, MSPA, CPC, is an independent consulting actuary specializing in the design and implementation of employee benefit plans. He is president of Stephen H. Rosen & Associates, Inc., an employee benefits consulting firm in Haddonfield, NJ. Steve is President of ASPPA, an Enrolled Actuary and a Member of the American Academy of Actuaries. He has served as president and chairman of the board of the ABC of the Delaware Valley and is the former Chair of ASPPA's ABC Committee. Steve has lectured at several actuarial conferences, including the Enrolled Actuaries Meeting and ASPPA's Annual Conference.

WELCOME TO ASPPA PAC!



ASPPA's Political Action Committee (ASPPA PAC) is proud to have welcomed these new members in 2004.

- | | |
|---------------------------------------|----------------------------|
| Robert J. Bessen, MSPA | Daniel G. Kravitz |
| Mary Lou Betts, QPA | Bruce Lahti, APM |
| William H. Blount, MSPA | A. Michael Marx, APM |
| Karen Botvin, QPA | Kathleen Matthews |
| Beverly Campbell | Andrea K. McLane |
| Marilyn A. Champion, QPA | Michael F. Morris, MSPA |
| Richard N. Carpenter, CPC | Laura S. Moskwa, CPC, QPA |
| Christopher A. Colwell | Kevin H. Palm, MSPA |
| Francis M. Conway, MSPA | Sadie S. H. Pourfathi, QPA |
| Edward T. Dillon, QKA | Lawrence B. Raymond |
| William R. Downey, MSPA | Daniel M. Reser |
| Thomas J. Finnegan, MSPA,
CPC, QPA | Lisa M. Robertson, QKA |
| Kathleen Gnash, QKA | Gary R. Saake |
| Gary Gurman, QPA | Joan E. Scherer, QPA, QKA |
| Kenneth G. Ingham, MSPA | Ralph W. Shaw, CPC |
| Michael P. Jewer, CPC, QPA | Martin H. Smith, MSPA |
| Panayotis P. Koumantaros | Harry Veldkamp, QPA, QKA |
| | Peter M. Zebot |

ASPPA PAC members know that the PAC is working for them by sending a message to federal candidates that the congressional outcomes of pension issues are important to ASPPA's members, which in turn increases the power of membership in ways that ASPPA alone never could. ASPPA PAC opens the door.

For information on how you can join, contact Jolynne M. Flores, ASPPA PAC Manager, at jflores@asppa.org, 703.516.9300 or go to www.asppa.org/government/gov_pac.htm.

Only ASPPA members may join ASPPA PAC. Contributions to political action committees are not deductible for federal income tax purposes. Federal law requires political action committees to report the name, mailing address, occupation and name of employer for each individual whose contributions exceed \$200 in a calendar year. This list is a partial listing and only includes those who have given permission to use their names.

Nominations Open for ASPPA's Board of Directors

Nominations Deadline August 30, 2005

For ASPPA to continue to be the effective organization that it is, active participation by all of its credentialed members is essential. It is important that the ASPPA Board of Directors be made up of a broad mix of individuals so that the needs and concerns of all committees, credentialed members, types and sizes of firms, geographical locations, etc., are well represented.

If you know a credentialed ASPPA member who would be a valuable addition to ASPPA's Board of Directors, now is the time to begin the nomination process. Many criteria are considered in choosing potential Board members, including: professional credentials, historical involvement on ASPPA committees, prior input into ASPPA committees and industry activities, leadership abilities, commitment to ASPPA and the industry and time availability for volunteer activities.

To be considered for a place on the ASPPA Board of Directors, a nomination form must be submitted at least 60 days prior to the annual ASPPA Business Meeting, which is held at the ASPPA Annual Conference each year.

A nomination form is included in this copy of *The ASPPA Journal* and is also available on the ASPPA Web site at www.asppa.org/forms/boardnomform.htm. It is strongly encouraged that you actively participate in this important process.



2005 ASPPA Benefits Councils (ABC) Leadership Conference

by Barry Max Levy, QKA

Each year the ABC Committee hosts the ABC Leadership Conference. The conference provides ABC leaders with the opportunity to meet, share ideas, discuss issues and create solutions unique to their ABCs.

The conference provides a forum to review and reinforce the collaborative effort between ASPPA and the ABCs, while also opening up discussions as to what is new at ASPPA.

