Slide 1

Retirement Plan Pitfalls (Use IRS Fix-It Guides to Keep Your Clients Out of Trouble)

(This slide will be up while people are entering the room for the workshop.)

Slide 2

Video plays automatically at the beginning of the Workshop. After the video is completed:

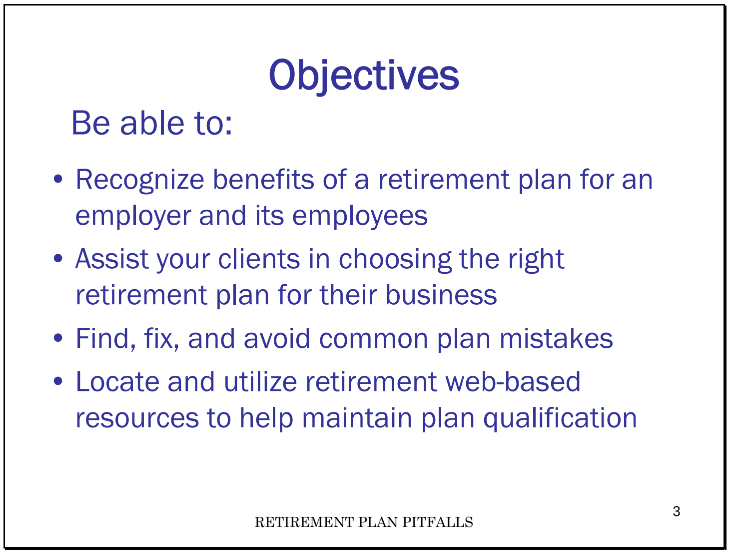
Instructors welcome the attendees to the Workshop and introduce themselves.

The Pension Protection Act of 2006 requires us to reach out more to small business employers and make the IRS Correction programs more available to them. We are asking you to be our advocates and take this information back to your clients to help us help them keep their plans in compliance.

Instructors will then ensure everyone has a binder and any other materials needed to begin.

Walk through contents of binder with audience.

Slide 3



Many of you have clients who are setting money aside in retirement plans. Many of you have clients who don't have retirement plans, but should. For the next couple of hours we will be talking about the pitfalls that plan sponsors sometimes encounter when sponsoring a retirement plan. At the end of today's session, you will be able to:

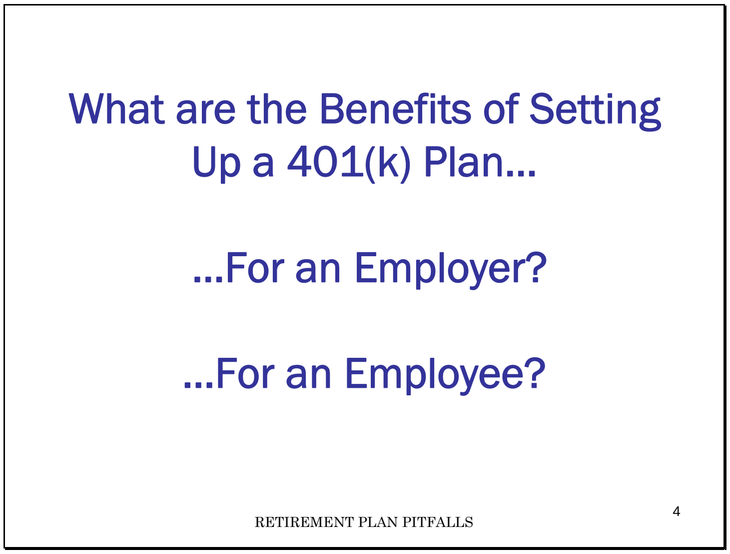
- Recognize benefits of a retirement plan for an employer and its employees.
- Assist your clients in choosing the right retirement plan for their business.
- Find, fix, and avoid common plan mistakes.
- Locate and utilize retirement web-based resources to help maintain plan qualification.

To get a little information on where you all are with retirement plan experience, let me see a show of hands –
How many of you have clients with retirement plans?

How much experience do you have with the operation of 401(k) plans? A lot? Moderate amount? Little or none?

How many of you have ever tried to fix a mistake in the operation of a plan?

Slide 4



Why have a retirement plan? What are the benefits of setting up a 401(k) plan? We just listened to a segment that discussed some of these benefits.

What are the benefits for employers? **[Let participants raise their hands and offer suggestions.]**

What are the benefits for employees? **[Let participants raise their hands and offer suggestions.]**

Please look at the *Lots of Benefits* publication in your binder under tab 1.

Slide 5

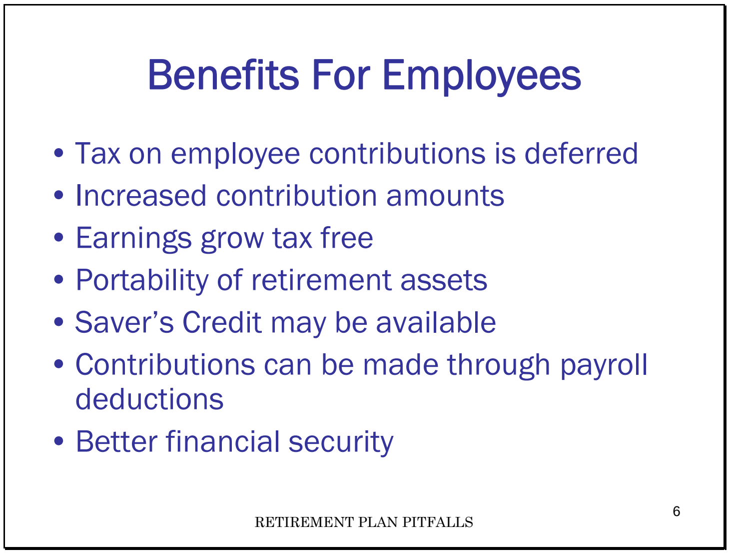
Benefits for Employers

- Tax deductible employer contributions
- Tax deferred asset growth
- Tax credits for starting a plan
- Attract and retain better employees
- Reduce new employee costs

Business benefits include:

- Employer contributions are tax deductible within the limits of the Code.
- Assets in the plan grow tax-deferred.
- Businesses may receive tax credits and other incentives for starting a plan.
- A retirement plan may attract and retain better employees and, consequently, reduce new employee training costs.

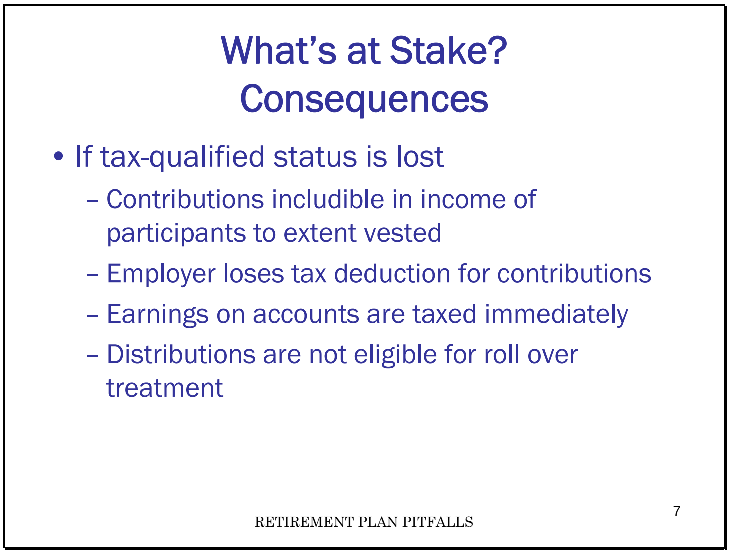
Slide 6



Employee benefits include:

- Tax on employee contributions is deferred until distributed.
  - Exception is Roth 401(k) contributions, which are after-tax contributions.
- Recent tax law changes have increased the amounts that an employee can contribute, including "catch-up" contributions for employees age 50 or over.
- Earnings grow tax-free, until distributed. (Time value of money. **[Point out "Future Retirement Savings Value" chart in pub (page 4).])**
- Roth 401(k) earnings are tax-free if part of a qualified distribution.
- Retirement assets can be carried from one employer to another.
- Saver's Credit may be available.
- Contributions can be made easily through payroll deductions.
- Better financial security is available upon retirement.
- 401(k) – Employees may share in saving for their own retirement.

Slide 7



There are certain rules that plans must follow in order to reap these benefits. If these rules aren't followed, then these tax benefits may be lost. The consequences of violating the rules may include:

- The contributions made to the plan are includible in the income of the participants to the extent they are vested,
- the employer loses its tax deduction,
- the earnings on the accounts are taxed immediately, and
- any distributions are not eligible for roll over treatment.

That's harsh. We will be talking about the different rules that 401(k) plans must follow and common mistakes that we see made in the operation of 401(k) retirement plans. We will provide you with tools to help you find when mistakes are made in plans, how to fix those mistakes, and how to avoid them in the future so your clients can maintain their retirement plans and their tax-favored treatment.

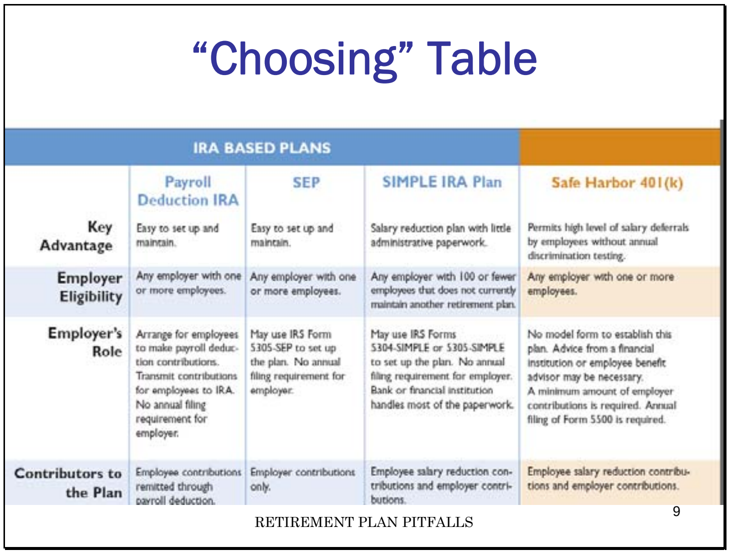
Slide 8

Saving for retirement is not a one-size-fits-all solution. What works for your 55-year-old high-income plastic surgeon client may not meet the needs of your 30-year-old client who opened an art gallery last year.

In the previous slides, we learned the benefits of individuals actively participating in saving for their own retirement. To meet your clients' retirement needs (and the needs of their employees) it's important to understand what each type of plan offers. The right plan allows your client to save the most for retirement, while minimizing the costs and administrative requirements associated with sponsoring a retirement plan.

***Show the Navigator Video*. (Three minutes)**

Slide 9



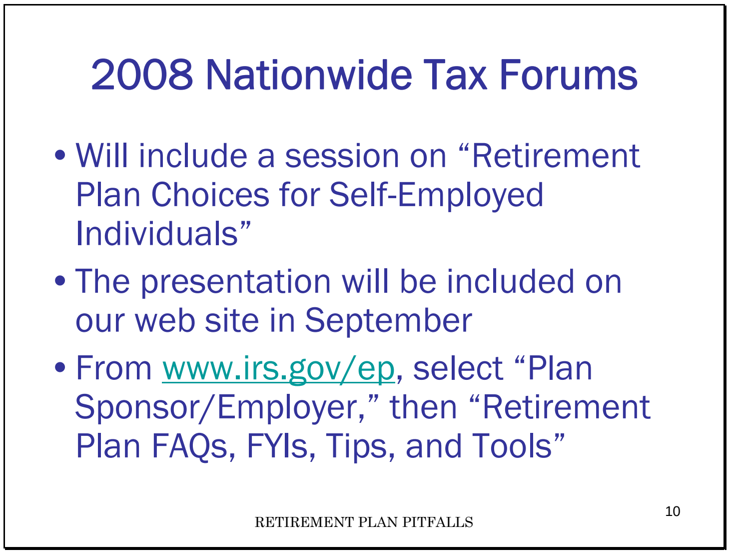
	IRA BASED PLANS			
	Payroll Deduction IRA	SEP	SIMPLE IRA Plan	Safe Harbor 401(k)
Key Advantage	Easy to set up and maintain.	Easy to set up and maintain.	Salary reduction plan with little administrative paperwork.	Permits high level of salary deferrals by employees without annual discrimination testing.
Employer Eligibility	Any employer with one or more employees.	Any employer with one or more employees.	Any employer with 100 or fewer employees that does not currently maintain another retirement plan.	Any employer with one or more employees.
Employer's Role	Arrange for employees to make payroll deduction contributions. Transmit contributions for employees to IRA. No annual filing requirement for employer.	May use IRS Form 5305-SEP to set up the plan. No annual filing requirement for employer.	May use IRS Forms 5304-SIMPLE or 5305-SIMPLE to set up the plan. No annual filing requirement for employer. Bank or financial institution handles most of the paperwork.	No model form to establish this plan. Advice from a financial institution or employee benefit advisor may be necessary. A minimum amount of employer contributions is required. Annual filing of Form 5500 is required.
Contributors to the Plan	Employee contributions remitted through payroll deduction.	Employer contributions only.	Employee salary reduction contributions and employer contributions.	Employee salary reduction contributions and employer contributions.

The video you just saw highlights our “Navigator” publication. You will find a copy of the publication in your binder again under the first tab. You will also find a copy of our “Choosing a Retirement Solution for Your Small Business” publication. Let’s pull it out and take a look at it.

Review the chart in the *Choosing* pub, concentrating on the features of a SIMPLE IRA, SEP, and 401(k).

Each plan type has different rules on how much can be contributed, who contributes, eligibility, and vesting rules. You can find more detailed information on each of these plan types on our web site, www.irs.gov/ep. We’ll talk to you about web-based resources later in our presentation.

Slide 10



For an in-depth discussion of how to choose the right plan, you should attend this afternoon's "Retirement Plan Choices for Self-Employed Individuals" session. It provides a full 50-minute discussion of the subject. Remember, if you miss the "Choices" session, an online version will be posted (with notes) after the end of the Tax Forum season in September.

Slide 11

Now that we know the benefits to an employer and its employees of sponsoring a retirement plan. And, we know that it is important for an employer to choose the type of plan that best fits its organization, let’s move on to look at some of the retirement plan pitfalls that 401(k) plan sponsors may encounter.

Slide 12

401(k) Fix-It Guide

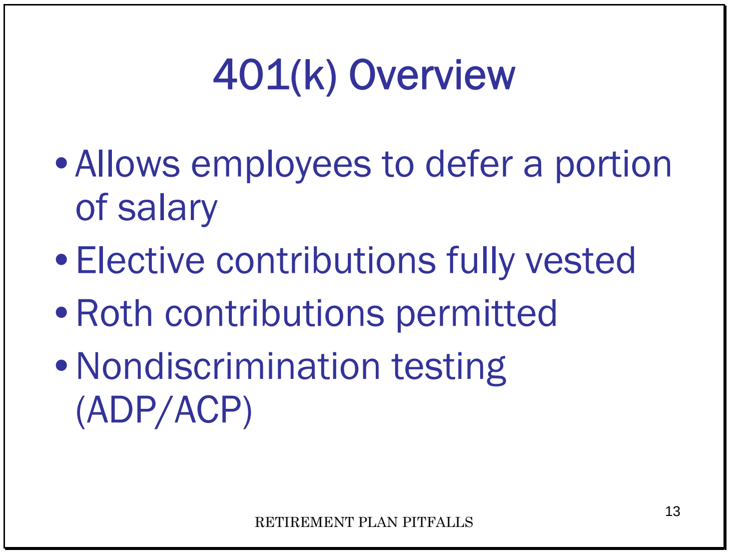
---------Trends------------	--Tips--			
Potential Mistake	How to Find the Mistake	How to Fix the Mistake		How to Avoid the Mistake
		Corrective Action	Correction Program(s) Available	
1) Has your plan document been updated within the past few years to reflect recent law changes? (More)	Review annual cumulative list published close to year-end to see if plan made all required law changes (e.g., Notice 2007-94). (More)	EPCRS Adopt amendments for missed law changes. Appendix D, Part II (More)	VCP Audit CAP (More)	Plan sponsors need to resort to a calendar (tickler) of when amendments must be completed. Review your plan document annually. Maintain regular contact with the company that sold you the plan. (More)

RETIREMENT PLAN PITFALLS 12

In your binder, under tab 2, you will find a copy of our 401(k) Fix-It Guide. This morning we will be discussing some of the highlights from the Guide.

