Swerdlin & Company
Actuaries ■ Employee Benefit Consultants
Shaping Your Benefits World

The Swerdlin Quarterly

Your News Source on Benefit Plans

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What's Inside

In Every Issue

Published By

Swerdlin & Company
Actuaries and Employee Benefit Consultants

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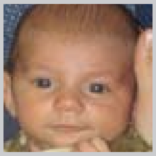
2009 Dollar Limits

The IRS has finalized the qualified plan limits for 2009. The limits are adjusted annually for cost of living increases. We provide the limits for 2009 compared with the limits for 2008 in the following chart.

You can download our easy reference 2009 Dollar Limits pocket card at www.swerdlin.net.■

IRS Dollar Limits	Code Section	2008	2009
Defined benefit plan annual benefit limit	415(b)(1)(A)	$185,000	$195,000
Defined contribution plan annual addition limit	415(c)(1)(A)	46,000	49,000
Maximum 401(k) deferral	402(g)(1)	15,500	16,500
Maximum 401(k) catch-up deferral	414(v)(2)(B)(i)	5,000	5,500
Maximum SIMPLE deferral	408(p)(2)(E)	10,500	11,500
Maximum 457 deferral	457(e)(15) & (c)(1)	15,500	15,500
Definition of HCE (highly compensated employee)	414(q)(1)(B)	105,000	110,000
Annual compensation limit	401(a)(17) & 404(l)	230,000	245,000
SEP coverage	408(k)(2)(C)	500	550
Social Security Taxable Wage Base		102,000	106,800

Dorn's Corner



What's on my mind this Quarter? Graham Bennett Swerdlin, my first grandchild. He was born on October 16, 2008. He's a handsome young man as you can see.

He comes into our world in an uncertain time, but I think he will see a completely different world as he grows up and becomes a man. I predict his world will be a much better place than any of his ancestors have experienced.

I have great plans for Graham. I know my rights as a grandparent: NONE! However, I can still dream if I want. In the next decade or so, Graham's dad should take over the reins at Swerdlin & Company. By about 2038 (I'll be only 91 years old), Lee will turn over the company to Graham. He will soon thereafter celebrate the 60th anniversary of Swerdlin & Company.

I also realize that running this company may not be the best use of Graham's time. He may have much higher aspirations, such as becoming the President of the United States. He should be ready by the 2048 election. I would certainly vote for him although I may have to use an absentee ballot as I will be 101 years old.

Changing the subject, my Declaration for 2009 is: ***The Year of Flexibility***. To deal with the uncertain times, having the flexibility to move fast will be a key factor in achieving success. Uncertain times provide great opportunities. Let's make sure we are aware when opportunity knocks at the door.

Best Wishes for a Happy and Healthy Holiday Season!

Client of the Quarter

We are pleased to present Muncie Aviation as our Client of the Quarter. Swerdlin has provided administration and recordkeeping services for their ESOP and 401(k) plan since 2004 when the ESOP was established.

There weren't a lot of people filled with optimism in 1932, with the Great Depression taking a particular toll on America's heartland. But there were some people who thought things were looking up. Literally.

On March 7 of that year, Muncie Aviation rolled open the hangar doors for the first time. The new company began as a dealer for several airplane manufacturers. Then in 1936, the company took possession of its first Piper J-2 Cub, beginning a relationship with Piper that continues to this day.

In the early days, aviation was still a novelty. From barnstormers to test pilots, aviators worked hard to get noticed. In 1939, a trio of pilots took off from Muncie, and 23 days later returned to Muncie - without ever landing. Accomplished with ground-to-aerial refueling, their unique "flight to nowhere" gained national attention and earned them a place in the history books. Pioneer aviator Bill Moffitt helped establish their reputation in avionics by using the local radio station as a navigation beacon for "Miss Suntan's" record setting 23 day flight.

Muncie Aviation has earned a nationwide reputation for excellence in avionics and instrument service. Their 13 full-time avionics technicians have more than 200 years of combined experience, with extensive expertise in communications, navigation, pulse, and radar equipment repair and installation. They work in a service lab containing the industry's most advanced tools and bench testing technology; their commitment to precision assures your safety. If a radio, gauge, or instrument is still legal, they have the know-how to fix it.

