SWERDLIN & COMPANY

Actuaries and Employee Benefit Consultants

THE SWERDLIN QUARTERLY

3rd Quarter 2014 | Volume 20 | Issue 3

WHY A ROTH 401(k)?

Roth 401(k) contributions are similar to traditional 401(k) contributions. They are employee contributions, but rather than pre-tax, they are made with after-tax dollars. The benefit of Roth 401(k) contributions is that investment earnings may ultimately be tax-free upon distribution.

A Roth 401(k) feature may be added to an existing 401(k) plan. An employee may contribute to both the Roth and the traditional pre-tax 401(k) in the same year, as long as deferral limits are not exceeded.

Roth 401(k)s are becoming more popular among plan sponsors. A Roth 401(k) provides employees with the opportunity to diversify the tax treatment of their retirement savings. Due to income caps, individuals ineligible for Roth IRAs may be allowed to contribute to a Roth 401(k).

When deciding whether to offer a Roth 401(k) feature to employees, plan sponsors should consider a few things. Roth 401(k) contributions and earnings must be tracked and held in a separate account. Roth contributions involve additional plan administration, and the

(continued on page 3)

CONTENTS

In Every Issue

Swerdlin & Company
Actuaries and Employee Benefit Consultants
Office: 770.396.6601
Toll Free: 800.507.9373
Website: swerdlin.net

DORN'S CORNER

Dorn Swerdlin

As the *Year of Commitment* reaches the third quarter, I continue my comparison of the Ten Commandments with the Ten Commitments from the book *The Ten Commitments* by Dr. David Simon. This time I look at the fourth Commandment:

Remember the Sabbath day to keep it holy.

And

The fourth Commitment:

I Commit to Relax

Our universe operates in cycles and rhythms. Rest and activity are essential building blocks of evolution. Honoring the rhythm of life is the key to health and happiness. Engage in dynamic action and take time to relax. These are keys to successful living.

A silence exists which is the source of relaxation. This silence is often masked by our internal dialogue and other racing thoughts. Between each thought is a silence, and if we begin to slow down our thoughts, we can enjoy the benefits of a relaxed mind and body.

The best way I know to slow down our thoughts is through meditation. There are many different meditation techniques, each of which can open a door into a quiet mind. Chanting, listening to music, free-form dancing, watching ocean waves, and many others, can temporarily still the chatter of an active mind providing a glimpse of the silent space between thoughts.

(continued on the back cover)

WE CAN HELP YOU WITH THE FOLLOWING:

1. Actuarial services, including:
   - Defined Benefit
   - Cash Balance
   - Supplemental Executive Retirement Programs (SERPs)
   - Actuarial Expert Witness
   - Medicare Part D Actuarial Attestation
   - Post-retirement medical calculations: ASC 715-60
   - Actuarial studies for Health and Welfare Plans
   - Compliance testing for self-funded plans.

2. ESOP administration, including:
   - Publicly traded
   - Privately held
   - Leveraged
   - Non-leveraged
   - KSOPs
   - Repurchase Liability Studies

3 Other Defined Contribution Plans, including:
   - 401(k)
   - TPA & Recordkeeping Services
   - Cross-tested and age-weighted
   - 403(b), 401(a), 457

4. Cafeteria (Section 125) Plan Administration, including:
   - FSAs
   - POPs
   - HRAs
   - QTPs

5. Other consulting services, including:
   - Comprehensive Employee Benefit Statements
   - Plan Design
   - Employee Communication
   - **Regulatory Compliance**
   - Special Studies

Each retirement plan must retain an outside broker or investment advisor. We are not investment advisors.

Give us a call at 770-396-6601 or 800-507-9373. www.swerdlin.net

SWERDLIN & COMPANY

SERVICE SPOTLIGHT:

UH-OH! NOW WHAT? - HOW MISTAKES CAN BE CORRECTED!

As we all know, pension laws are very complex. Even the most diligent plan sponsor can make a mistake. The question is "How do you correct plan mistakes?" Both the IRS and DOL offer programs to correct mistakes.

IRS Programs

The IRS offers three programs for correcting mistakes, and collectively, these programs are referred to as the Employee Plans Compliance Resolution System (EPCRS). Each targets different types of mistakes based on the severity and timing in which the mistake can be corrected.