These are the most common errors found in 401(k) plans. We are going to cover a few of them today.

Slide 13



A 401(k) plan is a qualified profit-sharing plan under which an employee can elect to have the employer contribute a portion of the employee's wages to the plan on a pre-tax basis. These employee contributions are known as elective contributions, elective deferrals, salary contributions, or salary reduction contributions. A 401(k) plan is also referred to as a cash or deferred arrangement, or CODA. A 401(k) plan may also include other types of employer and employee contributions, for example, matching contributions.

Elective contributions are not subject to federal income tax withholding at the time of deferral and they are not reflected as income on the employee's Form 1040. For example, if a worker earns $25,000 in a particular year and elects to defer $3,000 into a 401(k) plan, only $22,000 is recognized as taxable income on that year's tax return. Although amounts deferred are not treated as current income for federal income tax purposes, they are included as wages subject to social security, Medicare, and federal unemployment taxes. These amounts deferred and earnings are includible in income when distributed. Additionally, elective contributions are always 100% vested, or fully owned by the employee.

A 401(k) plan may permit an employee to irrevocably designate some or all of his or her elective contributions under the plan as designated Roth contributions. Designated Roth contributions are elective contributions that, unlike pre-tax elective contributions, are currently includible in gross income. A designated Roth account is a separate account under a 401(k) plan to which designated Roth contributions are made, and for which separate accounting of contributions, gains, and losses is maintained. Designated Roth contributions are treated the same as pre-tax elective contributions for most purposes, including nondiscrimination testing.

Rules relating to traditional 401(k) plans require that contributions made under the plan meet specific nondiscrimination requirements. In order to ensure that the plan satisfies these requirements, the employer must perform annual tests, known as the Actual Deferral Percentage (ADP) and Actual Contribution Percentage (ACP) tests, to verify that elective contributions and employer matching contributions do not discriminate in favor of highly compensated employees. Safe harbor 401(k) plans do not have to satisfy nondiscrimination testing.

Let's look at our 401(k) test example in our binder under tab 2. The formulas for the testing are listed at the bottom of the example.

There are several types of 401(k) plans available to employers, including traditional 401(k) plans and safe harbor 401(k) plans. Different rules apply to each. For a description of the different rules that apply to each, see the 401(k) Overview section of the 401(k) Fix-It Guide.

401(K) OVERVIEW
ADP / ACP TEST EXAMPLE
2006 PLAN YEAR

HCE	PARTICIPANT	PLAN COMP	EMPLOYEE DEFERRAL	EMPLOYER MATCH	ADR	ACR	HCE ADR	NHCE ADR	HCE ACR	NHCE ACR
Y	HCE 1	$ 100,000.00	$ 10,000.00	$ 5,000.00	10.00%	5.00%	10.00%		5.00%	
Y	HCE 2	$ 160,000.00	$ 8,000.00	$ 4,000.00	5.00%	2.50%	5.00%		2.50%	
N	NHCE 3	$ 60,000.00	$ 4,800.00	$ 2,400.00	8.00%	4.00%		8.00%		4.00%
N	NHCE 4	$ 43,500.00	$ 1,740.00	$ 870.00	4.00%	2.00%		4.00%		2.00%
		$ 363,500.00	$ 24,540.00	$ 12,270.00			15.00%	12.00%	7.50%	6.00%
							/ 2	/ 2	/ 2	/ 2
							7.50%	6.00%	3.75%	3.00%

PRIMARY TEST:

1.25 X 6.00 = 7.50 7.50 = 7.50
1.25 X 3.00 = 3.75 3.75 = 3.75

SECONDARY TEST:

6.00 + 2.00 = 8.00 7.50 < 8.00
3.00 + 2.00 = 5.00 3.75 < 5.00

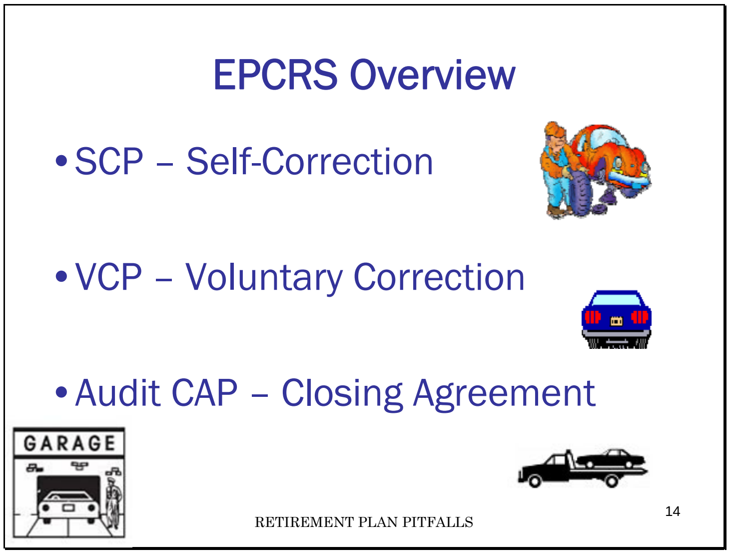
ADP Test Passed
ACP Test Passed

The ADP test applies to elective contributions (including both pre-tax contributions and Roth contributions) of the Highly Compensated Employees (HCEs) and Nonhighly Compensated Employees (NHCEs). Dividing the elective contributions by the compensation for an individual participant will give you that participant's Actual Deferral Ratio (ADR). Add up the ADR for each individual participant who is a NHCE (even if they chose not to make an elective deferral) and divide by the total number of NHCEs and you'll have the ADP for the NHCE group. Do the same for the HCEs to determine their ADP. ACP is calculated in the same manner, instead using the matching contributions and employee contributions (not including deferrals) for each participant, divided by the compensation.

The ADP test is met if the ADP for the eligible HCEs does not exceed the greater of:
•125% of the ADP for the group of NHCEs, or
•the lesser of:
•200% of the ADP for the group of NHCEs, or
•the ADP for the group of NHCEs plus 2%.

The ACP test is met if the ACP for the eligible HCEs does not exceed the greater of:
•125% of the ACP for the group of NHCEs, or
•the lesser of:
•200% of the ACP for the group of NHCEs, or
•the ACP for the group of NHCEs plus 2%.

Slide 14



If your clients make mistakes with respect to their 401(k) plans, they may use the IRS's Employee Plans Compliance Resolution System (EPCRS) to remedy the mistakes and avoid the consequences of plan disqualification.

Tab 2 contains an overview outline of the EPCRS.

There are some general principles to follow under EPCRS:

- The plan and participants should be made whole; in other words, placed in a position they would have been in had the failures not occurred.
- A correction for a mistake should be reasonable and appropriate.
- The correction methodology should resemble one already provided for in the Code and all applicable facts and circumstances should be considered.

Rev. Proc. 2008-50 provides the rules that govern EPCRS.

There are three components of EPCRS.

The first is the Self-Correction Program (SCP) – If eligible, this will permit a plan sponsor to correct certain plan failures without contacting the IRS. This is the most popular component of EPCRS, for good reason. This is similar to when your car has a flat tire and you change it yourself.

The second is the Voluntary Correction Program (VCP) – This component permits a plan sponsor to, any time before audit, pay a limited fee, and receive the Service's approval for correction of plan failures. Think of this as taking your car to the shop to have the brakes fixed.

The final program is where you generally do not want to go - the Audit Closing Agreement Program (Audit CAP) – This component permits a plan sponsor to pay a sanction and correct a plan failure while the plan is under audit. Envision your car dying on the freeway and a tow truck driving it away.

We will briefly cover the highlights of each of these three EPCRS programs.

Slide 15

Self-Correction (SCP)

- No fee
- Established practices/procedures
- Operational problems only
- Significant vs. Insignificant failures

RETIREMENT PLAN PITFALLS 15

SCP:

There is no fee for self-correction.

If utilized prior to being under exam, the plan sponsor identifies the failures.

In order to be eligible for SCP, the plan sponsor or administrator of a plan must have established practices and procedures (formal or informal) reasonably designed to promote and facilitate overall compliance with IRS requirements. For example, the plan administrator of a qualified plan may include in its plan operating manual specific steps to determine when new employees are eligible to enter the plan so that the eligibility rules of the Code are satisfied. Please remember that a plan document alone does not constitute evidence of established procedures.

SCP is available for correcting operational problems only – that is, the failure to follow the terms of your plan. SCP is not available for other types of problems, such as the failure to keep your plan document up to date to reflect changes in the law. We will talk about this in more detail later in the presentation.

Under SCP, the plan sponsor makes correction using the General Correction Principles set forth in the EPCRS Rev. Proc. A plan sponsor that corrects a failure listed in, and in accordance with, the correction methods included in the Rev. Proc. may be certain that the correction made is reasonable and appropriate for the failure.

If needed, the plan sponsor makes changes to its administrative procedures to ensure the failures do not recur.

Significant or Insignificant, that is the question

How do you decide if a mistake is significant or insignificant? Look at the facts and circumstances. The Revenue Procedure lists some facts and circumstances to consider. The list is not all-inclusive. Examples include the percentage of plan assets involved in the failure, the number of years the failure occurred and whether correction was made within a reasonable time after the discovery of the failure. If you determine the failure is insignificant, then document how you came to that decision.

A plan sponsor may correct **Significant** Operational Failures within two years of the end of the plan year in which the Operational Failures occurred.

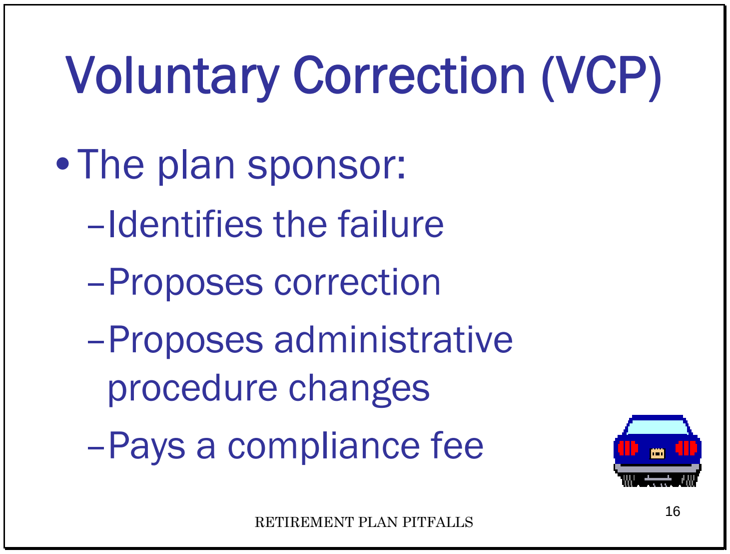
If a plan sponsor does not correct Operational Failures in its plan(s) within the two-year self-correction period, the Self-Correction Program may be used if, considering all of the facts and circumstances, the failures, in the aggregate, are **Insignificant Operational Failures**.

Insignificant Operational Failures can be corrected at any time. The program is available even if the Operational Failure is discovered by an agent on examination.

When using SCP, the plan sponsor should maintain adequate records to demonstrate correction in the event of an audit of the plan.

[Refer to eligibility chart for SCP that are the last two pages of tab 2]

Slide 16



VCP:

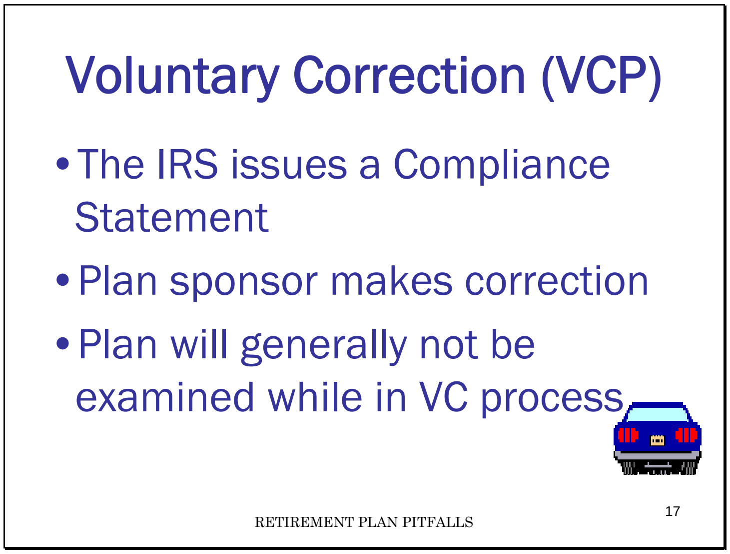
The plan sponsor identifies the failures – the failure does not have to be limited to operational errors, as was the case with the SCP program.

The plan sponsor proposes correction using the General Correction Principles set forth in the EPCRS Rev. Proc.

The plan sponsor proposes changes to its administrative procedures to ensure the failures do not recur.

The plan sponsor pays a compliance fee according to the chart from the EPCRS Revenue Procedure that generally is based on the number of plan participants as reported on the most recently filed Form 5500 series return. The fee runs from $750 for plans with 20 or fewer participants to $25,000 for plans with over 10,000 participants. Generally, there is a set $250 fee for SEPs and SIMPLE IRA plans. Typically, this fee is equal to only a small fraction of the amount of tax benefit preserved, which makes entering the program worthwhile for the plan sponsor.

Slide 17



The IRS issues a Compliance Statement with respect to the plan detailing the qualification failures identified by the plan sponsor and the applicable correction methods approved by the IRS.

The plan sponsor corrects the identified failures within 150 days of the issuance of the Compliance Statement.

While the submission is pending, Employee Plans will not examine the plan, except under unusual circumstances.

Slide 18

Audit CAP:

- The plan sponsor or plan is Under Examination.
- The plan sponsor enters into a Closing Agreement with the IRS.
- The plan sponsor makes correction prior to entering into the Closing Agreement.
- The plan sponsor pays a sanction negotiated with the IRS. This sanction is based on a negotiated percentage of the Maximum Payment Amount, which is the income tax that would be due if the plan was disqualified.

While the sanction paid under Audit CAP should be greater than the fee paid under VCP, the sanction is a lot cheaper than the result from plan disqualification, and the benefits of the participants are preserved.

Now that we have done an overview of EPCRS, we will look at some of the common mistakes that occur in a 401(k) plan and how to find, fix, and avoid these mistakes.

Slide 19

We will look at some common mistakes that an employer may make in the course of maintaining a 401(k) plan. Specifically, we will be looking at a case study that you will find in tab 3 of your binder involving ***Jack's PickleWorks Company,*** where not only the pickles are sour, but its 401(k) plan is too***.*** Marisha Ward is the owner of Jack's. She has asked you to help with her 401(k) plan. She's someone you can't refuse…someone you must help. She'll tell a little about her business and her 401(k) plan.

Let's meet our client!