What separates Muncie Aviation from ordinary fixed base operators? The way they see it, their job is keeping you up where you belong - whether that's through aircraft sales, avionics, parts, service, flight or line service. They know you'd rather be flying, and everything they do is designed to get you there quickly, keep you safe, and do it all with a smile you'll remember.

While Muncie Aviation and Delaware County Airport have a lot to offer, their line service specialists do their best to make sure you don't get a chance to see too much. That's because they're hard at work to turn you around and get you back up in the air.

In addition to having the confidence that your airplane will be serviced properly the first time, you'll enjoy the friendly finishing touches such as repainted wheels and repacked bearings when tires are changed, or ending an annual inspection by washing your plane. After all, they think "customer service" means more than simply doing a job.

Muncie Aviation can train you to become a pilot in a time frame convenient for you. The Piper Archer III used for training is equipped with everything the student pilot needs to become certified. The training you receive is top notch and cost effective. The FAA requires a minimum flight time experience of 40 hours to receive the Private Pilot Certification. With the cooperation of the weather, you can be on your way to becoming a pilot in no time.

As the years have flown by, the fortunes of the industry have changed. Throughout, Muncie Aviation has served the needs of general aviation. From sales to service and everywhere in between, they continue to fly at the leading edge. Check them out at muncieaviation.com. ■

World's Longest-Flying Piper Dealer

Alternatives to a Hardship

During this time of financial uncertainty, participants are more tempted to access their retirement money to pay for current expenses. Given the recent market conditions, more participants are digging deep into their retirement accounts by taking loans and hardship distributions.

Hardship distributions are taxed and subject to a 10% early withdrawal penalty in most cases. Therefore, other alternatives should be considered before taking a hardship withdrawal.

Here are some suggestions to offer participants before they decide to dip into their retirement savings:

- Review your current budget to uncover unnecessary expenses.
- Take a loan instead of a hardship distribution. The loan is not taxable unless you default on your payments. Payments are made on an after-tax basis, generally through payroll.
- Stop your 401(k) contributions. This is an option we hate to suggest, but it is better to stop deferring until times get better than to take a taxable (plus penalty) distribution from your retirement account. If you take a hardship distribution, your 401(k) contributions will be suspended for at least six months.

Remember, hardships are only available for the following safe harbor reasons:

- Medical expenses not covered by insurance;
- Purchase of your principal residence;
- Tuition and related educational fees for college for you or family members;
- To prevent eviction from or foreclosure on your home;
- To pay funeral expenses for your parents, spouse, children, or dependents;
- To repair damage to your principal residence that occurs as a result of a natural disaster.

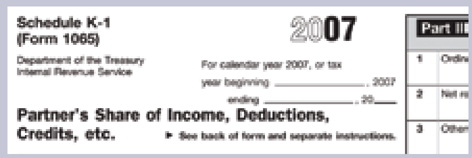
In general, taking funds from a retirement account is not the best option. However, under certain circumstances, your participants may feel they don't have a choice. Your participants may be interested in advice on how to better manage their money. One of our clients, Consumer Credit Counseling Service of Greater Atlanta (www:cccs.org) may be able to help. ■

Attention K-1 Filers

Under current rules, the extension period for certain pass-through entities (partnerships, LLCs, LLPs) is six months, similar to the extension period for personal tax returns. Thus, the extended due date for partnerships and personal tax returns is October 15. This often creates a burden for people who need a Schedule K-1 from a tax return that has been extended in order to file their personal tax return.

Beginning in 2009, the extension period is reduced from six months to five months for pass-through entities, specifically Form 1065 filers. This means a Form 1065 return (partnerships, LLCs, LLPs, etc.) must be filed by the extended deadline of September 15, giving the individual taxpayers who rely on K-1 information more time to meet their own extended October 15 deadline.