Let's look at the different programs and when each can be used:

1. **Self-Correction Program (SCP) is the first and easiest one.** This program allows sponsors to self-correct certain insignificant operational errors, such as paying a participant the wrong vested amount or excluding an eligible employee from an employer allocation. Under SCP, if this is an isolated incident, this type of error can be fixed at any time. If, however, the mistake is not limited to a small group of participants and is considered significant, the plan sponsor must make the corrections within two years of the mistake. The best feature of SCP is there are no penalties or fees.

2. **The Voluntary Correction Program (VCP) is the second program.** This correction program allows for voluntary correction of qualification failures and operational issues that cannot be corrected using the SCP. The VCP is important because it provides the plan sponsor flexibility in correcting the mistakes. The VCP can be used if mistakes are corrected prior to notification of an IRS plan audit. Fees associated with the VCP are usually much less than those found under an IRS audit.

3. **The Audit Closing Agreement Program (Audit CAP)** is the third and least desirable of these programs. If you must use this program, it means the IRS has audited your plan and found a significant error or errors that have not been corrected or disclosed. If you must use the Audit CAP to correct the mistake, the IRS dictates the correction method to be used. The cost of these corrections, in addition to fees and penalties under the Audit CAP, are significantly higher than under the VCP.

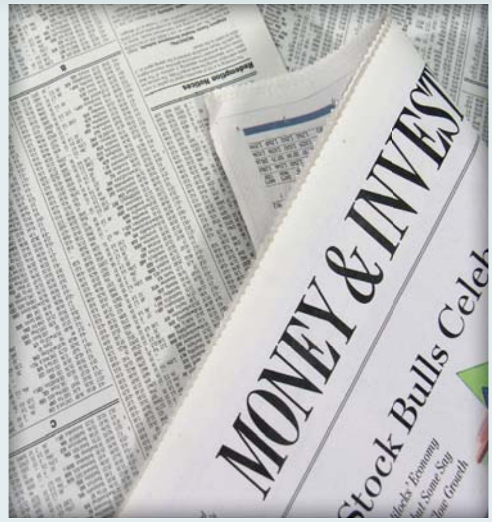
DOL Programs

The DOL offers two voluntary correction programs for plan administrators who have violated certain ERISA requirements:

1. **The Delinquent Filer Voluntary Compliance Program (DFVCP)** is available for late or missed Form 5500 filings. The advantage of using this program is the reduction in penalties associated with correcting these mistakes.

2. **The Voluntary Fiduciary Correction Program (VFCP)** allows plan sponsors to correct certain transactions, such as late deposits of employee deferrals, prohibited transactions, and improper loans. This program offers specific solutions to certain issues and reduced penalties for self-correction.

WHY A ROTH 401(k)? *(continued from page 1)*



plan's recordkeeper may charge an additional fee to maintain such accounts. Because employee contributions have traditionally been made on a pre-tax basis, employers adding a Roth 401(k) feature should educate their employees about its tax features.

What are the advantages of a Roth 401(k) to employees?

If certain conditions are met, distributions (including earnings) from Roth accounts are tax-free. If Roth contributions are rolled over to a Roth IRA before the participant reaches age 70½, no minimum distribution is required. Upon a participant's death, Roth contributions and earnings are distributed tax-free to the beneficiaries or the estate.

What are the disadvantages of a Roth 401(k)?

No current-year tax savings are associated with Roth 401(k) contributions. To receive a tax benefit when withdrawing Roth 401(k) contributions and earnings, participants generally must wait until they are 59½ and at least five years have passed since they made their first Roth contribution. The logic behind making Roth 401(k) contributions as opposed to pre-tax deferrals is the assumption that the participant's current tax bracket is lower than it will be at retirement age. It is difficult for a participant to predict if his or her tax bracket will indeed be higher in the future.

EMPLOYERS WITH A ROTH 401(k) FEATURE MAY ALSO DECIDE TO ALLOW IN-PLAN ROTH ROLLOVER CONVERSIONS.

What are some of the rules associated with Roth 401(k)s?

- An employee's combined pre-tax and Roth 401(k) contributions cannot exceed $17,500, plus catch-up contributions, if eligible.
- Employers may match Roth 401(k) contributions the same as pre-tax deferrals.
- Early distributions of Roth 401(k) contributions are generally subject to the 10% early distribution penalty.
- The Roth 401(k) balance can be rolled over to a new employer's Roth 401(k) or into a Roth IRA when an employee leaves.