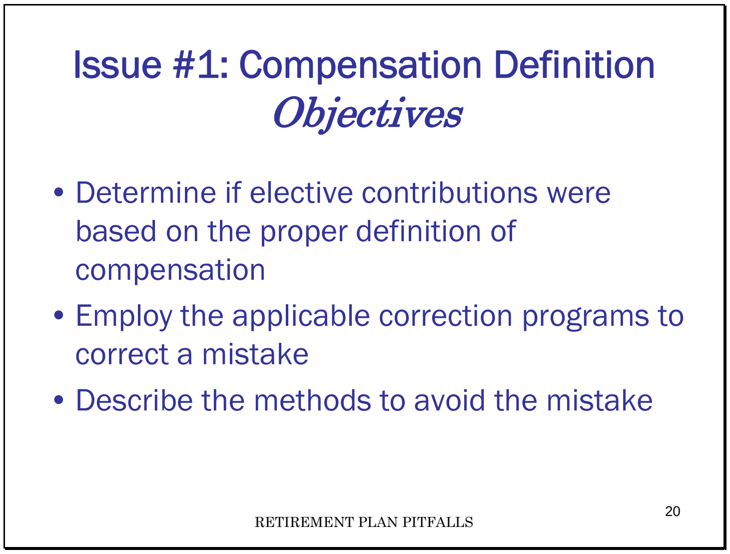
Marisha: ***Hi, my name is Marisha Ward, and I own and operate Jack's PickleWorks – we're a small, regional company that provides pickles to retailers in the restaurant industry throughout the southeastern United States. Currently, I have 14 full-time employees and one-part time employee who are responsible for every step involved in the process of transforming the humble cucumber into the crunchy delicacy that Jack's PickleWorks is known for.***

I wanted to reward and retain my employees, and a friend of mine told me about a 401(k) plan that she got from the financial institution that handles her investments, so I contacted her agent and bought a plan, too. This lets my employees save for retirement, and I help, too.

I'm in a pickle. Austin Pension Services was hired to perform the accounting services for our plan and prepare the annual valuation, Form 5500 return, and all necessary reports. I went to drop off the information for them to file our 2007 return and the doors were locked and there was no forwarding address. I have all of the information from the 2006 files. Can you look it over and let me know what I need to do?

Workshop Instructor: So, you have a new, nervous client. And you know that we are going to have to find some mistakes in Jack's PickleWork's 401(k) plan. Together we are going to work to help Marisha find, fix, and avoid mistakes in her plan.

Slide 20

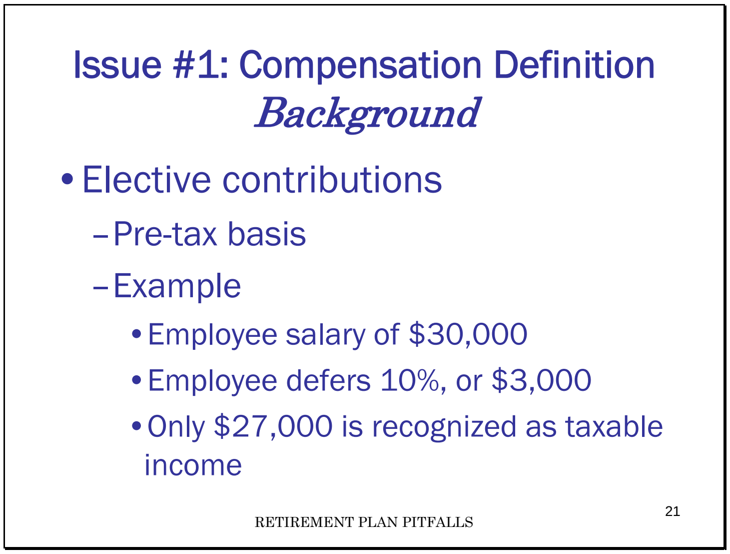


Let's take a look at our first issue:

At the end of this portion of the workshop, you will be able to:

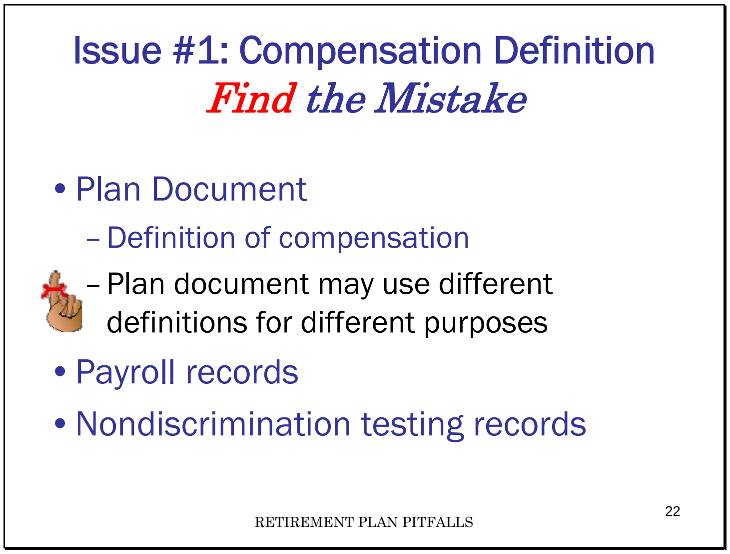
- Determine if elective contributions were based on the proper definition of compensation.
- Employ the applicable correction programs to correct a mistake.
- Describe the methods to avoid the mistake.

Slide 21



First, let me give you some background. Section 401(k) of the Code permits an employee to elect to have his/her employer contribute a portion of the employee's wages to a 401(k) plan on a pre-tax basis. These elective contributions are not subject to income tax at the time of the deferral and they are not reflected as taxable income on the employee's Form 1040. So, if a worker earns $30,000 in a year and elects to defer 10% of his/her compensation, only $27,000 is recognized as taxable income on that year's return.

Slide 22



An important aspect of operating a 401(k) plan is determining the proper compensation. The plan may use different definitions of compensation for different purposes. For example, contributions may be based on a definition that includes or excludes certain types of compensation such as bonuses, overtime, car allowances, etc., while the ADP testing uses a definition that includes all taxable wages.

The plan document determines what compensation amounts are available for elective contributions.

Now that we have the background of the law, let's see what we need to determine if your client is using the proper definitions of compensation.

Let's take a look at the case study located in tab 3 and briefly go through the sections dealing with compensation.

(Have the attendees pull out the case study plan. Ask them what we need the client to provide us to verify compensation is correctly determined for each elective deferral.

Where can you find these definitions in the plan? Discuss. Show where to find matching language in the adoption agreement; same for contributions, compensation…

Adoption agreement sections #9 and #10 on page 4.

To ensure the plan is using the correct compensation, you'll need to start with the plan document. Review the definition of compensation and compare it to the definition used in operation to determine elective contributions. Most mistakes in this area occur because no one consulted the plan document.

OK, Marisha, what can you tell us about how your employees are paid and how is the compensation information shared with your Pension Service?

Part 3 - Compensation Definitions

(See Sections 22.102 and 22.197 of the BPD)

9. **Definition of Total Compensation:**

[X] a. W-2 Wages.

[ ] b. Withholding Wages.

[ ] c. Code §415 Safe Harbor Compensation.

[***Note:*** *Each of the above definitions is increased for Elective Deferrals (as defined in Section 22.61 of the BPD), for pre-tax contributions to a cafeteria plan or a Code §457 plan, and for qualified transportation fringes under Code §132(f)(4). See Section 22.197 of the BPD.*]

10. **Definition of Included Compensation** for allocation of contributions or forfeitures: [*Check a. or b. for those contributions the Employer elects under Part 4 of this Agreement. If b. is selected for a particular contribution, also check any combination of c. through j. for that type of contribution. See Section 22.102 of the BPD for determining Included Compensation for Employee After-Tax Contributions, QNECs, QMACs and Safe Harbor Contributions.*]

	(1) §401(k) Deferrals	**(2) Employer Match**	**(3) Employer Nonelective**	
a.	**[X]**	**[X]**	**[ ]**	Total Compensation, as defined in #9 above.
b.	**[ ]**	**[ ]**	**[ ]**	Total Compensation, as defined in #9 above, with the following exclusions:
c.	**N/A**	**[ ]**	**[ ]**	Elective Deferrals, pre-tax contributions to a cafeteria plan or a Code §457 plan, and qualified transportation fringes under Code §132(f)(4) are excluded. See Section 22.102 of the BPD.
d.	**[ ]**	**[ ]**	**[ ]**	Fringe benefits, expense reimbursements, deferred compensation, and welfare benefits are excluded.
e.	**[ ]**	**[ ]**	**[ ]**	Compensation above $ ___________ is excluded.
f.	**[ ]**	**[ ]**	**[ ]**	Bonuses are excluded.
g.	**[ ]**	**[ ]**	**[ ]**	Commissions are excluded.
h.	**[ ]**	**[ ]**	**[ ]**	Overtime is excluded.
i.	**[ ]**	**[ ]**	**[ ]**	Amounts paid for services performed for a Related Employer that does not execute the Co-Sponsor Adoption Page under this Agreement are excluded.
j.	**[ ]**	**[ ]**	**[ ]**	(Describe modifications to Included Compensation) _________________ ____

[***Note:*** *Unless otherwise provided under j., any exclusions selected under f. through j. above do not apply to Nonhighly Compensated Employees in determining allocations under the Permitted Disparity Method under Part 4C, #21.b. of this Agreement or for purposes of applying the Safe Harbor 401(k) Plan provisions under Part 4E of this Agreement.*]

[ ] 11. **Special rules.**

[ ] a. **Highly Compensated Employees only.** For all purposes under the Plan, the modifications to Included Compensation elected in #10.f. through #10.j. above will apply only to Highly Compensated Employees.

[ ] b. **Measurement period (see the operating rules under Section 2.2(c)(3) of the BPD).** Instead of the Plan Year, Included Compensation is determined on the basis of the period elected under (1) or (2) below.

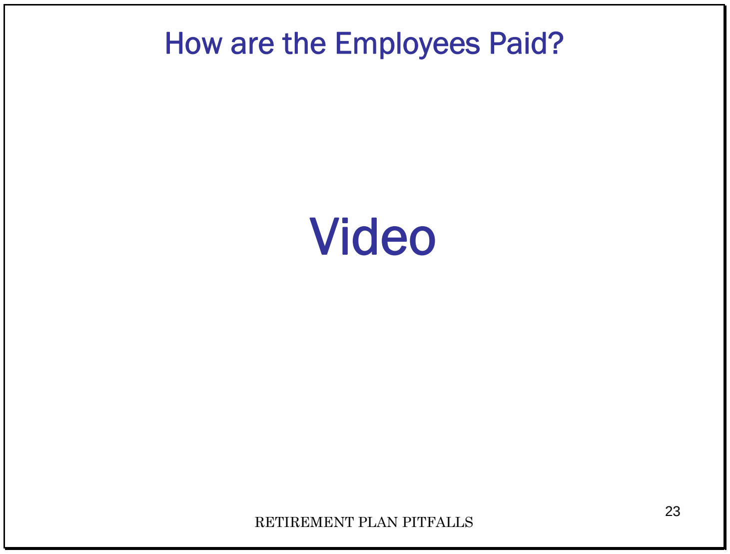
[ ] (1) The calendar year ending in the Plan Year.

[ ] (2) The 12-month period ending on _________________________ which ends during the Plan Year.

[***Note:*** *If this selection b. is checked, Included Compensation will be determined on the basis of the period designated in (1) or (2) for all contribution types. If this selection b. is not checked, Included Compensation is based on the Plan Year. See Part 4 for the ability to use partial year Included Compensation.*]

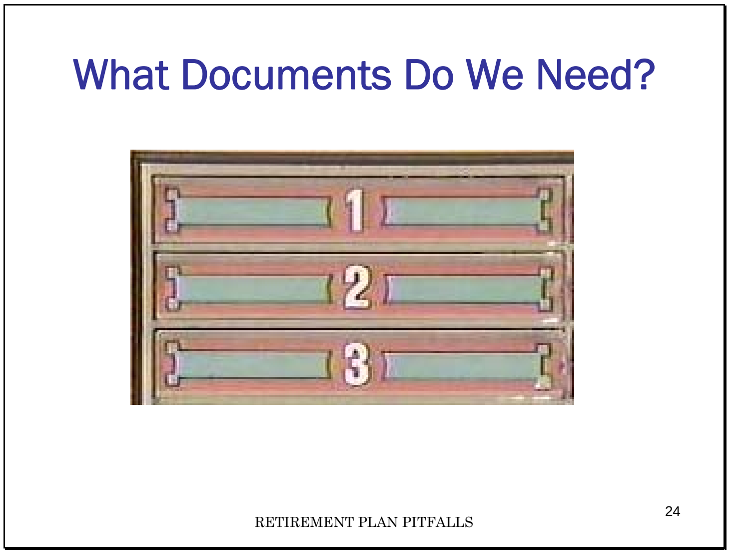
[***Practitioner Tip:*** *If #11.b is checked, it is recommended that the Limitation Year for purposes of applying the Annual Additions Limitation under Code §415 correspond to the period used to determine Included Compensation. This modification to the Limitation Year may be made in Part 13, #69.a. of this Agreement.*]

Slide 23



Marisha: ***We use total pay – that includes overtime – we give a lot of overtime, because we're a growing business and that's a very effective inducement. Our salespeople work on commission. We have a contest every year to see who has the highest sales. The winner gets a bonus at the end of the year. It is a huge motivator. Lucy Dade was the winner in 2006. She got a $12,000 bonus. Our salespeople work hard and spend a lot of time on the road. We need to keep them happy.***

Slide 24



Ask participants what documents we need to determine if there is an error.

Under #1 – Plan

Under #2 – Payroll Data

Under #3 – Allocation Schedule

(Assist participants in locating all documents noted by client in tab 3.)

We now have the tools we need to find the mistake. Review the adoption agreement and applicable plan provisions, along with the payroll data and allocation schedule. Take a few minutes to look over the information. If you have any questions, contact one of the instructors.

(Ask the attendees what problems, if any, they see with regard to the client's comments and/or the spreadsheet and discuss.)