As a result of this change, partnerships, LLCs, LLPs, etc. must fund their pension contributions one month earlier (September 15) in order to deduct them for the prior year. ■



Schedule K-1 (Form 1065)
2007
Department of the Treasury Internal Revenue Service
For calendar year 2007, or tax year beginning ________, 2007 ending ________, 20____
Partner's Share of Income, Deductions, Credits, etc.
▶ See back of form and separate instructions.
Part III
1 Ordin
2 Net re
3 Other

What's Happenin'

We welcome three babies this quarter:

- Congratulations to Lee and Ellen Swerdlin on the birth of their son, Graham Bennett, on October 16. Parents and Grandparents are thrilled!
- Congratulations to Rayna and Jon Filson on the birth of their baby boy, Bryce David, who was born October 30.
- Congratulations to Michelle and Zach Hall on the birth of their baby girl, Brier Ravalli, who was born on November 9.

Best wishes to Adam Stone who became engaged to Robyn Trowell. A Spring, 2009 wedding is planned.

Kudos to Emily Spencer, who passed the ASPPA RPF-2 exam.

We welcome the following new employees this quarter: Lorene Pierre and Rita Teague to the Defined Contribution (Blue) Team, Misty Anderson to the Gold Team, and Tianna Barran to the Daily Recordkeeping (Platinum) Team.

Carol Friend, Donna Martin, Emily Spencer, John Breier, Kathy Latour, Kim Hall, Kristin Ellis, Michele Gresham and Travis Rosenbaum attended the Relius Users Group Seminar held in Atlanta on October 31.

Susan Petrirena was a presenter at the recent National Center for Employee Ownership (NCEO) conference in Atlanta on October 22.

Ricky Cox and Tammy Fiacco attended the ASPPA Conference in Washington, D.C. October 19-22.

Adam Stone, Connie Woodmansee, Dee Robbins, Donna Martin, Joanne Swerdlin, Melissa Spencer and Susan Petrirena attended the New South Chapter ESOP Association breakfast meeting in Atlanta on October 30.

Susan Petrirena was a presenter at the National ESOP Association conference in Las Vegas on November 13. Adam Stone, Joanne Swerdlin and Karen Miracle also attended the conference.

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Did You Know …

The end of the year is rapidly approaching and that means two things: you need to use the remaining balance in your Flexible Spending Account (FSA) for the current plan year and determine how much to elect for next year. Prescriptions and co-payments are obvious covered expenses but here are some other medical items that you might not realize are eligible for reimbursement under IRS regulations:

Acupuncture

While most alternative healing treatments still need a letter from a physician specifying the medical necessity, acupuncture performed by a licensed professional is a qualifying expense.

Diagnostic monitors

If you have been diagnosed with high blood pressure or diabetes and need to monitor your levels on a regular basis, blood pressure monitors and blood sugar testing supplies are covered.

Braille books and magazines

Only the amounts above the cost of regular printed material can be reimbursed.

Carpal tunnel wrist supports & arthritis gloves

Over the counter wrist supports and gloves are reimbursable.

Fertility treatments

Various treatments such as fertility shots, vasectomy reversal surgery and in-vitro fertilization are covered.

Flu shots

Since flu shots fall under the immunization category, they are covered.

Laser eye surgery

Lasik, radial keratotomy and other vision correction procedures are covered in the FSA plan.

Mastectomy

Mastectomy bras and breast reconstruction surgery following a mastectomy also qualify as an eligible expense.

Medical alert bracelets & necklaces

If a physician recommends an alert bracelet or necklace in connection with treatment for a medical condition, it is a covered expense.

Medical records charges

Charges for copies of your medical records qualify. However this does not include any charges from the physician for writing a letter of medical necessity.

Smoking cessation treatments

Nicotine gum and patches are eligible expenses. Hypnosis performed by a professional also qualifies.

Walking aids

These qualify as an expense whether rented or bought.

Wigs

If your physician prescribes a wig due to hair loss from disease or treatments such as chemotherapy and radiation, the cost of the wig is an eligible expense.

For a more complete list of qualifying medical items, visit our website at www.flexpakcafe.net and click on the Health Care Expense Table in the Forms section. Check our website for regular updates. ■

What's Happenin'

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Swerdlin has had several successful charity events in recent months. The Platinum Team sponsored a sale in our office building where they raised over $650 for baked goods as well as crafts and artwork produced by our own Swerdlin employees.