Employers with a Roth 401(k) feature may also decide to allow in-plan Roth rollover conversions. If the plan document allows for it, all or any portion of the participant's vested pre-tax retirement account may be converted to a Roth rollover while keeping their retirement savings in the plan. Normal income tax rates apply to the amounts converted, but no early withdrawal penalty applies. Once a participant designates his or her contributions as Roth 401(k), they cannot later be changed to pre-tax contributions.

In conclusion, adding a Roth 401(k) feature to your company's retirement plan may offer additional retirement savings options to, in particular, younger employees. This may help the company stay competitive in recruiting and retaining employees. Employees who will be in a lower tax bracket during retirement may be better off making pre-tax deferrals. However, the more years the employee has before retiring, the more of an opportunity a Roth 401(k) feature can allow a participant to be exempt from taxes on investment earnings at retirement.

below: Glenda and Gary Gine on their wedding day. Kim Hall, Julie Isom, Ed Illano and Donna Martin at the Swerdlin party to honor Glenda and Gary's nuptials.

Anniversaries we celebrate this quarter: Melissa Spencer, 22 years; Glenda Gine, 19 years; Kathy Latour, 16 years; Alicia Turner, Jan Smith, Lorene Pierre and Rita Teague, 6 years; Gary Anderson and Scott Foreman, 4 years; Ana Marenco, 3 years; Dee McKnight, 2 years; and Karen Burroughs, 1 year.

We welcome several new employees this quarter. Kathleen Nath and Tracy Grace, Plan Administrators for our Daily Department; and Nancy Crews, a Relationship Manager for our Daily Department in our Augusta office.

Congratulations to Glenda Devechio and Gary Gine, who were married on July 12 in Roswell.

Lee Swerdlin and Karen Burroughs attended the annual Matrix Conference in Keystone, CO from August 17 – 20.

On September 4, Swerdlin hosted a dinner in Indianapolis at Late Harvest Kitchen for our Indiana clients.

Swerdlin was a sponsor for the New South Chapter ESOP conference held in Nashville on September 18-19. Connie Woodmansee, Joanne Swerdlin, Lorene Pierre, Scott Foreman and Susan Petrirena attended the conference. Connie was one of the presenters.

Nick Wilson attended the Finance and Accounting Seminar at Cobb Galleria on September 22-23.

Our long term client, Munich America, held their annual Health and Wellness Fair on September 22. Ben Richard and Craig Lindenlauf attended the event to be available to answer any questions from participants on their Retirement and Flexible Spending Accounts.

Another long term client, Morris, Manning & Martin held a charity event on Friday evening, July 18th. Connie Woodmansee, Erica Rossani, Shenita Spivery, Susan Petrirena, and Tiffany Enoch attended. Swerdlin contributed $1,000 to Katie's Club that helps children who have lost a loved one.

SWERDLIN & COMPANY

AVOID THESE COMMON RETIREMENT PLAN MISTAKES

1. Late deposits of employee contributions

According to the Department of Labor (DOL), salary deferral and participant loan payments should be deposited into the plan as soon as possible. If deposits are not made timely, the DOL and Internal Revenue Service (IRS) may levy penalties and retroactive earnings for late contributions.

The DOL has established a safe harbor for small plans (plans with fewer than 100 participants) to deposit employee contributions. If the employer deposits the amounts withheld no later than seven business days after payroll, the employer automatically satisfies the requirement.

The DOL's Voluntary Fiduciary Correction Program (VFCP) offers a method to correct late deposits of employee contributions.

2. Late employer contributions

If the employer makes contributions to the plan, the deposit deadline may be determined by the plan document. If the plan document is silent on this issue, the deadline required by law is the due date of the employer's tax return for the year, including extensions. For tax-exempt employers, the deposit deadline is generally the 15th day of the 10th month following the close of the employer's tax year. If contributions are not made on a timely basis, penalties can be imposed.

3. Late enrollment of employees into the retirement plan.

Employers often fail to enroll employees when they become eligible. Two of the most common mistakes happen when employers exclude eligible part-time employees or rehires.