Jack's PickleWorks Company Forms W-2 For the Year Ended December 31, 2006

Record Identifier	Social Security Number	First Name	Middle Initial	Last Name	Wages, Tips and Other Compensation	Federal Income Tax Withheld	Social Security Wages	Social Security Tax Withheld	Medicare Wages & Tips	Medicare Tax Withheld	401(k))
1	000008219	MARY	B	ALPINE	31,500.00	6,300.00	35,000.00	2,170.00	35,000.00	507.50	3,500.00
2	000004778	WILLIAM	Q	BENNETT	25,186.00	4,626.00	25,700.00	1,593.40	25,700.00	372.65	514.00
3	000004256	JAY	P	COLE	25,500.00	4,590.00	25,500.00	1,581.00	25,500.00	369.75	0.00
4	000001952	LUCY	E	DADE	55,200.00	8,640.00	60,000.00	3,422.40	60,000.00	870.00	4,800.00
5	000002265	ROBERT	N	DANE	43,200.00	12,600.00	45,000.00	2,790.00	45,000.00	652.50	1,800.00
6	000007717	PINCUS	H	DUVAL	58,500.00	11,700.00	65,000.00	4,030.00	65,000.00	942.50	6,500.00
7	000003819	CHARLES	R	FURMAN	20,710.00	3,924.00	21,800.00	1,351.60	21,800.00	316.10	1,090.00
8	000001237	BONNIE	L	GLYNN	50,000.00	9,000.00	50,000.00	3,100.00	50,000.00	725.00	0.00
9	000002358	SUSAN	G	HOOD	19,530.00	3,906.00	21,700.00	1,345.40	21,700.00	314.65	2,170.00
10	000003954	JAMES	A	JASPER	27,645.00	5,130.00	28,500.00	1,767.00	28,500.00	413.25	855.00
11	000004158	JOHN	F	PACE	28,880.00	5,472.00	30,400.00	1,884.80	30,400.00	440.80	1,520.00
12	000006812	SARAH	O	PRATT	30,500.00	5,490.00	30,500.00	1,891.00	30,500.00	442.25	0.00
13	000009841	BLANCHE	J	SCOTT	93,100.00	21,600.00	94,200.00	5,840.00	95,000.00	1,305.00	1,900.00
14	000001961	DANE	C	STORY	17,000.00	3,060.00	17,000.00	1,054.00	17,000.00	246.50	0.00
15	000007177	HAROLD	D	SUMTER	20,500.00	3,690.00	20,500.00	1,271.00	20,500.00	297.25	0.00
16	000007193	JOHN	M	TATE	122,000.00	26,400.00	94,200.00	5,840.00	140,000.00	2,030.00	18,000.00
17	000003846	MARISHA	I	WARD	203,000.00	60,200.00	94,200.00	5,840.00	225,000.00	3,262.50	22,000.00
18	000009137	RENEE'	K	WORTH	41,760.00	7,830.00	43,500.00	2,697.00	43,500.00	630.75	1,740.00
					913,711.00	204,158.00	802,700.00	49,468.60	980,100.00	14,138.95	66,389.00

Jack's PickleWorks Company
401(K) Plan
Allocation Report
2006 Plan Year

PARTICIPANT	PLAN COMP	BALANCE 1/1/2006	EMPLOYEE DEFERRAL	EMPLOYER MATCH	EARNINGS ALLOCATION	BALANCE 12/31/2006
Mary Alpine	$ 35,000.00	$ 6,300.00	$ 3,500.00	$ 875.00	$ 533.75	$ 11,208.75
Bill Bennett	$ 25,700.00	$ 3,650.00	$ 514.00	$ 128.50	$ 214.63	$ 4,507.13
Jay Cole	$ 25,500.00	$ 4,590.00	$ -	$ -	$ 229.50	$ 4,819.50
Lucy Dade	$ 48,000.00	$ 57,600.00	$ 4,800.00	$ 1,200.00	$ 3,180.00	$ 66,780.00
Bob Dane	$ 45,000.00	$ 10,800.00	$ 1,800.00	$ 450.00	$ 652.50	$ 13,702.50
Pincus Duval	$ 65,000.00	$ 15,600.00	$ 6,500.00	$ 1,625.00	$ 1,186.25	$ 24,911.25
Charles Furman	$ 21,800.00	$ 3,370.00	$ 1,090.00	$ 272.50	$ 236.63	$ 4,969.13
Susan Hood	$ 21,700.00	$ 16,926.00	$ 2,170.00	$ 542.50	$ 981.93	$ 20,620.43
James Jasper	$ 28,500.00	$ 8,550.00	$ 855.00	$ 213.75	$ 480.94	$ 10,099.69
John Pace	$ 30,400.00	$ 9,120.00	$ 1,520.00	$ 380.00	$ 551.00	$ 11,571.00
Sarah Pratt	$ 30,500.00	$ 3,660.00	$ -	$ -	$ 183.00	$ 3,843.00
Blanche Scott	$ 95,000.00	$ 81,000.00	$ 1,900.00	$ 475.00	$ 4,168.75	$ 87,543.75
John Tate	$ 140,000.00	$ 6,600.00	$ 18,000.00	$ 4,500.00	$ 1,455.00	$ 30,555.00
Marisha Ward	$ 220,000.00	$ 104,000.00	$ 22,000.00	$ 5,500.00	$ 6,575.00	$ 138,075.00
Renee' Worth	$ 43,500.00	$ 7,830.00	$ 1,740.00	$ 435.00	$ 500.25	$ 10,505.25
TOTALS	$ 875,600.00	$ 339,596.00	$ 66,389.00	$ 16,597.25	$ 21,129.11	$ 443,711.36

Jack's PickleWorks Company 401(k) Plan
2006 Plan Census

EMPLOYEE	DATE OF BIRTH	DATE OF HIRE	DATE OF PLAN ENTRY	DATE OF TERM	HOURS OF SERVICE	ANNUAL COMP	STATUS	HCE
Alpine, Mary	09/05/53	02/08/03	07/01/04		2000	$ 35,000.00	Active	
Bennet, William	05/17/72	07/15/95	01/01/97		2000	$ 25,700.00	Active	
Cole, Jay	07/31/60	03/05/03	07/01/04	08/07/06	1133	$ 25,500.00	Terminated	
Dade, Lucy	12/08/42	09/05/87	01/01/89		2000	$ 48,000.00	Active	
Dane, Robert	06/02/53	03/27/96	07/01/97	05/03/06	900	$ 45,000.00	Terminated	Yes
Duval, Pincus	06/21/68	10/23/02	01/01/04		2000	$ 65,000.00	Active	
Furman, Charles	09/08/74	01/09/94	07/01/95		2000	$ 21,800.00	Active	
Glynn, Bonnie	05/07/75	09/22/04			1250	$ 50,000.00	Ineligible	
Hood, Susan	05/11/60	03/05/93	07/01/98		2000	$ 21,700.00	Active	
Jasper, James	05/12/67	03/06/97	07/01/98		2000	$ 28,500.00	Active	
Pace, John	08/13/78	02/13/97	07/01/98		2000	$ 30,400.00	Active	
Pratt, Sarah	07/10/70	08/02/03	01/01/05	10/17/06	1452	$ 30,500.00	Terminated	
Scott, Blanche	05/24/67	03/05/92	07/01/93		2000	$ 95,000.00	Active	Yes
Story, Dane	11/28/55	04/17/06			1480	$ 17,000.00	Ineligible	
Sumter, Harold	02/23/71	05/15/06			1320	$ 20,500.00	Ineligible	
Tate, John	03/08/52	06/24/04	07/01/05		2000	$140,000.00	Active	Yes
Ward, Marisha	08/19/66	06/07/86	07/01/87		2000	$225,000.00	Active	Yes
Worth, Renee'	01/10/77	01/02/03	07/01/04		2000	$ 43,500.00	Active	

Slide 25

Issue #1: Compensation Definition
Fix the Mistake

- Lucy Dade's total pay is $60,000. Comp used for contribution and allocation purposes was $48,000. (Bonus excluded)
- Discovered by comparing W-2 to Allocation Schedule.

RETIREMENT PLAN PITFALLS 25

How many of you found a problem?

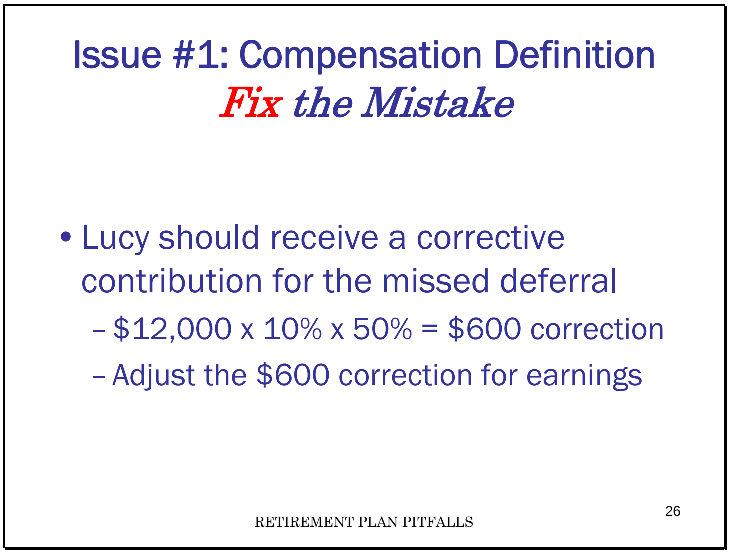
Compensation – Lucy Dade elected to defer 10% of her total compensation. In 2006, Lucy received a bonus that was not included on the census report sent to Austin.

The adoption agreement indicates the definition of compensation is all-inclusive – it does not exclude bonuses, commissions, or fringe benefits.

It also indicates the plan will provide a 25% match of elective contributions. Lucy's W-2 shows her total compensation, including the bonus, is $60,000. The allocation report indicates Lucy's deferral of $4,800, or 10% of $48,000 (her compensation, excluding the bonus) and that she received a 25% match of her 10% deferral.

As you notice, Lucy's deferral was based on $48,000 compensation instead of her total compensation of $60,000. Therefore, her deferral election was not applied to her $12,000 bonus. What are your thoughts on how to correct this error?

Slide 26

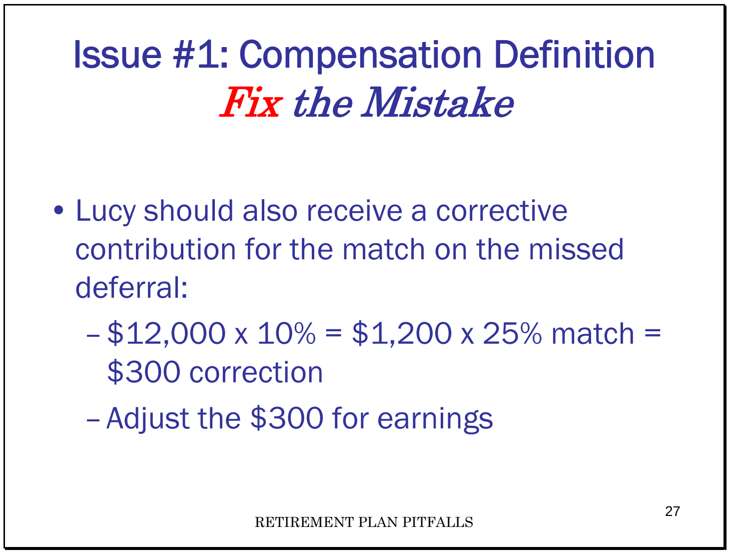


Correction is based on the premise of a missed deferral opportunity. This means that correction is equal to 50% of the missed deferral, adjusted for earnings. For plans with a corresponding match, the match would be based on 100% of the original missed deferral. Correction is 50% of the missed deferral, rather than 100%, because remember, one of the basic premises of the correction program is to put the participant in the position they would have been if the mistake had not occurred. In this case, Lucy was not given the opportunity to defer any of her $12,000 bonus.

For our example:
Lucy Dade should receive a corrective contribution for the missed deferral.
$12,000 x 10% x the missed deferral opportunity of 50% = $600 correction.

Adjust the $600 correction for earnings based on the amount Lucy earned in her account. Base earnings on when missed contributions occurred, in this case on the end of the year bonus. The corrective contribution and earnings must be immediately vested.

Slide 27



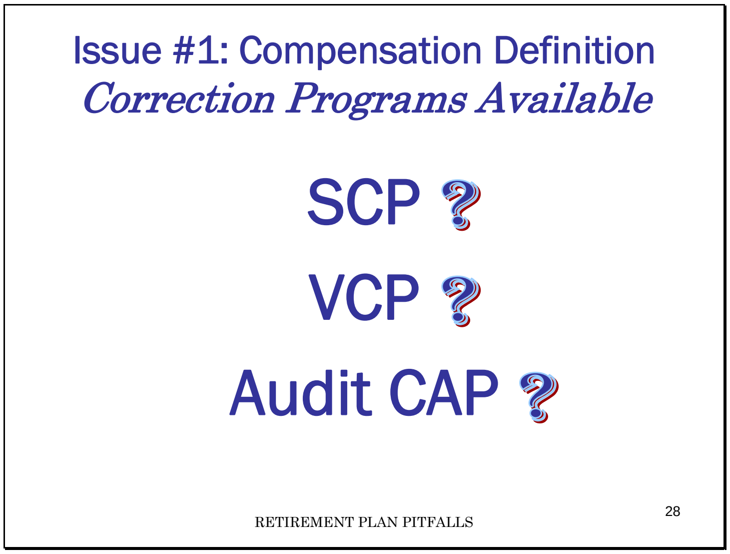
In addition, Lucy should receive a corrective contribution for the match on the missed deferral:
$12,000 x 10% = $1,200 x 25% match = $300 correction.

Again, adjust the $300 for earnings.

Base earnings on when the matching contribution was made. This could be each pay period or after the end of the plan year, depending on when the matching contributions were made.

It isn’t necessary to rerun the nondiscrimination tests if the correction is made in this manner.

Slide 28



We have an operational mistake that we need to correct. We have several options for correction. We'll go through each one and determine the proper fit.

Do you think SCP would apply to this mistake? **Discuss.**

SCP would apply in this situation: This mistake illustrates an operational problem, in that the employer failed to follow the terms of the plan by failing to include Lucy's bonus in the compensation used to determine her allocation under the plan. Therefore, if the other eligibility requirements of SCP are satisfied, Marisha may use SCP to correct the failure.

No fees or forms to file for self-correction.

Practices and procedures must be in place.

Marisha would be able to correct even beyond the two-year correction period, assuming the mistake is considered insignificant.

What about VCP? **Discuss**

VCP could also apply:

If it’s determined that Jack’s PickleWorks did not have the proper practices and procedures in place, correction could occur using VCP.

Correction would require the filing of an application with the IRS, along with the payment of a fee. This fee would, in all cases, be significantly less than correction occurring on audit.

In addition, the practices and procedures need to be revised so that the mistake will not recur in the future.

Audit CAP: **Discuss**

If this mistake is not corrected using SCP or VCP, but instead is discovered on an audit of the plan, a closing agreement may be the only solution to the problem.

The sanction amount is always higher than would be available under SCP or VCP.

Even if a mistake is uncovered under audit, it can be corrected under SCP if insignificant.

The actual correction would be the same under all three programs and the tax-favored status of the plan would be maintained.

Slide 29

Issue #1: Compensation Definition
Avoid the Mistake

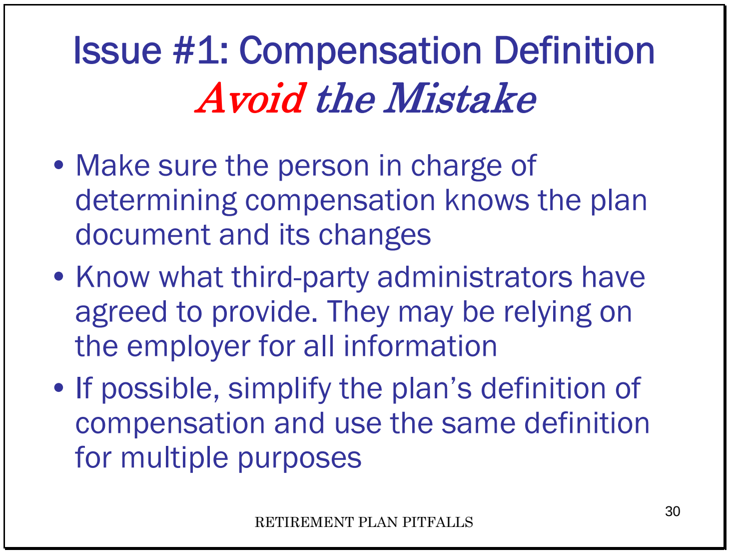
- Perform annual review of the plan's operations
- If plan document is amended
  - check new definitions against old plan, noting any differences
  - communicate any changes to everyone involved in the plan's operations
- If how employees are compensated is changed, review plan definitions of compensation

RETIREMENT PLAN PITFALLS 29

There are a number of ways to avoid this mistake:

- Perform annual reviews of the plan's operations by using the 401(k) checklist that you will find in tab 5.
- If the plan document is amended, check the definitions against the old plan document, noting any differences.
- If the plan document is amended, communicate those changes to everyone involved in the plan's operations.
- If how employees are compensated is changed (providing a taxable car allowance or bonus, for example) review the plan to determine how that compensation fits into the definitions of compensation.