The Platinum Team also arranged a Chili Cook-Off and six kinds of chili were sold to our employees. Our winners were Karen Smith for Chili of the Sea and John Breier for Two Alarm Chili. A run-off will be held before the end of the year. The cook-off raised $200 for our Christmas charity.

The Blue Team cooked an Italian lunch for our employees. Proceeds of $200 were collected for our charity fund.

The Blue Team hosted our annual Halloween Carnival on October 24. They set up competitive games with prizes. Raffle tickets were purchased and door prizes were awarded. The proceeds of approximately $200 went to our charity fund.

Adrian Johnson, Alicia Turner, Carol Friend, Connie Woodmansee, Dee Robbins, Emily Spencer, Glenda Devechio, Janet Wadlington, Joanne Swerdlin, Kathy Latour, Kim Hall, Melissa Spencer, and Mike Raker participated in an art class conducted at our office on November 3. Most of the participants had never painted before – you can see pictures of their work on the photo insert.

Anniversaries we celebrate this quarter: Cynthia Navan Clark, Lee Swerdlin and Trey Stephens, 10 years; Beth Wright, 8 years; Adrian Johnson and Ricky Cox, 6 years; Adam Stone and Emily Spencer, 5 years; Eric Meyers, Marjorie Cade and Valerie Flynn, 2 years; Janet Wadlington, Lynn Taylor, Rayna Filson, Takeya Simmons and Tim Bowen, 1 year. ■

Misuse of Plan Assets

"But the plan money was just sitting there."

In today's economy, it is easy to have this attitude toward one's retirement plan assets. This opinion is often found with small plan sponsors who have authorized the investment of plan assets into real estate transactions. Inevitably, these investments contain one or more of the following characteristics:

- The plan sponsor is in the real estate investment business, and the investment of plan assets was made because the plan trust was a ready source of funds for some really good deal.
- The owner of the real estate investment was supposed to be the plan, but was listed as the plan sponsor (or the plan sponsor's owner) by accident.
- The real estate investment has not thrown off any income in several years, and has been kept on the plan books at the original purchase value.
- The real estate investment is in a joint venture or partnership with the plan sponsor, the owner of the plan sponsor, or a relative or friend of the plan sponsor.
- Someone other than the plan is making money off the deal - possibly the plan sponsor or someone who does business with the plan sponsor.
- The real estate investment is now in trouble because of the down real estate market.

And, the final characteristic that these clients have in common: they are being audited by the IRS or DOL. We have seen a significant increase in audit activity in relation to these transactions, as well as the government's harsher treatment of individuals engaging in these types of transactions.

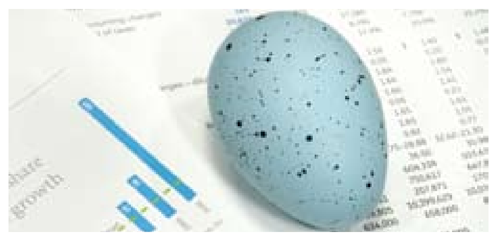
You need to know the following about significant plan investments:

- The plan cannot enter into a transaction with the company, the shareholders, the officers, or the plan participants unless a specific provision exists in the law permitting this. Intent to benefit the plan is not a legal justification for this type of transaction. You could be liable for taxes and penalties, and the transaction may need to be reversed (with any profits made by the non-plan party to the transaction disgorged to the plan).
- The plan trustee is required to diversify assets among many investments to reduce the potential of large plan losses.
- All plan assets must be valued at fair market value each year, meaning that assets not traded on a ready exchange must be appraised by an independent appraiser each year.
- If you are entering into a transaction that would not be something you would do with a stranger, then the IRS or DOL will look upon the transaction as self-dealing and prohibited by law.

Consider the following guidelines:

- Think very carefully about using plan assets for these types of investments. Real estate people are used to wheeling and dealing, but doing this with plan assets can be very risky.
- Be sure that these are arms-length transactions, not with family or friends.
- No family, friends, or employees may make use of the asset, even for a weekend or a few days.
- Arrange to have the asset valued before the transaction takes place and each year by a third party professional appraiser.
- Remember, this money is for retirement. Use other assets for riskier ventures.