If employees are wrongfully excluded, the plan's tax-qualified status can be jeopardized. If the error is discovered in an audit, the DOL and IRS may levy retroactive employer contributions, elective deferrals, and earnings for excluded employees.

4. No plan document or summary plan description.

The Employee Retirement Income Security Act of 1974 (ERISA) requires that employee benefit plans be administered according to a written document. Participants must receive a Summary Plan Description (SPD) of the plan document.

Failing to maintain an updated plan document and/or SPD may jeopardize an employer's ability to win in a legal dispute with an employee over benefits.

5. Computing plan contributions with wrong definition of compensation.

Employees are entitled to make and receive contributions based on the definition of compensation in the plan document. Employers may fail to report all includible compensation to their third party administrator (TPA). Failure to comply with the terms of the plan can result in plan disqualification. To correct a mistake like this, employers are generally required to contribute additional profit sharing contributions, plus any lost earnings to the affected participant accounts.

Confirm with your TPA that you are computing compensation correctly. If you make any changes to the plan's definition of compensation, make sure to communicate the changes to all of your plan service providers.

NEWS ABOUT SOME UPCOMING IRS PROJECTS

In March of 2013, the IRS released the results of the 401(k) Compliance Check Questionnaire. The information gathered from this project, in conjunction with additional data, will help assess what further formal guidance and enforcement is needed.

Here are some projects under scrutiny:

Defaulted Loans
Statistics from this questionnaire show that 60% of plans saw an increase in defaulted loans between 2006 and 2008. It also indicates older loans are not being repaid on time.

More Self-Correction
The IRS discusses a program to correct late distributions (refunds) under its Learn/Educate/Self-Correct/Enforce (LESE) program. Also, under the Employee Plans Compliance Unit (EPCU), self-correction can be used for 401(k) plans with a Roth feature and small employers with multiple plans. Any errors found under the EPCU projects may be fixed using the IRS's Voluntary Compliance Program (VCP).

Status of Determination Letter Filings
Plan sponsors can expect to see a change in the process for filing determination letters. The IRS is finding it difficult to keep up with the volume of requests. In fact, the agency is contemplating a pre-approved plan program for employee stock ownership plans.

We will continue to keep you up-to-date on future IRS projects.

SWERDLIN & COMPANY

Actuaries and Employee Benefit Consultants
5901 Peachtree Dunwoody Road
Building B, Suite 170
Atlanta, GA 30328

phone 770.396.6601
fax 770.396.0067
email contact@swerdlin.net
web swerdlin.net

At Swerdlin & Company, we're taking an active role in conserving the world's resources by printing on FSC-certified paper from well-managed forests with environmentally-friendly ink. Please recycle this newsletter when you are finished reading it.

DORN'S CORNER *(continued from page 1)*

I teach a meditation technique called Primordial Sound Meditation, which I learned at the Chopra Center for Wellbeing. This is a mantra type of meditation where you repeat silently a sound (mantra) with your eyes closed for about 20 to 30 minutes twice a day.

People are more likely to practice meditation and enjoy its benefits if instructed by a qualified teacher. However, Dr. Simon outlines in his book a simple starter meditation:

- Sit comfortably, close your eyes, and begin observing the inflow and outflow of your breath.
- As you are inhaling, silently say the sound, "So."
- As you are exhaling, silently say the sound, "Hum."
- When you find that your attention has drifted away from So Hum, gently return your attention to the mantra.
- Continue this for about 10 minutes (you can peek at a clock), and then take another couple of minutes before opening your eyes.

The basic principle for effective meditation is that whenever you realize you are not thinking the mantra, gently bring your awareness back to it. Relaxation is relinquishing the need to control. Meditation is a direct way to practice this skill.

Relaxation is the single most important key to health and well-being. When we relax, our body has an opportunity to unwind. Not only does this help reduce stress, but it feels good!

Hope you've had some time to relax over the summer! I'll be back next quarter.

CONTRIBUTORS

NEWSLETTER COORDINATOR:
Susan Petrirena

NEWSLETTER COMMITTEE MEMBERS:
Donna Martin, Dorn Swerdlin, Joanne Swerdlin, Julie Isom.

EDITORIAL ASSISTANCE:
Dee Robbins

ADDITIONAL CONTRIBUTOR:
Adrian Farnon