

## Alert

### Qualified Retirement Plan Year-End Reminders

December 9, 2011

Before year-end, sponsors of tax qualified pension, profit sharing, 401(k) or 403(b) plans should take time to ensure that each plan is compliant with a variety of statutory and regulatory requirements. To determine what, if any, action is needed to maintain compliance, plan sponsors should review, at a minimum, the following checklist:

- If you sponsor a defined contribution plan that has a forfeiture account, you should ensure that all plan assets, including the forfeiture account, are allocated to participants at year-end in accordance with the plan document. The IRS prohibits the plan from carrying unallocated accounts to the next year.
- If you sponsor a 401(k) or 403(b) plan that added in-plan Roth conversions in 2010 or 2011 enabling participants to convert some or all of their account balances into after-tax Roth accounts, the plan amendment must be adopted by the last day of the 2011 plan year.
- If you sponsor a tax qualified plan or 403(b) plan that has not yet been amended for the relief provided under the Worker, Retiree and Employer Recovery Act of 2008 ("WRERA") that permitted the waiver of required minimum distributions that were otherwise due in 2009, the plan amendment must be adopted by the last day of the 2011 plan year.
- If you sponsor a tax qualified plan or 403(b) plan and made any discretionary plan design changes during 2011, an amendment reflecting those changes must be signed and adopted by Dec. 31, 2011.
- If you sponsor an individually designed tax qualified plan with an employer identification number ending in 1 or 6, you must file a determination letter application with the IRS by Jan. 31, 2012, which will mark the close of Cycle A. The IRS application must be filed along with an amended and restated plan document that complies with all legislative and regulatory changes since the prior Cycle A filing that ended Jan. 31, 2007.
- If you sponsor a tax qualified plan, 403(b) plan or 457(b) plan, minimum required distributions for participants over the age 70 1/2 are due by Dec. 31, 2011 (unless it is the first applicable year for the individual, in which case there is a grace period that allows a delayed payment until April 1, 2012).

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If you have any questions concerning this *Alert*, please contact your attorney at Schulte Roth & Zabel or one of the authors.

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