This year's ABC Leadership Conference was held in beautiful San Diego and was kicked off with a lively cocktail reception. Following the ASPPA Board of Directors meeting, the Saturday reception brought together the ASPPA Board members and ABC leaders for some friendly mingling. There were new faces this year, and we were excited to welcome the following ABC representatives to the annual show: Frank Bitzer from the ABC of Greater Cincinnati, Government Relations Chair; Randall J. Crouch, CPC, QPA, QKA, from the ABC of Northern Indiana (Fort Wayne), President; Marcia Gady from the ABC of Central Florida (Orlando), ASPPA Liaison; Sadie Gensler-Hooker, CPC, QPA, QKA, from the ABC of the Texas Gulf Coast (Houston), President; Peter A. Kneeder, CPC, QPA, from the ABC of North Florida (Jacksonville), President; Kenneth

Marblestone from the ABC of the Delaware Valley (Philadelphia), Programs Chair; and Sally J. Zavattari, FSPA, CPC, from the ABC of Dallas/Ft. Worth, President.

Also new to this year's event were a couple of members from our ABC Mentorship Subcommittee: Donna Brewster, QPA, and

Rebecca L. Hummer, CPC, QPA. Robyn Morris, the Subcommittee Chair, was also in attendance in a dual role as an ABC Committee member. ABC mentors are charged with assisting ABCs, new and old, in their ABC operations, primarily with their quarterly financial filing. During the conference, they met with their assigned ABCs to touch base and see how things were going.

As part of the fun at the reception, the ABCs were encouraged to decorate their tables with their city's theme. ABC of South Florida's table was all about sun and beach fun, but also included a boarded model home, highlighting the consequences of the tremendous hurricanes the state endured last season. The ABC of Greater Cincinnati showcased a historical remembrance of that state's baseball past and present. Rounding out the reception was the raffling of several prizes. ABC of Northern Indiana president, Randy Crouch, won the grand prize of a free ASPPA Web course, while Board member, Laura S. Moskwa, CPC, QPA, won a grand prize of a free ASPPA webcast.

We opened the Sunday conference with the introduction of the ABC Committee Co-chairs, Jane Grimm, ASPPA Chief Programs Officer, and myself. Stephen H. Rosen, MSPA, CPC, ASPPA President, greeted the ABC leaders with the announcement of a new directive for the ABCs—to help with ASPPA membership recruitment. Identified as distribution channels, the ABCs are in an excellent position to talk about and promote the benefits of ASPPA membership at their meetings. Currently, the ABCs effectively promote benefits at the local level by offering continuing education opportunities and often host nationally known speakers, such as Brian H. Graff, Esq., APM, ASPPA Executive Director/CEO, and Sal L. Tripodi, APM, ASPPA Vice President.



The ABC of South Florida display table depicted memories of the 2004 hurricane season.

As one of three guest speakers, Pecanne Jennings, ASPPA Chief Marketing Officer, spoke further about this new directive in her presentation. She shared with the conference attendees a tool that will be made available to the ABCs to present at ABC meetings. Pecanne presented a PowerPoint document that walked attendees through ASPPA's mission, which includes educating retirement plan and benefits professionals. This tool, while a work in progress, is primarily an introduction piece to encourage ASPPA membership.

Joan A. Gucciardi, MSPA, CPC, ASPPA Secretary, and former chair of E&E, also spoke to the attendees on a new educational resource, ASPPA's Web courses. She presented a sample Web course, complete with audio. Sal L. Tripodi, APM, also joined the group and spoke about the Government Affairs Committee's (GAC) latest initiatives.

The afternoon portion of the conference centered around ABC best practices, including discussions on ABC board succession and planning, membership recruitment and retention and conference/workshop program and planning. This time allowed attendees to share ideas that are working and not working for their ABCs.

In the end, comments received from our ABC leaders included positive remarks about the conference and the cocktail reception, where they had the opportunity to meet the ASPPA Board of Directors and have discussions with their counterparts. The conference sparked future and ongoing discussions with the ABC leaders as to how to better support their operations to include talking about ASPPA membership and providing further resources. Equipped with the learning experience from this year's conference, the ABC Committee looks forward to planning next year's event!