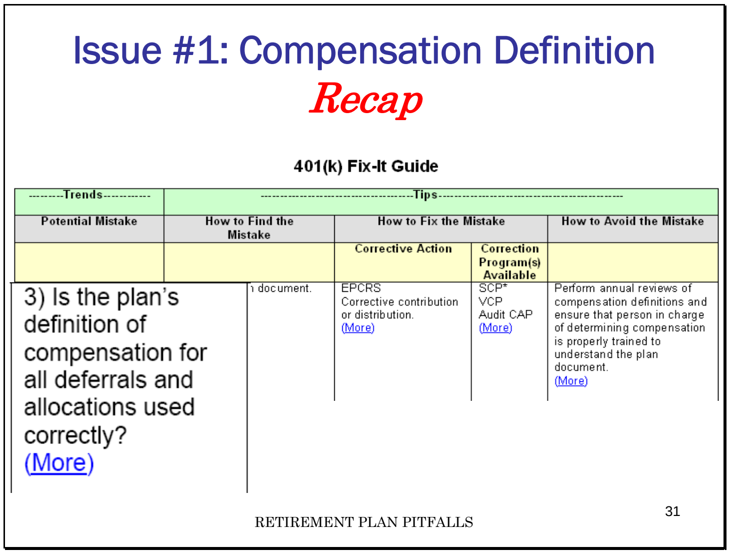
Slide 30



- Make sure the person in charge of determining compensation is properly trained to understand the plan document.
- Know what third-party administrators have agreed to provide. They may be relying on the employer for all information, such as compensation and deferral amounts, used in their own work.
- If possible, simplify the plan's definition of compensation and use the same definition for multiple purposes.

Questions?

Slide 31



This slide shows the portion of the 401(k) Fix-It Guide relating to the compensation definition issue. It is the third item on the Guide.

Go over the objectives again and review:

- Determine if elective contributions were based on the proper definition of compensation.
- Employ the applicable correction programs to fix a mistake.
- Describe the methods to avoid the mistakes.

Slide 32

Issue #2: Employees Participating
Objectives

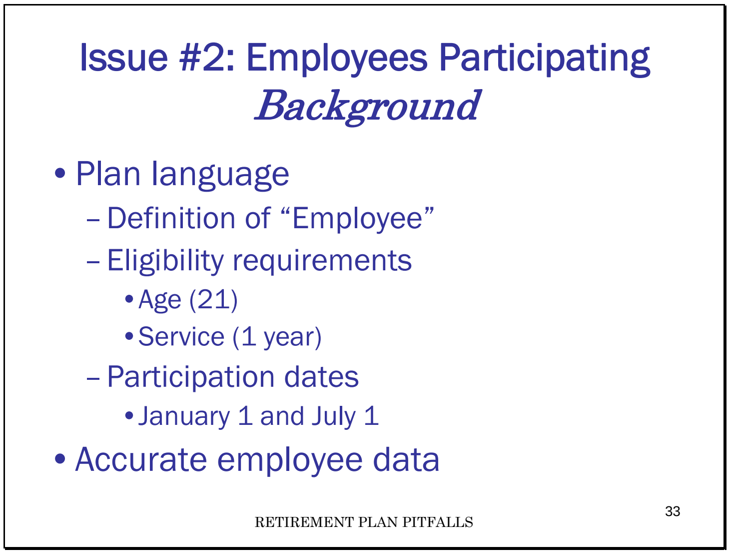
- Identify the portions of a plan document and/or adoption agreement that pertain to the eligibility and participation requirements
- Determine whether the plan meets these requirements in operation
- Employ the applicable correction program
- Describe the methods to avoid the mistakes

RETIREMENT PLAN PITFALLS 32

The next mistake that we will focus on in today's discussion will provide you with the following information:

- Identify the portions of a plan document and/or adoption agreement that pertain to the eligibility and participation requirements.
- Determine whether the plan meets these requirements in operation.
- Employ the applicable correction programs to this type of mistake.
- Describe the methods to avoid this operational error from occurring in the plan.

Slide 33



Pages 2 and 3 of the adoption agreement state the Eligibility Requirements:

The adoption agreement item #4 shows excluded categories of employees. Jack's PickleWorks, as you can see, does not exclude any employees, but you see a list of employees who could be excluded if the employer chose those options.

Item #5 is the minimum age and service conditions for eligibility purposes. The PickleWorks plan chose age 21 and a year of service, which is the minimum required by the Code. There are options available to be more liberal than the minimum as you can see.

Item #7 talks about the entry date and Jack's chose the entry date next following meeting the age and service requirements.

Item #8 gives the definition of the entry date, which has been selected as the first day of the plan year and the first day of the seventh month of the plan year, in this case, January 1st and July 1st. As you can see, quicker entry into the plan is available, if chosen.

Part 1 - Eligibility Conditions

(See Article 1 of the BPD)

4. **Excluded Employees.** [*Check a. or any combination of b. - f. for those contributions the Employer elects to make under Part 4 of this Agreement. See Section 1.2 of the BPD for rules regarding the determination of Excluded Employees for Employee After-Tax Contributions, QNECs, QMACs and Safe Harbor Contributions.*]

	(1) §401(k) Deferrals	(2) Employer Match	(3) Employer Nonelective	
a.	**[X]**	**[X]**	**[ ]**	No excluded categories of Employees.
b.	**[ ]**	**[ ]**	**[ ]**	Union Employees (see Section 22.202 of the BPD).
c.	**[ ]**	**[ ]**	**[ ]**	Nonresident Alien Employees (see Section 22.124 of the BPD).
d.	**[ ]**	**[ ]**	**[ ]**	Leased Employees (see Section 1.2(b) of the BPD).
e.	**[ ]**	**[ ]**	**[ ]**	Highly Compensated Employees (see Section 22.99 of the BPD).
f.	**[ ]**	**[ ]**	**[ ]**	(Describe Excluded Employees)___________________________________

5. **Minimum age and service conditions for becoming an Eligible Participant.** [*Check a. or check b. and/or any one of c. – e. for those contributions the Employer elects to make under Part 4 of this Agreement. Selection f. may be checked instead of or in addition to any selections under b. – e. See Section 1.4 of the BPD for the application of the minimum age and service conditions for purposes of Employee After-Tax Contributions, QNECs, QMACs and Safe Harbor Contributions. See Part 7 of this Agreement for special service crediting rules.*]

	(1) §401(k) Deferrals	(2) Employer Match	(3) Employer Nonelective	
a.	**[ ]**	**[ ]**	**[ ]**	None (conditions are met on Employment Commencement Date).
b.	**[X]**	**[X]**	**[ ]**	Age ____21___ (cannot exceed age 21).
c.	**[X]**	**[X]**	**[ ]**	One Year of Service.
d.	**[ ]**	**[ ]**	**[ ]**	_________ consecutive months (not more than 12) during which the Employee completes at least ___________ Hours of Service (cannot exceed 1,000). If an Employee does not satisfy this requirement in the first designated period of months following his/her Employment Commencement Date, such Employee will be deemed to satisfy this condition upon completing a Year of Service (as defined in Section 1.4(b) of the BPD).
e.	**N/A**	**[ ]**	**[ ]**	Two Years of Service. [*Full and immediate vesting must be selected under Part 6 of this Agreement*.]
f.	**[ ]**	**[ ]**	**[ ]**	(Describe eligibility conditions)___________________________________

[***Note:*** *Any conditions provided under f. must be described in a manner that precludes Employer discretion, must satisfy the nondiscrimination requirements of §1.401(a)(4) of the regulations, and may not cause the Plan to violate the provisions of Code §410(a).*]

[X] 6. **Dual eligibility.** Any Employee (other than an Excluded Employee) who is employed on the date designated under a. or b. below, as applicable, is deemed to be an Eligible Participant as of the later of the date identified under this #6 or the Effective Date of this Plan, without regard to any Entry Date selected under Part 2. See Section 1.4(d)(2) of the BPD. [***Note:*** *If this #6 is checked, also check a. or b. If this #6 is not checked, the provisions of Section 1.4(d)(1) of the BPD apply.*]

[X] a. The Effective Date of this Plan.

[ ] b. (Identify date) ____________________________

[***Note:*** *Any date specified under b. may not cause the Plan to violate the provisions of Code §410(a). See Section 1.4 of the BPD.*]

Part 2 - Commencement of Participation

(See Section 1.5 of the BPD)

7. **Entry Date upon which participation begins after completing minimum age and service conditions under Part 1, #5 above.** [*Check one of a. - e. for those contributions the Employer elects to make under Part 4 of this Agreement. See Section 1.5 of the BPD for determining the Entry Date applicable to Employee After-Tax Contributions, QNECs, QMACs and Safe Harbor Contributions.*]

	(1) §401(k) Deferrals	**(2) Employer Match**	**(3) Employer Nonelective**	
a.	**[ ]**	**[ ]**	**[ ]**	The next following Entry Date (as defined in #8 below).
b.	**[X]**	**[X]**	**[ ]**	The Entry Date (as defined in #8 below) coinciding with or next following the completion of the age and service conditions.
c.	**N/A**	**[ ]**	**[ ]**	The nearest Entry Date (as defined in #8 below).
d.	**N/A**	**[ ]**	**[ ]**	The preceding Entry Date (as defined in #8 below).
e.	**[ ]**	**[ ]**	**[ ]**	The date the age and service conditions are satisfied. [*Also check #8.e. below for the same type of contribution(s) checked here.*]

8. **Definition of Entry Date.** [*Check one of a. - e. for those contributions the Employer elects to make under Part 4 of this Agreement. Selection f. may be checked instead of or in addition to a. - e. See Section 1.5 of the BPD for determining the Entry Date applicable to Employee After-Tax Contributions, QNECs, QMACs and Safe Harbor Contributions.*]

	(1) §401(k) Deferrals	**(2) Employer Match**	**(3) Employer Nonelective**	
a.	**[X]**	**[X]**	**[ ]**	The first day of the Plan Year and the first day of 7th month of the Plan Year.
b.	**[ ]**	**[ ]**	**[ ]**	The first day of each quarter of the Plan Year.
c.	**[ ]**	**[ ]**	**[ ]**	The first day of each month of the Plan Year.
d.	**[ ]**	**[ ]**	**[ ]**	The first day of the Plan Year. [*If #7.a. or #7.b. above is checked for the same type of contribution as checked here, see the restrictions in Section 1.5(b) of the BPD.*]
e.	**[ ]**	**[ ]**	**[ ]**	The date the conditions in Part 1, #5 above are satisfied. [*This e. should be checked for a particular type of contribution only if #7.e. above is also checked for that type of contribution.*]
f.	**[ ]**	**[ ]**	**[ ]**	(Describe Entry Date) ____________________

[***Note:*** *Any Entry Date designated in f. must comply with the requirements of Code §410(a)(4) and must satisfy the nondiscrimination requirements under §1.401(a)(4) of the regulations. See Section 1.5(a) of the BPD.*]

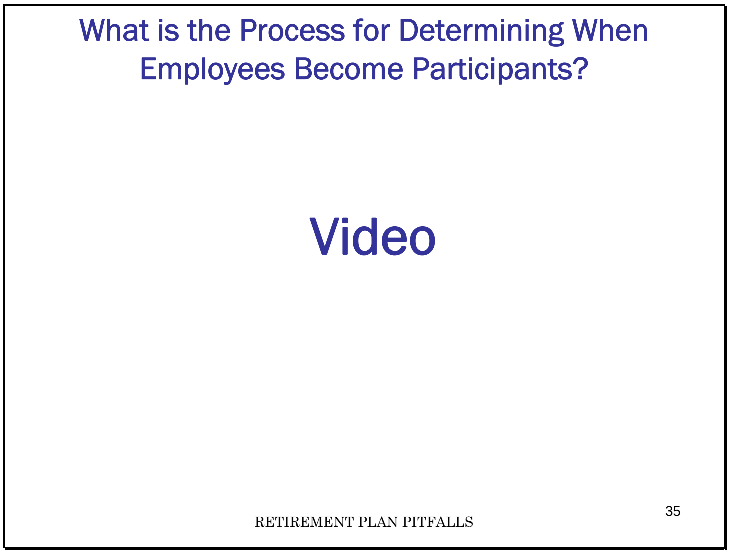
Slide 34

Issue #2: Employees Participating
Find the Mistake

- Plan document language
- Personnel records
- Payroll records

We have already reviewed the plan document concerning the language on eligibility and participation. Now let’s check the personnel and payroll records to find out which employees are eligible.

Slide 35



Let's check back with Marisha to find out if all eligible employees are participating in the plan.

Marisha: ***We are a small company. Mary Alpine is our Office Manager. She handles the personnel functions. We hired Payroll, Inc. to handle our payroll. When a new hire starts, they meet with Mary for a company orientation including a review of the company benefits. She gives the new hire the Employee Package with written details of the company, benefits, and 401(k) plan. She provides Payroll with the new employee's name, deductions, date of hire, marital status, and social security number.***

As I said earlier, Austin Pension Services did all of the administration of our 401(k) plan. They sent Mary a form to fill out twice a year and she filled it out and sent it back to them. They let Mary know when folks were eligible to be in the plan. Our plan has two entry dates – January 1 and July 1. We give an election form at the end of the employee's first anniversary of working with us. We sort of have a little party and celebrate and this is one of our "gifts." It's a big morale booster. All full-time employees are eligible

to defer into the plan after a year of working with us. The part-time employee isn't eligible for the plan.

The Pension Service had other paper work for Mary to fill out for special situations – terminations, loans, things like that. They let us know how much money we had to send to the investment company and sent us the annual reports. I counted on them to keep things straight. I figure I know pickles, and they know retirement plans.

Workshop Instructor: It appears that Marisha has an issue with who is eligible to participate in the plan. Let's see if we can help her out.

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What documents do we need to look at to find this mistake?

Under #1 – Plan

Under #2 – Payroll Data

Under #3 – Employee Census

We have already reviewed the **plan** document to determine what eligibility and participation requirements are under the plan.

We need to review the **payroll data** to determine the universe of employees.

Finally, we need to review the **employee census** to determine the employee's date of hire, hours of service, and date of participation.

<u>Application of Rules:</u> Class Exercise/ Check plan census and personnel records

Who should be in the plan?