Thanks to Ilene Ferenczy, an ERISA attorney in Atlanta, who allowed us to edit this article she recently wrote for her clients. ■



Q In a recent Swerdlin Quarterly you mentioned restating plan documents. Why does my plan have to be restated?

A The IRS recently issued regulations requiring all plans be restated periodically. If you want to keep your plan in compliance, restating is not an option.

Q Well then, what is the deadline for restating?

A If you have a defined contribution plan, you have until April 30, 2010. The defined benefit plan dates will be available soon.

Q When will I have to restate again?

A Defined contribution plans are on a 6-year cycle, measured from January 31, 2006, so your next restatement period will begin January 31, 2012. We do not expect documents to be available until 2015.

Q What if I decide to terminate my plan?

A The IRS requires that documents for a terminating plan be brought up-to-date with all the current laws before it can be terminated, so your plan must be restated prior to the termination. ■

Vision Statement

We strive for financial strength for our clients, our employees and our company by caring to be the best. We are committed to be the leading employee benefit consulting firm in our market. We achieve this through cooperative teamwork, community building and continuous learning and development.

Mission Statement

We focus primarily on design and administration of all types of employee benefit plans. Our mission is to develop relationships with our clients, our employees and our community so that all parties grow and develop financially and otherwise.

Preventing a Fiduciary Crisis

Have you looked at your 401(k) balance recently? For most of us, this is a very painful experience. World markets hit historic lows in the 4th quarter of 2008 causing retirement plans to lose more than $2 trillion dollars (that's $2,000,000,000,000,000) in retirement income.

Retirement plan fiduciaries are charged with the task of always acting in the best interest of plan participants. A great part of this responsibility is offering appropriate investment choices within the plan. Fiduciaries are also responsible for monitoring these funds and changing them as necessary.

With today's volatile market, monitoring investment offerings in a retirement plan is a more onerous task than ever before. How can plan fiduciaries protect themselves while carrying the burden of this responsibility? Surprisingly, it is not that difficult.

The first step in protecting yourself as a plan fiduciary in regard to investment selection is to establish an Investment Policy (IP). The IP should outline the overall investment philosophy for the retirement plan, as well as define:

- Decision makers,
- Types of investments to be offered,
- Performance standards of the individual funds,
- Monitoring standards for funds offered,
- Guidelines for money managers, and
- Cost management.

The second step in protecting yourself as a fiduciary is to ensure you follow the procedures in the IP. If fiduciaries follow the IP and document the process, they are generally not liable for losses in the market. Without an IP, or if the provisions are not followed, the fiduciary can be held personally liable for poor investment results.

Creating and following a comprehensive IP is one of the best ways to protect plan fiduciaries from personal liability. If you don't have a current investment policy, we encourage you to establish one immediately. ■

Partial Plan Termination – What is It?

In tough financial times, your company may have to lay off employees or close divisions. Since this could result in a partial plan termination, you might find the following information helpful:

What is a partial termination? A partial termination of a qualified retirement plan may occur if a significant group of employees are no longer covered by the plan. According to an IRS Revenue Ruling, if certain conditions apply, a partial plan termination is presumed to have occurred when employee turnover exceeds 20%.

When determining the turnover rate, who is counted? The turnover rate is determined by dividing the number of participants who left involuntarily during the applicable period by the total number of active participants during the applicable period.

What is the applicable period? This depends on the circumstances: it can be a plan year or an even longer period if there are a series of related severances from employment.

What are the consequences of a partial plan termination? When a partial plan termination occurs, all nonvested and partially vested employees affected by the event become fully vested in their account balances. Sometimes a partial plan termination may require the restoration of forfeitures to previously paid participants.

If your qualified retirement plan has experienced reductions in plan participation caused by certain events, such as reductions in workforce, plant closings, or layoffs, you should review your plan records with your Client Manager to determine if a partial plan termination has occurred.

You can also request a determination letter on the continued qualification of the plan after a possible partial termination by filing Form 5300 with the IRS. Swerdlin & Company will be glad to assist you with this process. ■

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