ASPPA Benefits Councils (ABCs) are local affiliates of ASPPA and are established in 14 cities around the country: Atlanta, GA; Chicago, IL; Greater Cincinnati, OH; Cleveland, OH; Dallas/Ft. Worth, TX; Ft. Wayne, IN; Ft. Lauderdale, FL; Houston, TX; Jacksonville, FL; New York, NY; Orlando, FL; Philadelphia, PA; Pittsburgh, PA; and Seattle, WA. The ABCs are dedicated to serving local employee benefits, pension and retirement plan professionals. ABCs also offer continuing education credits and networking opportunities to their members and other interested professionals. ▲



Barry Max Levy, QKA, is a pension consultant and president of Levy & Associates. Barry has been recognized in federal and state courts as an expert in the area of qualified retirement plans. Barry currently serves on ASPPA's Board of Directors. He is currently president of the ASPPA Benefits Council (ABC) of South Florida, Co-chair of the ABC Committee, a member of ASPPA's GAC, ASPPA's Management Team (AMT) and ASPPA's

Annual Conference Committee.

If your pension education needs are not being met in your geographical area and you are interested in forming an ABC, please contact the ABC Coordinator at abc_coordinator@asppa.org for further information. Developing and working with a local ABC is an excellent opportunity to become a local ASPPA volunteer and hone your leadership skills. The road to ASPPA leadership often includes a path through a local ABC.



ABC Meetings Calendar

June 16

ABC of Greater Cincinnati

Topic: Washington Update
Speaker: Brian H. Graff, Esq., APM,
ASPPA Executive Director/CEO

June 23

ABC of Western Pennsylvania

Topic: Orphan Plans and 412(i) Plans
Speakers: David Lipkin, MSPA, and
Michael Lloyd

June 30

ABC of the Delaware Valley

Topic: Recent Court Cases
Speaker: Alex M. Brucker, APM

July TBD

ABC of Atlanta

Topic: Plan Audit Requirements and Issues
Speaker: Barry Klein

August 23

ABC of North Florida

Topic: Retirement Plan Design
Speaker: Thomas E. Poje, CPC, QPA, QKA

August 24

ABC of Dallas/Ft. Worth

Topic: Proven Marketing Methods to Build Your
401(k) Business
Speaker: Tom Foster

September TBD

ABC of Atlanta

Topic: Retirement Plans for Non-Profit
Organizations [403(b) and 457]
Speakers: H. Earle Garvin, MSPA, and John D.
Hartness, APM

September TBD

ABC of Greater Cincinnati

Topic: Current Issues Regarding Plan Audits
Speaker: Local DOL Representative

September 15

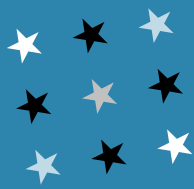
ABC of Western Pennsylvania

Topic: SEPs & SIMPLEs
Speaker: Gary S. Lesser

September 22

ABC of Northern Indiana

Topic: Washington Update
Speaker: Brian H. Graff, Esq., APM,
ASPPA Executive Director/CEO



ASPPA Thanks 2003 Capitol Hill Visitors

Kent Abbey
Thomas R. Ackmann
Robert N. Adams, Jr.
Robert Allen Albee
Lisa A. Allen, QKA
Robert Stan Anthis, QPA, QKA
Lori E. Augustin
Burl V. Bachman, MSPA
Michael L. Bain, MSPA
Jackie H. Banner
Donald A. Barnes, FSPA
Kenneth L. Barton, CPC, QPA
Randolph B. Bernard, CPC
Richard L. Billings, CPC, QPA
David M. Block, MSPA
Perry G. Bloom, CPC
Gary S. Bowen, QKA
Jeffrey A. Brown, QPA
Thomas A. Brown
Allan D. Browns, QPA, QKA
Jennifer L. Bufo, QPA
Robert C. Burleigh
Michael E. Callahan, FSPA, CPC
Jeffrey C. Chang, APM
Kimberly J. Cochrane, QPA
Stacy M. Coffee
Steven D. Cooper, QPA
Carolyn A. Cull, MSPA
Richard M. Curtin
Kim Anh T. Dang, CPC, QPA, QKA
Lawrence Deutsch, MSPA
Scott Donnellan, CPC, QPA, QKA
Mark K. Dunbar, MSPA
Terry W. Dunger, APM
Earl Dysthe, MSPA
Cynthia S. Ellner
Ilene H. Ferenczy, CPC
Perry F. Fisher, CPC
Karen L. Franklin, APM
Margaret Gallagher
Bruce Gardner, MSPA
Craig A. Garner, QPA
Gerhard J. Gebauer, MSPA
Dino Giovannone
Peter Gould, CPC, QPA, QKA
David R. Gray, CPC, QPA, QKA
Ronald Gross, MSPA
Joan A. Gucciardi, MSPA, CPC
Gary Gurman, QPA
Elizabeth T. Hallam, CPC
Dianne Lynne Hart, QKA
Mary Jo Hartman, CPC, QPA
Beverly B. Haslauer, CPC, QPA, QKA
Judith J. Hawkins, QPA
Mark H. Heller, CPC, QPA
Debra Hetler
Sheila Hickey, CPC
Lanning R. Hochhauser, APM