Jack's PickleWorks Company   Forms W-2   For the Year Ended December 31, 2006

Record Identifier	Social Security Number	First Name	Middle Initial	Last Name	Wages, Tips and Other Compensation	Federal Income Tax Withheld	Social Security Wages	Social Security Tax Withheld	Medicare Wages & Tips	Medicare Tax Withheld	401(k))
1	000008219	MARY	B	ALPINE	31,500.00	6,300.00	35,000.00	2,170.00	35,000.00	507.50	3,500.00
2	000004778	WILLIAM	Q	BENNETT	25,186.00	4,626.00	25,700.00	1,593.40	25,700.00	372.65	514.00
3	000004256	JAY	P	COLE	25,500.00	4,590.00	25,500.00	1,581.00	25,500.00	369.75	0.00
4	000001952	LUCY	E	DADE	55,200.00	8,640.00	60,000.00	3,422.40	60,000.00	870.00	4,800.00
5	000002265	ROBERT	N	DANE	43,200.00	12,600.00	45,000.00	2,790.00	45,000.00	652.50	1,800.00
6	000007717	PINCUS	H	DUVAL	58,500.00	11,700.00	65,000.00	4,030.00	65,000.00	942.50	6,500.00
7	000003819	CHARLES	R	FURMAN	20,710.00	3,924.00	21,800.00	1,351.60	21,800.00	316.10	1,090.00
8	000001237	BONNIE	L	GLYNN	50,000.00	9,000.00	50,000.00	3,100.00	50,000.00	725.00	0.00
9	000002358	SUSAN	G	HOOD	19,530.00	3,906.00	21,700.00	1,345.40	21,700.00	314.65	2,170.00
10	000003954	JAMES	A	JASPER	27,645.00	5,130.00	28,500.00	1,767.00	28,500.00	413.25	855.00
11	000004158	JOHN	F	PACE	28,880.00	5,472.00	30,400.00	1,884.80	30,400.00	440.80	1,520.00
12	000006812	SARAH	O	PRATT	30,500.00	5,490.00	30,500.00	1,891.00	30,500.00	442.25	0.00
13	000009841	BLANCHE	J	SCOTT	93,100.00	21,600.00	94,200.00	5,840.00	95,000.00	1,305.00	1,900.00
14	000001961	DANE	C	STORY	17,000.00	3,060.00	17,000.00	1,054.00	17,000.00	246.50	0.00
15	000007177	HAROLD	D	SUMTER	20,500.00	3,690.00	20,500.00	1,271.00	20,500.00	297.25	0.00
16	000007193	JOHN	M	TATE	122,000.00	26,400.00	94,200.00	5,840.00	140,000.00	2,030.00	18,000.00
17	000003846	MARISHA	I	WARD	203,000.00	60,200.00	94,200.00	5,840.00	225,000.00	3,262.50	22,000.00
18	000009137	RENEE'	K	WORTH	41,760.00	7,830.00	43,500.00	2,697.00	43,500.00	630.75	1,740.00
					913,711.00	204,158.00	802,700.00	49,468.60	980,100.00	14,138.95	66,389.00

Jack's PickleWorks Company 401(k) Plan
2006 Plan Census

EMPLOYEE	DATE OF BIRTH	DATE OF HIRE	DATE OF PLAN ENTRY	DATE OF TERM	HOURS OF SERVICE	ANNUAL COMP	STATUS	HCE
Alpine, Mary	09/05/53	02/08/03	07/01/04		2000	$ 35,000.00	Active	
Bennet, William	05/17/72	07/15/95	01/01/97		2000	$ 25,700.00	Active	
Cole, Jay	07/31/60	03/05/03	07/01/04	08/07/06	1133	$ 25,500.00	Terminated	
Dade, Lucy	12/08/42	09/05/87	01/01/89		2000	$ 48,000.00	Active	
Dane, Robert	06/02/53	03/27/96	07/01/97	05/03/06	900	$ 45,000.00	Terminated	Yes
Duval, Pincus	06/21/68	10/23/02	01/01/04		2000	$ 65,000.00	Active	
Furman, Charles	09/08/74	01/09/94	07/01/95		2000	$ 21,800.00	Active	
Glynn, Bonnie	05/07/75	09/22/04			1250	$ 50,000.00	Ineligible	
Hood, Susan	05/11/60	03/05/93	07/01/98		2000	$ 21,700.00	Active	
Jasper, James	05/12/67	03/06/97	07/01/98		2000	$ 28,500.00	Active	
Pace, John	08/13/78	02/13/97	07/01/98		2000	$ 30,400.00	Active	
Pratt, Sarah	07/10/70	08/02/03	01/01/05	10/17/06	1452	$ 30,500.00	Terminated	
Scott, Blanche	05/24/67	03/05/92	07/01/93		2000	$ 95,000.00	Active	Yes
Story, Dane	11/28/55	04/17/06			1480	$ 17,000.00	Ineligible	
Sumter, Harold	02/23/71	05/15/06			1320	$ 20,500.00	Ineligible	
Tate, John	03/08/52	06/24/04	07/01/05		2000	$140,000.00	Active	Yes
Ward, Marisha	08/19/66	06/07/86	07/01/87		2000	$225,000.00	Active	Yes
Worth, Renee'	01/10/77	01/02/03	07/01/04		2000	$ 43,500.00	Active	

JACK'S PICKLEWORKS COMPANY
401(K) PLAN
ADP / ACP TEST
2006 PLAN YEAR

HCE	PARTICIPANT	PLAN COMP	EMPLOYEE DEFERRAL	EMPLOYER MATCH	ADR	ACR	HCE ADR	NHCE ADR	HCE ACR	NHCE ACR
NO	Mary Alpine	$ 35,000.00	$ 3,500.00	$ 875.00	10.00%	2.50%		10.00%		2.50%
NO	Bill Bennett	$ 25,700.00	$ 514.00	$ 128.50	2.00%	0.50%		2.00%		0.50%
NO	Jay Cole	$ 25,500.00	$ -	$ -	0.00%	0.00%		0.00%		0.00%
NO	Lucy Dade	$ 48,000.00	$ 4,800.00	$ 1,200.00	10.00%	2.50%		10.00%		2.50%
YES	Bob Dane	$ 45,000.00	$ 1,800.00	$ 450.00	4.00%	1.00%	4.00%		1.00%	
NO	Pincus Duval	$ 65,000.00	$ 6,500.00	$ 1,625.00	10.00%	2.50%		10.00%		2.50%
NO	Charles Furman	$ 21,800.00	$ 1,090.00	$ 272.50	5.00%	1.25%		5.00%		1.25%
NO	Susan Hood	$ 21,700.00	$ 2,170.00	$ 542.50	10.00%	2.50%		10.00%		2.50%
NO	James Jasper	$ 28,500.00	$ 855.00	$ 213.75	3.00%	0.75%		3.00%		0.75%
NO	John Pace	$ 30,400.00	$ 1,520.00	$ 380.00	5.00%	1.25%		5.00%		1.25%
NO	Sarah Pratt	$ 30,500.00	$ -	$ -	0.00%	0.00%		0.00%		0.00%
YES	Blanche Scott	$ 95,000.00	$ 1,900.00	$ 475.00	2.00%	0.50%	2.00%		0.50%	
YES	John Tate	$ 140,000.00	$ 18,000.00	$ 4,500.00	12.86%	3.21%	12.86%		3.21%	
YES	Marisha Ward	$ 220,000.00	$ 22,000.00	$ 5,500.00	10.00%	2.50%	10.00%		2.50%	
NO	Renee' Worth	$ 43,500.00	$ 1,740.00	$ 435.00	4.00%	1.00%		4.00%		1.00%
		$ 875,600.00	$ 66,389.00	$16,597.25			28.86%	59.00%	7.21%	14.75%
							/ 4	/ 11	/ 4	/ 11
PRIMARY TEST:				SECONDARY TEST:			7.21%	5.36%	1.80%	1.34%

1.25 X 5.36 = 6.70	7.21 > 6.70	5.36 + 2.00 = 7.36	7.21 < 7.36	ADP Test Passed
1.25 X 1.34 = 1.68	1.80 > 1.68	1.34 + 2.00 = 3.34	1.80 < 3.34	ACP Test Passed

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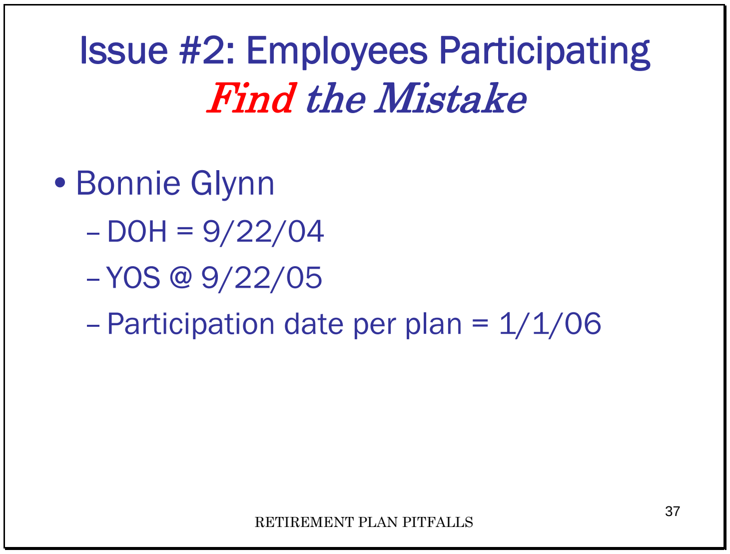

Review the employee census. As we can see, Bonnie's date of hire was September 2004. She completed a year of service in September 2005. She should have entered the plan on January 1, 2006, but the census shows her as ineligible.

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Issue #2: Employees Participating
Fix the Mistake

- Corrective Contribution equal to Missed Deferral Opportunity
  - 50% of employee's missed deferral
- Bonnie

Compensation	$50,000
x ADP for NHCEs (5.36%) =	$ 2,680
x 50% =	$ 1,340

Generally, if an employee was not provided the opportunity to make elective contributions to a 401(k) plan, the employer must make a corrective contribution to the plan on behalf of the employee that compensates for the missed deferral opportunity. The missed deferral opportunity is equal to 50% of the employee's missed deferral. The missed deferral is determined by multiplying the actual deferral percentage (ADP) for the employee's group in the plan for the year of exclusion by the employee's compensation for that year. We get a lot of questions on why the ADP of the employee's group? Folks say that the employee may have declined participation, why can't the correction be 0%. There is no way to know what the circumstances of the employee may have been at the time that they should have been given the opportunity to participate. Sure, they may have declined to contribute, or they may have maxed out the eligibility to defer. There is no way to know for sure. So, the best guess is to provide correction at a rate that is equal to their peer group – either highly or nonhighly compensated. Again, the corrective contribution must be 100% vested. On a go forward basis, the employee must be given an election form and allowed to elect the amount that they wish to defer in future pay periods.

Bonnie's missed deferral is equal to the 5.36% ADP for nonhighly compensated employees found on the ADP test from the case study multiplied by $50,000 (compensation earned for the portion of the year in which she was erroneously excluded). The missed deferral opportunity amount is $50,000 times 5.36% = $2,680 times 50% or $1,340. The corrective contribution must be adjusted for earnings. In this situation, because Bonnie was not allowed to defer at all, we don't know what her earnings rate would be. So, again, we want to place her in a position she would have been in had the mistake not occurred. It would be reasonable to use the plan earnings rate for her correction.

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Issue #2: Employees Participating
Fix the Mistake

- Bonnie should also receive a corrective contribution for the match on the missed deferral:
  - $2,680 x 25% = $670 correction
  - Adjust the $670 for earnings

RETIREMENT PLAN PITFALLS 39

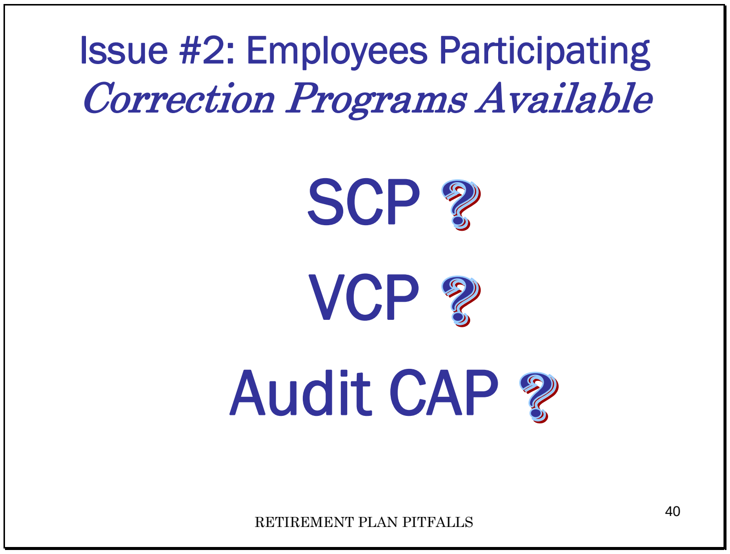
In addition, Bonnie should receive a corrective contribution for the match on the missed deferral:
$2,680 x 25% = $670 correction.

Again, adjust the $670 for earnings.

Base earnings on when the matching contribution was made. This could be each pay period or after the end of the plan year, depending on when the matching contributions were made.

Correction of this error does not change the results of the nondiscrimination testing.

Slide 40



Again, we have an operational mistake that we need to correct. We have several options for correction. We'll go through each one and determine the proper fit.

Do you think SCP would apply to this mistake? **Discuss.**

SCP would apply in this situation: This mistake illustrates an operational problem, in that the employer failed to include all eligible employees in the plan. Therefore, if the other eligibility requirements of SCP are satisfied, Marisha may use SCP to correct the failure.

What about VCP?

VCP could also apply:

If it's determined that Marisha did not have the proper practices and procedures in place, correction could occur using VCP.

Audit CAP: **Discuss**

If this mistake is not corrected using SCP or VCP, but instead is discovered on an audit of the plan, a closing agreement may be the only solution to the problem.

The sanction amount is always higher than would be available under SCP or VCP.

Even if a mistake is uncovered under audit, it can be corrected under SCP if insignificant.

The actual correction would be the same under all three programs and the tax-favored status of the plan would be maintained.

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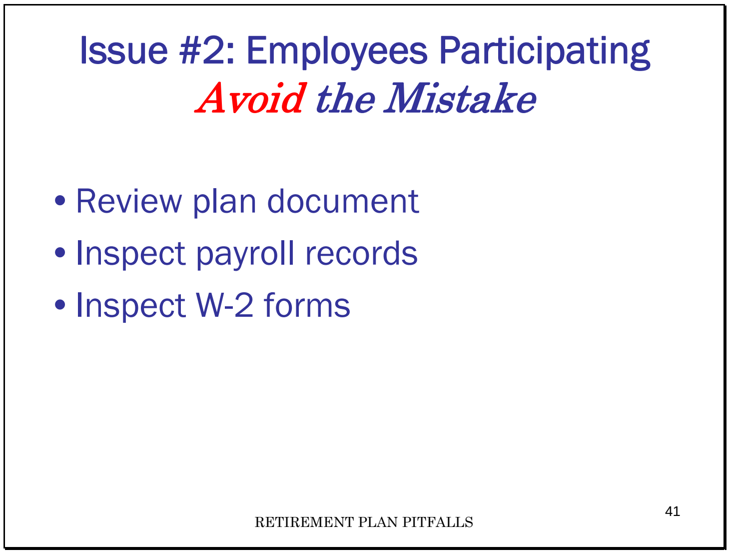

Review the plan document and inspect payroll records to extract the total number of employees, birth dates, hire dates, hours worked, and other pertinent information. To reduce the risk of omitting eligible employees, you should ensure that employee data such as birth, hire, and termination dates, number of hours worked, and any other information necessary to properly administer the plan are accurate. Also, inspect form(s) W-2 and State Unemployment Tax returns to assure that all employees have been accounted for.

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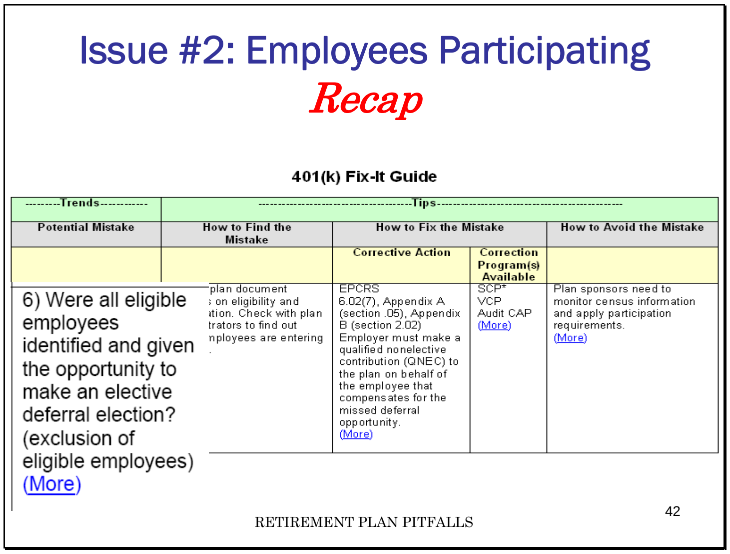

This slide shows the portion of the 401(k) Fix-It Guide relating to the eligibility issue. It is the sixth item on the Guide.

Today's presentation has provided you with the following information:

- Identify the portions of a plan document and/or adoption agreement that pertain to the eligibility and participation requirements.
- Determine whether the plan meets these requirements in operation.
- Employ the applicable correction programs to fix this type of mistake.
- Describe the methods to avoid this operational error from occurring in the plan.

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Issue #3: Excess Elective Deferrals
Objectives

- Identify the portions of a plan document and/or adoption agreement that pertain to the limits on elective deferrals
- Determine whether the plan meets the limits in operation
- Employ the applicable correction programs to an excess elective deferral operational error
- Describe the methods to avoid excess elective deferrals from occurring in the plan

RETIREMENT PLAN PITFALLS 43

So far, your client has had problems with using the proper definition of compensation and not allowing all eligible employees to participate in the plan.

The next issue we will discuss with your client is the operational aspects of elective contributions in her 401(k) plan. Limitations are set each year and those limits must be met; otherwise, it is an IRC §401(a) violation and the plan could become disqualified, just as in the other scenarios discussed earlier.

At the end of this portion of the workshop, you will be able to:

- Identify the portions of a plan document and/or adoption agreement that pertain to the limits on elective deferrals.
- Analyze the plan document, adoption agreement, and facts to decide whether the plan meets the limits in operation.
- Employ the applicable correction programs to an excess elective deferral operational error.
- Describe the methods to avoid elective deferrals in excess of the legal limits from occurring in the plan.

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Issue #3: Excess Elective Deferrals
Background

- §401(a)(30)
  - Must not exceed limits of §402(g)
    - 2008 limit - $15,500
    - 2007 limit - $15,500
    - 2006 limit - $15,000
  - Age 50 catch-up contributions
    - $5,000 for 2006 through 2008

RETIREMENT PLAN PITFALLS 44

Code section 402(g) places a limit on the amount of elective contributions, also called elective deferrals, a plan participant may exclude from taxable income each calendar year. Code section 401(a)(30) provides that in order for a plan to be qualified, it must provide that the amount of elective deferrals for each participant under all plans of the same employer not exceed the limitation on elective deferrals provided in Code section 402(g). The limit on elective deferrals for 2006 was $15,000 and $15,500 for 2007 and 2008. This limit is subject to cost-of-living increases after 2008.

A plan may permit participants who are age 50 or over at the end of the calendar year to make additional elective contributions. These additional contributions, called catch-up contributions, are not subject to the general limits that apply to 401(k) plans. An employer is not required to provide for catch-up contributions in any of its plans. However, if the plan does allow catch-up contributions, it must allow all eligible participants to make the same election with respect to catch-up contributions. For a 401(k) plan, the catch-up elective deferral limit increases by $5,000 for each year, 2006 through 2008.

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Issue #3: Excess Elective Deferrals
Background

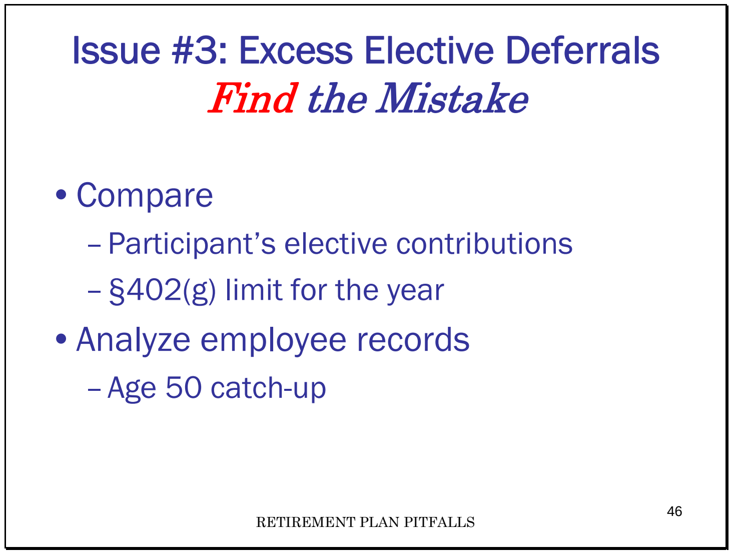
- §402(g) limits include
  - Pre-tax elective contributions
  - Designated Roth contributions
- Individual limit - all plans with all employers included

RETIREMENT PLAN PITFALLS 45

Elective deferrals include both pre-tax elective contributions and designated Roth contributions. Generally, all elective contributions made by a participant to all plans in which the employee participates must be considered to determine if the section 402(g) limits are exceeded.

The plan document may place its own lower limit on the amount of the deferral or on the percentage of pay that may be deferred.

Slide 46



How does 402(g) plan language look in a plan? Let's take a look at the case study and briefly go through the section of the plan dealing with this requirement.

(Have the attendees pull out the case study plan)

See section 2.4 (page 4) of the EGTRRA Amendment found directly after the Adoption Agreement.

Now that we have the background of the law and have seen the applicable plan language, let's ask your client about how elective contributions operate in her plan.

EGTRRA
AMENDMENT TO THE

JACK'S PICKLEWORKS COMPANY 401(K) PLAN

ARTICLE I
PREAMBLE

1.1 Adoption and effective date of amendment. This amendment of the plan is adopted to reflect certain provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA"). This amendment is intended as good faith compliance with the requirements of EGTRRA and is to be construed in accordance with EGTRRA and guidance issued thereunder. Except as otherwise provided, this amendment shall be effective as of the first day of the first plan year beginning after December 31, 2001.

1.2 Supersession of inconsistent provisions. This amendment shall supersede the provisions of the plan to the extent those provisions are inconsistent with the provisions of this amendment.

ARTICLE II
ADOPTION AGREEMENT ELECTIONS

The questions in this Article II only need to be completed in order to override the default provisions set forth below. If all of the default provisions will apply, then these questions should be skipped.

Unless the employer elects otherwise in this Article II, the following defaults apply:

1) **The vesting schedule for matching contributions will be a 6 year graded schedule (if the plan currently has a graded schedule that does not satisfy EGTRRA) or a 3 year cliff schedule (if the plan currently has a cliff schedule that does not satisfy EGTRRA), and such schedule will apply to all matching contributions (even those made prior to 2002).**
2) **Rollovers are automatically excluded in determining whether the $5,000 threshold has been exceeded for automatic cash-outs (if the plan is not subject to the qualified joint and survivor annuity rules and provides for automatic cash-outs). This is applied to all participants regardless of when the distributable event occurred.**
3) **The suspension period after a hardship distribution is made will be 6 months and this will only apply to hardship distributions made after 2001.**
4) **Catch-up contributions will be allowed.**
5) **For target benefit plans, the increased compensation limit of $200,000 will be applied retroactively (i.e., to years prior to 2002).**

2.1 **Vesting Schedule for Matching Contributions**

If there are matching contributions subject to a vesting schedule that does not satisfy EGTRRA, then unless otherwise elected below, for participants who complete an hour of service in a plan year beginning after December 31, 2001, the following vesting schedule will apply to all matching contributions subject to a vesting schedule:

If the plan has a graded vesting schedule (i.e., the vesting schedule includes a vested percentage that is more than 0% and less than 100%) the following will apply:

Years of vesting service	Nonforfeitable percentage
2	20%
3	40%
4	60%
5	80%
6	100%

If the plan does not have a graded vesting schedule, then matching contributions will be nonforfeitable upon the completion of 3 years of vesting service.

In lieu of the above vesting schedule, the employer elects the following schedule:

a. [ ] 3 year cliff (a participant's accrued benefit derived from employer matching contributions shall be nonforfeitable upon the participant's completion of three years of vesting service).

b. [ ] 6 year graded schedule (20% after 2 years of vesting service and an additional 20% for each year thereafter).

c. [ ] Other (must be at least as liberal as a. or b. above):

Years of vesting service	Nonforfeitable percentage
________	_________%
________	_________%
________	_________%
________	_________%
________	_________%

The vesting schedule set forth herein shall only apply to participants who complete an hour of service in a plan year beginning after December 31, 2001, and, unless the option below is elected, shall apply to **all** matching contributions subject to a vesting schedule.

d. [ ] The vesting schedule will only apply to matching contributions made in plan years beginning after December 31, 2001 (the prior schedule will apply to matching contributions made in prior plan years).

2.2 **Exclusion of Rollovers in Application of Involuntary Cash-out Provisions (for profit sharing and 401(k) plans only).** If the plan is not subject to the qualified joint and survivor annuity rules and includes involuntary cash-out provisions, then unless one of the options below is elected, effective for distributions made after December 31, 2001, rollover contributions will be excluded in determining the value of the participant's nonforfeitable account balance for purposes of the plan's involuntary cash-out rules.

a. [ ] Rollover contributions will not be excluded.

b. [ ] Rollover contributions will be excluded only with respect to distributions made after ______________ (Enter a date no earlier than December 31, 2001).

c. [ ] Rollover contributions will only be excluded with respect to participants who separated from service after ______________. (Enter a date. The date may be earlier than December 31, 2001.)

2.3 **Suspension period of hardship distributions.** If the plan provides for hardship distributions upon satisfaction of the safe harbor (deemed) standards as set forth in Treas. Reg. Section 1.401(k)-1(d)(2)(iv), then, unless the option below is elected, the suspension period following a hardship distribution shall only apply to hardship distributions made after December 31, 2001.

[ ] With regard to hardship distributions made during 2001, a participant shall be prohibited from making elective deferrals and employee contributions under this and all other plans until the later of January 1, 2002, or 6 months after receipt of the distribution.

2.4 **Catch-up contributions (for 401(k) profit sharing plans only):** The plan permits catch-up contributions (Article VI) unless the option below is elected.

[ ] The plan does not permit catch-up contributions to be made.

2.5 **For target benefit plans only:** The increased compensation limit ($200,000 limit) shall apply to years prior to 2002 unless the option below is elected.

[ ] The increased compensation limit will not apply to years prior to 2002.

ARTICLE III
VESTING OF MATCHING CONTRIBUTIONS

3.1 Applicability. This Article shall apply to participants who complete an Hour of Service after December 31, 2001, with respect to accrued benefits derived from employer matching contributions made in plan years beginning after December 31, 2001. Unless otherwise elected by the employer in Section 2.1 above, this Article shall also apply to all such participants with respect to accrued benefits derived from employer matching contributions made in plan years beginning prior to January 1, 2002.

3.2 Vesting schedule. A participant's accrued benefit derived from employer matching contributions shall vest as provided in Section 2.1 of this amendment.

ARTICLE IV
INVOLUNTARY CASH-OUTS

4.1 Applicability and effective date. If the plan provides for involuntary cash-outs of amounts less than $5,000, then unless otherwise elected in Section 2.2 of this amendment, this Article shall apply for distributions made after December 31, 2001, and shall apply to all participants. However, regardless of the preceding, this Article shall not apply if the plan is subject to the qualified joint and survivor annuity requirements of Sections 401(a)(11) and 417 of the Code.

4.2 Rollovers disregarded in determining value of account balance for involuntary distributions. For purposes of the Sections of the plan that provide for the involuntary distribution of vested accrued benefits of $5,000 or less, the value of a participant's nonforfeitable account balance shall be determined without regard to that portion of the account balance that is attributable to rollover contributions (and earnings allocable thereto) within the meaning of Sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16) of the Code. If the value of the participant's nonforfeitable account balance as so determined is $5,000 or less, then the plan shall immediately distribute the participant's entire nonforfeitable account balance.

ARTICLE V
HARDSHIP DISTRIBUTIONS

5.1 Applicability and effective date. If the plan provides for hardship distributions upon satisfaction of the safe harbor (deemed) standards as set forth in Treas. Reg. Section 1.401(k)-1(d)(2)(iv), then this Article shall apply for calendar years beginning after 2001.

5.2 Suspension period following hardship distribution. A participant who receives a distribution of elective deferrals after December 31, 2001, on account of hardship shall be prohibited from making elective deferrals and employee contributions under this and all other plans of the employer for 6 months after receipt of the distribution. Furthermore, if elected by the employer in Section 2.3 of this amendment, a participant who receives a distribution of elective deferrals in calendar year 2001 on account of hardship shall be prohibited from making elective deferrals and employee contributions under this and all other plans until the later of January 1, 2002, or 6 months after receipt of the distribution.

ARTICLE VI
CATCH-UP CONTRIBUTIONS

Catch-up Contributions. Unless otherwise elected in Section 2.4 of this amendment, all employees who are eligible to make elective deferrals under this plan and who have attained age 50 before the close of the plan year shall be eligible to make catch-up contributions in accordance with, and subject to the limitations of, Section 414(v) of the Code. Such catch-up contributions shall not be taken into account for purposes of the provisions of the plan implementing the required limitations of Sections 402(g) and 415 of the Code. The plan shall not be treated as failing to satisfy the provisions of the plan implementing the requirements of Section 401(k)(3), 401(k)(11), 401(k)(12), 410(b), or 416 of the Code, as applicable, by reason of the making of such catch-up contributions.

ARTICLE VII
INCREASE IN COMPENSATION LIMIT

Increase in Compensation Limit. The annual compensation of each participant taken into account in determining allocations for any plan year beginning after December 31, 2001, shall not exceed $200,000, as adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Code. Annual compensation means compensation during the plan year or such other consecutive 12-month period over which compensation is otherwise determined under the plan (the determination period). If this is a target benefit plan, then except as otherwise elected in Section 2.5 of this amendment, for purposes of determining benefit accruals in a plan year beginning after December 31, 2001, compensation for any prior determination period shall be limited to $200,000. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

ARTICLE VIII
PLAN LOANS

Plan loans for owner-employees or shareholder-employees. If the plan permits loans to be made to participants, then effective for plan loans made after December 31, 2001, plan provisions prohibiting loans to any owner-employee or shareholder-employee shall cease to apply.

ARTICLE IX
LIMITATIONS ON CONTRIBUTIONS (IRC SECTION 415 LIMITS)

9.1 Effective date. This Section shall be effective for limitation years beginning after December 31, 2001.

9.2 Maximum annual addition. Except to the extent permitted under Article VI of this amendment and Section 414(v) of the Code, if applicable, the annual addition that may be contributed or allocated to a participant's account under the plan for any limitation year shall not exceed the lesser of:

a. $40,000, as adjusted for increases in the cost-of-living under Section 415(d) of the Code, or

b. 100 percent of the participant's compensation, within the meaning of Section 415(c)(3) of the Code, for the limitation year.

The compensation limit referred to in b. shall not apply to any contribution for medical benefits after separation from service (within the meaning of Section 401(h) or Section 419A(f)(2) of the Code) which is otherwise treated as an annual addition.

ARTICLE X
MODIFICATION OF TOP-HEAVY RULES

10.1 Effective date. This Article shall apply for purposes of determining whether the plan is a top-heavy plan under Section 416(g) of the Code for plan years beginning after December 31, 2001, and whether the plan satisfies the minimum benefits requirements of Section 416(c) of the Code for such years. This Article amends the top-heavy provisions of the plan.

10.2 Determination of top-heavy status.

10.2.1 Key employee. Key employee means any employee or former employee (including any deceased employee) who at any time during the plan year that includes the determination date was an officer of the employer having annual compensation greater than $130,000 (as adjusted under Section 416(i)(1) of the Code for plan years beginning after December 31, 2002), a 5-percent owner of the employer, or a 1-percent owner of the employer having annual compensation of more than $150,000. For this purpose, annual compensation means compensation within the meaning of Section 415(c)(3) of the Code. The determination of who is a key employee will be made in accordance with Section 416(i)(1) of the Code and the applicable regulations and other guidance of general applicability issued thereunder.

10.2.2 Determination of present values and amounts. This Section 10.2.2 shall apply for purposes of determining the present values of accrued benefits and the amounts of account balances of employees as of the determination date.

a. Distributions during year ending on the determination date. The present values of accrued benefits and the amounts of account balances of an employee as of the determination date shall be increased by the distributions made with respect to the employee under the plan and any plan aggregated with the plan under Section 416(g)(2) of the Code during the 1-year period ending on the determination date. The preceding sentence shall also apply to distributions under a terminated plan which, had it not been terminated, would have been aggregated with the plan under Section 416(g)(2)(A)(i) of the Code. In the case of a distribution made for a reason other than separation from service, death, or disability, this provision shall be applied by substituting "5-year period" for "1-year period."

b. Employees not performing services during year ending on the determination date. The accrued benefits and accounts of any individual who has not performed services for the employer during the 1-year period ending on the determination date shall not be taken into account.