Craig P. Hoffman, APM
Robert E. Hoomes, APM
John Horning
Andrew C. Hoskins
James A. Houpt
R. Bradford Huss, APM
Gail E. Johnson
Karen A. Jordan, CPC, QPA, QKA
Eugene L. Joseph, MSPA
Martella A. Joseph, MSPA
Leslie A. Julianel, QKA
Kyle Marie Keck, QPA, QKA
James L. Kidder, CPC
Barry Kozak, MSPA
Jacqueline T. Kral, QPA, QKA
Marianne T. Kral, CPC, QPA, QKA
Kevin Krantz, APM
Ronald W. Laessig, APM
Bruce Lahti, APM
James H. Lane, APM
Theresa M. Leiker, CPC, QPA
Barry Max Levy, QKA
Katherine M. Manker, MSPA
Marilyn Manzer, QPA, QKA
Dawn Marlar
Sharon Camille Matlack, CPC, QPA
Linda G. McClure, QPA
Ronica C. McGovern, QKA
Dana C. Miller, CPC
Scott D. Miller, FSPA, CPC
Katrina Moody
Vicky C. Neill, QPA, QKA
John R. Nelson, APM
Calvin E. Nystrom, QPA
George C. Patterson, CPC, QPA
Erin D. Patton, CPC, QPA, QKA
Margery F. Paul, MSPA
Steve J. Persons, MSPA
Duke A. Potter, QKA
Adam C. Pozek, QKA
Michael B. Preston, MSPA
J. Michael Pruett, CPC, QPA
David S. Pursifull
Richard W. Rausser, CPC, QPA, QKA
Salwa G. Raven
Kevin P. Reynolds, CPC, QPA, QKA
Robert M. Richter, APM
Adrienne L. Robertson, CPC, QPA
Kathy M. Roland, QPA, QKA
Stephen H. Rosen, MSPA, CPC
Howard Rosenfeld, MSPA
Coker Roswell, QPA, QKA
Scott E. Ruehr, MSPA
Edgardo A. Saade
Melissa D. Sandberg, CPC, QPA, QKA
Jeanne T. Schanzenbach, CPC, QPA
David C. Schutz, APM
John M. Sciarra

Laura T. Scobee, CPC
Carol R. Sears, FSPA, CPC
Sharon L. Severson, CPC, QPA
Bernadette Sharma, QPA
Linda K. Short, QPA, QKA
Richard A. Shulman, MSPA
Seth F. Siegel, MSPA
Constance C. Slimmon, QPA, QKA
Peggy Smith
Russell D. Smith, CPC, QPA, QKA
Tim Soldan
Lawrence C. Starr, CPC
Paula M. Steinhart, QPA, QKA
Alan J. Stonewall, FSPA
Chris L. Stroud, MSPA
Debra L. Sullenbarger
Matthew W. Sullivan, CPC, QPA
Virginia Krieger Sutton
David M. Syrett, MSPA
Stanley Tannenbaum
Cynthia J. Taylor, QKA
George J. Taylor, MSPA
Sherry Taylor
Richard H. Thompson, QPA
Sal L. Tripodi, APM
Thomas C. VanDeGrift, MSPA
Aaron Venouziou, MSPA
Jon Vogler
Linda L. Wallace
Charles A. Wanner, MSPA
Cathy G. Waxenberg, APM
Douglas J. Weishahn
Cindy N. Weisman, QPA
Nicholas J. White, APM
Miranda L. Wisniach
Susan Miner Wright
Tim Wright
Max E. Wyman, MSPA, CPC

Please join us for the 2005 Visits to Capitol Hill during the ASPPA Annual Conference! For information on the 2005 Visits, contact Jolynne M. Flores, Government Affairs Manager, at jflores@asppa.org or 703.516.9300. This list is a partial listing of the 2003 participants and only includes those who have given ASPPA permission to use their names.

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Saving Private Pensions

2005 Visits to Capitol Hill

Congress needs to understand what could happen to Americans' retirement security if current discussions about tax reform are carried forward—and you can help by being a messenger. Now is the time to take action for 2005. ASPPA will help you with everything—your appointment, your talking points and your transportation. Ask any of the 2003 Capitol Hill Visitors—it's fun, it's easy and it's never been more important!

Participate. Educate. Help protect the retirement system.

Fun-da-Mentals

Springtime in Pensions

Spring has sprung—
the grass has “riz.”
I wonder where my sanity is?

Flowers are blooming—
leaves are green.
I survived 3/31 and 4/15!

And just when I thought
I could take a vacation—
5500 forms are due. Is there no
salvation?

—Chris L. Stroud, MSPA

McHUMOR by T. McCracken



“Wow. When played backwards, these say things like ‘Save for retirement’ and ‘Put more money in your 401(k) plan.’”

Word Scramble

Unscramble these four puzzles—one letter to each space—to reveal four pension-related words. Answers will be posted on ASPPA’s Web site in the Members Only section. Log in, scroll down to “Check out the last issue of *The ASPPA Journal* and click on the latest issue. Scroll down to “Answers to Fun-da-Mentals.”

- IN GAS _____
- ROD VISA _____ _____
- SURE CHAP _____ _____
- RUM LOAF _____ _____ _____

BONUS: Arrange the boxed letters to form the Mystery Answer as suggested by the cartoon.

Mystery Answer:
His boss never “_____ !”



Why the soft drink delivery man quit his job.

Calendar of Events

Date	Description	ASPPA CE Credits
Jun 9	Northeast Area Benefits Conference Natick, MA	8
Jun 10	Northeast Area Benefits Conference White Plains, NY	8
Jul 24 - 27	Meeting Midway • San Diego, CA	20
Sep 12 - 13	Central and Mountain States Benefits Conference • Denver, CO	15
Sep 30	Early Registration Deadline for Fall Examinations	
Oct 31	Final Registration Deadline for Fall Examinations	
Nov 1 - Dec 15	DC-1, DC-2, DC-3 Fall 2005 Examination Window	
Nov 6 - 9	Annual Conference • Washington, DC	20
Nov 11	C-3, C-4 and A-4 Postponement Deadline	
Nov 16	C-3 and A-4 Examinations	
Nov 17	C-4 Examination	
Dec 1	DC-1, DC-2, DC-3 and DB Postponement Deadline	
Dec 15	PA 1-3 Examination Deadline for 2005 Paper Edition*	
Dec 31	PA 1-3 Examination Deadline for 2005 Online Submission (Midnight, Eastern Standard Time)	
2006		
Feb 25 - 28	The 401(k) SUMMIT • Orlando, FL	20
May 7 - 9	Mid-Atlantic Benefits Conference Philadelphia, PA	15
May 15 - 16	Great Lakes Benefits Conference Chicago, IL	15

* Please note that when a deadline date falls on a weekend, the official date shall be the first business day following the weekend.

The 2005 Edition of *The ERISA Outline Book*

The ERISA Outline Book is a must for all pension professionals' libraries. It is on the list of required readings for ASPPA's DC-1, DC-2 and DC-3 exams.

Sal L. Tripodi, Esq., APM, a frequent and respected speaker at ASPPA conferences, is the author of *The ERISA Outline Book*. The 2005 edition includes information on:

- The Pension Funding Equity Act of 2004, the American Jobs Creation Act of 2004 and the Working Families Tax Relief Act of 2004;
- Automatic rollover rules published by DOL;
- Final §401(a)(9) regulations for DB plans;
- Final §401(k) regulations;
- DOL guidance on missing participants in terminated DC plans;
- New ruling on the application of top heavy rules to safe harbor §401(k) plans;
- New remedial amendment period procedures being launched with EGTRRA amendments;
- "Relative value" final regulations;
- New checklist on rehired employee issues;
- Recent guidance on how DC plan expenses can be charged;
- Proposed rules under USERRA;
- Guidance affecting §412(i) plans and abusive insurance arrangements;
- Guidance for S Corporation ESOPs;
- More information on nonqualified plans;
- Information on hundreds of new cases, rulings and informal guidance affecting qualified plans and other employer-sponsored retirement programs;
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2005
WP&BC ANNUAL CONFERENCE
ASPPA SUMMER CONFERENCE

Manchester Grand Hyatt San Diego
San Diego, CA

July 24–27, 2005

EDUCATIONAL OPPORTUNITIES

42 Concurrent Sessions From
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Two IRS Q&As—One on Defined Benefit Issues

Washington Update

Sunday ASPPA Intensive Review Courses

Exhibit Hall

PLUS FUN!

Sunday Golf Tournament at Steele Canyon Golf Club

Sunday Evening Reception in the Exhibit Hall

Tuesday Night Dinner and Visit to the San Diego Zoo

Optional Tours of the USS Midway
and Other San Diego Sites

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