10.3 Minimum benefits.

10.3.1 Matching contributions. Employer matching contributions shall be taken into account for purposes of satisfying the minimum contribution requirements of Section 416(c)(2) of the Code and the plan. The preceding sentence shall apply with respect to matching contributions under the plan or, if the plan provides that the minimum contribution requirement shall be met in another plan, such other plan. Employer matching contributions that are used to satisfy the minimum contribution requirements shall be treated as matching contributions for purposes of the actual contribution percentage test and other requirements of Section 401(m) of the Code.

10.3.2 Contributions under other plans. The employer may provide, in an addendum to this amendment, that the minimum benefit requirement shall be met in another plan (including another plan that consists solely of a cash or deferred arrangement which meets the requirements of Section 401(k)(12) of the Code and matching contributions with respect to which the requirements of Section 401(m)(11) of the Code are met). The addendum should include the name of the other plan, the minimum benefit that will be provided under such other plan, and the employees who will receive the minimum benefit under such other plan.

ARTICLE XI
DIRECT ROLLOVERS

11.1 Effective date. This Article shall apply to distributions made after December 31, 2001.

11.2 Modification of definition of eligible retirement plan. For purposes of the direct rollover provisions of the plan, an eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in Section 414(p) of the Code.

11.3 Modification of definition of eligible rollover distribution to exclude hardship distributions. For purposes of the direct rollover provisions of the plan, any amount that is distributed on account of hardship shall not be an eligible rollover distribution and the distributee may not elect to have any portion of such a distribution paid directly to an eligible retirement plan.

11.4 Modification of definition of eligible rollover distribution to include after-tax employee contributions. For purposes of the direct rollover provisions in the plan, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

ARTICLE XII
ROLLOVERS FROM OTHER PLANS

Rollovers from other plans. The employer, operationally and on a nondiscriminatory basis, may limit the source of rollover contributions that may be accepted by this plan.

ARTICLE XIII
REPEAL OF MULTIPLE USE TEST

Repeal of Multiple Use Test. The multiple use test described in Treasury Regulation Section 1.401(m)-2 and the plan shall not apply for plan years beginning after December 31, 2001.

ARTICLE XIV
ELECTIVE DEFERRALS

14.1 Elective Deferrals - Contribution Limitation. No participant shall be permitted to have elective deferrals made under this plan, or any other qualified plan maintained by the employer during any taxable year, in excess of the dollar limitation contained in Section 402(g) of the Code in effect for such taxable year, except to the extent permitted under Article VI of this amendment and Section 414(v) of the Code, if applicable.

14.2 Maximum Salary Reduction Contributions for SIMPLE plans. If this is a SIMPLE 401(k) plan, then except to the extent permitted under Article VI of this amendment and Section 414(v) of the Code, if applicable, the maximum salary reduction contribution that can be made to this plan is the amount determined under Section 408(p)(2)(A)(ii) of the Code for the calendar year.

ARTICLE XV
SAFE HARBOR PLAN PROVISIONS

Modification of Top-Heavy Rules. The top-heavy requirements of Section 416 of the Code and the plan shall not apply in any year beginning after December 31, 2001, in which the plan consists solely of a cash or deferred arrangement which meets the requirements of Section 401(k)(12) of the Code and matching contributions with respect to which the requirements of Section 401(m)(11) of the Code are met.

ARTICLE XVI
DISTRIBUTION UPON SEVERANCE OF EMPLOYMENT

16.1 Effective date. This Article shall apply for distributions and transactions made after December 31, 2001, regardless of when the severance of employment occurred.

16.2 New distributable event. A participant's elective deferrals, qualified nonelective contributions, qualified matching contributions, and earnings attributable to these contributions shall be distributed on account of the participant's severance from employment. However, such a distribution shall be subject to the other provisions of the plan regarding distributions, other than provisions that require a separation from service before such amounts may be distributed.

This amendment has been executed this _____29__________ day of __December____________________, _2002___.

Name of Employer: Jack's PickleWorks Company__________

By: /s/Marisha Ward, President________________________
EMPLOYER

Name of Plan: Jack's PickleWorks Company 401(k) Plan____

Slide 47

What is the Process for Recording Employee Deferrals?

Video

RETIREMENT PLAN PITFALLS 47

Workshop Instructor: OK, Marisha, please provide us information about your employees and their contributions amounts.

Marisha: ***We outsource our payroll. Our bookkeeper lets the payroll folks know what percentage of pay each person wants withheld from their check and let them take it from there – they are really good.***

The payroll information and employee census information that Mary puts together is, was, sent to Austin Pension. They stay on top of all the limits and things. Like I said, I know pickles; they know plans.

Austin sent us these really nice reports for 2006. I have them with me. There is the ADP/ACP test and it looks like we passed it and an allocation report and it shows everyone's compensation, deferral, and match. For example, I have 10% of my pay withheld. In 2006, I had $22,000 withheld from my salary checks.

(In the course of the client's answer to the question, she will be providing W-2 forms, her allocation report, and the plan census.)

Jack's PickleWorks Company   Forms W-2   For the Year Ended December 31, 2006

Record Identifier	Social Security Number	First Name	Middle Initial	Last Name	Wages, Tips and Other Compensation	Federal Income Tax Withheld	Social Security Wages	Social Security Tax Withheld	Medicare Wages & Tips	Medicare Tax Withheld	401(k))
1	000008219	MARY	B	ALPINE	31,500.00	6,300.00	35,000.00	2,170.00	35,000.00	507.50	3,500.00
2	000004778	WILLIAM	Q	BENNETT	25,186.00	4,626.00	25,700.00	1,593.40	25,700.00	372.65	514.00
3	000004256	JAY	P	COLE	25,500.00	4,590.00	25,500.00	1,581.00	25,500.00	369.75	0.00
4	000001952	LUCY	E	DADE	55,200.00	8,640.00	60,000.00	3,422.40	60,000.00	870.00	4,800.00
5	000002265	ROBERT	N	DANE	43,200.00	12,600.00	45,000.00	2,790.00	45,000.00	652.50	1,800.00
6	000007717	PINCUS	H	DUVAL	58,500.00	11,700.00	65,000.00	4,030.00	65,000.00	942.50	6,500.00
7	000003819	CHARLES	R	FURMAN	20,710.00	3,924.00	21,800.00	1,351.60	21,800.00	316.10	1,090.00
8	000001237	BONNIE	L	GLYNN	50,000.00	9,000.00	50,000.00	3,100.00	50,000.00	725.00	0.00
9	000002358	SUSAN	G	HOOD	19,530.00	3,906.00	21,700.00	1,345.40	21,700.00	314.65	2,170.00
10	000003954	JAMES	A	JASPER	27,645.00	5,130.00	28,500.00	1,767.00	28,500.00	413.25	855.00
11	000004158	JOHN	F	PACE	28,880.00	5,472.00	30,400.00	1,884.80	30,400.00	440.80	1,520.00
12	000006812	SARAH	O	PRATT	30,500.00	5,490.00	30,500.00	1,891.00	30,500.00	442.25	0.00
13	000009841	BLANCHE	J	SCOTT	93,100.00	21,600.00	94,200.00	5,840.00	95,000.00	1,305.00	1,900.00
14	000001961	DANE	C	STORY	17,000.00	3,060.00	17,000.00	1,054.00	17,000.00	246.50	0.00
15	000007177	HAROLD	D	SUMTER	20,500.00	3,690.00	20,500.00	1,271.00	20,500.00	297.25	0.00
16	000007193	JOHN	M	TATE	122,000.00	26,400.00	94,200.00	5,840.00	140,000.00	2,030.00	18,000.00
17	000003846	MARISHA	I	WARD	203,000.00	60,200.00	94,200.00	5,840.00	225,000.00	3,262.50	22,000.00
18	000009137	RENEE'	K	WORTH	41,760.00	7,830.00	43,500.00	2,697.00	43,500.00	630.75	1,740.00
					913,711.00	204,158.00	802,700.00	49,468.60	980,100.00	14,138.95	66,389.00

Jack's PickleWorks Company
401(K) Plan
Allocation Report
2006 Plan Year

PARTICIPANT	PLAN COMP	BALANCE 1/1/2006	EMPLOYEE DEFERRAL	EMPLOYER MATCH	EARNINGS ALLOCATION	BALANCE 12/31/2006
Mary Alpine	$ 35,000.00	$ 6,300.00	$ 3,500.00	$ 875.00	$ 533.75	$ 11,208.75
Bill Bennett	$ 25,700.00	$ 3,650.00	$ 514.00	$ 128.50	$ 214.63	$ 4,507.13
Jay Cole	$ 25,500.00	$ 4,590.00	$ -	$ -	$ 229.50	$ 4,819.50
Lucy Dade	$ 48,000.00	$ 57,600.00	$ 4,800.00	$ 1,200.00	$ 3,180.00	$ 66,780.00
Bob Dane	$ 45,000.00	$ 10,800.00	$ 1,800.00	$ 450.00	$ 652.50	$ 13,702.50
Pincus Duval	$ 65,000.00	$ 15,600.00	$ 6,500.00	$ 1,625.00	$ 1,186.25	$ 24,911.25
Charles Furman	$ 21,800.00	$ 3,370.00	$ 1,090.00	$ 272.50	$ 236.63	$ 4,969.13
Susan Hood	$ 21,700.00	$ 16,926.00	$ 2,170.00	$ 542.50	$ 981.93	$ 20,620.43
James Jasper	$ 28,500.00	$ 8,550.00	$ 855.00	$ 213.75	$ 480.94	$ 10,099.69
John Pace	$ 30,400.00	$ 9,120.00	$ 1,520.00	$ 380.00	$ 551.00	$ 11,571.00
Sarah Pratt	$ 30,500.00	$ 3,660.00	$ -	$ -	$ 183.00	$ 3,843.00
Blanche Scott	$ 95,000.00	$ 81,000.00	$ 1,900.00	$ 475.00	$ 4,168.75	$ 87,543.75
John Tate	$ 140,000.00	$ 6,600.00	$ 18,000.00	$ 4,500.00	$ 1,455.00	$ 30,555.00
Marisha Ward	$ 220,000.00	$ 104,000.00	$ 22,000.00	$ 5,500.00	$ 6,575.00	$ 138,075.00
Renee' Worth	$ 43,500.00	$ 7,830.00	$ 1,740.00	$ 435.00	$ 500.25	$ 10,505.25
TOTALS	$ 875,600.00	$ 339,596.00	$ 66,389.00	$ 16,597.25	$ 21,129.11	$ 443,711.36

Jack's PickleWorks Company 401(k) Plan
2006 Plan Census

EMPLOYEE	DATE OF BIRTH	DATE OF HIRE	DATE OF PLAN ENTRY	DATE OF TERM	HOURS OF SERVICE	ANNUAL COMP	STATUS	HCE
Alpine, Mary	09/05/53	02/08/03	07/01/04		2000	$ 35,000.00	Active	
Bennet, William	05/17/72	07/15/95	01/01/97		2000	$ 25,700.00	Active	
Cole, Jay	07/31/60	03/05/03	07/01/04	08/07/06	1133	$ 25,500.00	Terminated	
Dade, Lucy	12/08/42	09/05/87	01/01/89		2000	$ 48,000.00	Active	
Dane, Robert	06/02/53	03/27/96	07/01/97	05/03/06	900	$ 45,000.00	Terminated	Yes
Duval, Pincus	06/21/68	10/23/02	01/01/04		2000	$ 65,000.00	Active	
Furman, Charles	09/08/74	01/09/94	07/01/95		2000	$ 21,800.00	Active	
Glynn, Bonnie	05/07/75	09/22/04			1250	$ 50,000.00	Ineligible	
Hood, Susan	05/11/60	03/05/93	07/01/98		2000	$ 21,700.00	Active	
Jasper, James	05/12/67	03/06/97	07/01/98		2000	$ 28,500.00	Active	
Pace, John	08/13/78	02/13/97	07/01/98		2000	$ 30,400.00	Active	
Pratt, Sarah	07/10/70	08/02/03	01/01/05	10/17/06	1452	$ 30,500.00	Terminated	
Scott, Blanche	05/24/67	03/05/92	07/01/93		2000	$ 95,000.00	Active	Yes
Story, Dane	11/28/55	04/17/06			1480	$ 17,000.00	Ineligible	
Sumter, Harold	02/23/71	05/15/06			1320	$ 20,500.00	Ineligible	
Tate, John	03/08/52	06/24/04	07/01/05		2000	$140,000.00	Active	Yes
Ward, Marisha	08/19/66	06/07/86	07/01/87		2000	$225,000.00	Active	Yes
Worth, Renee'	01/10/77	01/02/03	07/01/04		2000	$ 43,500.00	Active	

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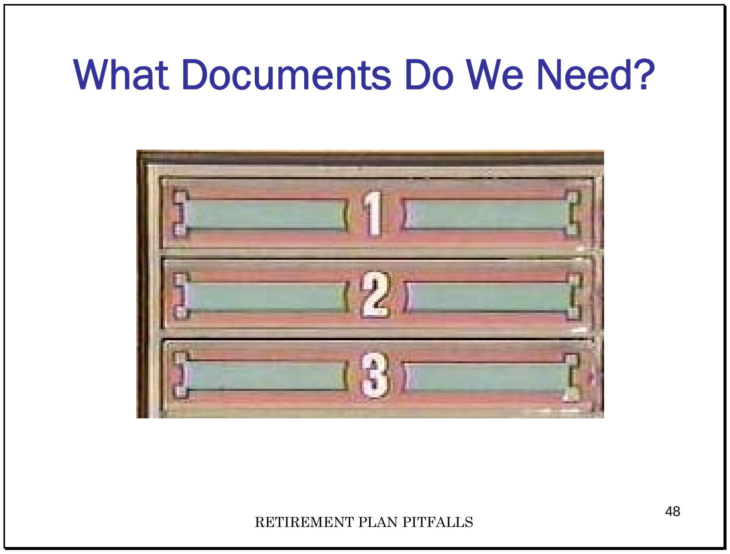


(Ask the attendees what we need the client to provide us to verify 402(g) limits were met – compensation amounts and deferral amounts for each employee)

Under #1. Plan
Under #2. Elective contribution amounts
Under #3. Payroll data

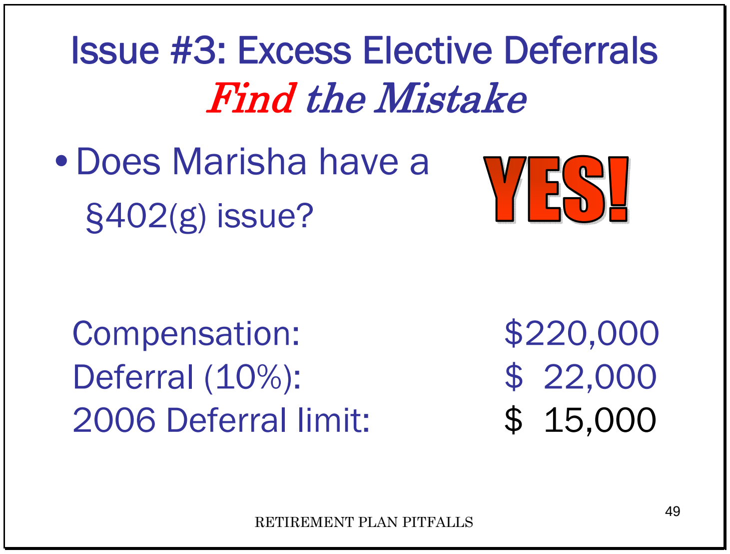
You need to ensure that the section 402(g) limit for an applicable year is not exceeded by any participant. The amount of elective contributions should be compared to the section 402(g) limit. If the section 402(g) limit is surpassed by any participant during the year and not corrected, there could be a violation of Code section 401(a)(30), which could cause the plan to become disqualified.

(Assist participants in locating all documents noted by client.)

Great! We have received the tools needed to find the error (if there is one) and have the applicable plan language. Take a few minutes to look over the information. If you have any questions, contact one of the instructors.

(Ask the attendees what problems, if any, they see with regard to the client's comments and/or the spreadsheet and discuss.)

Slide 49

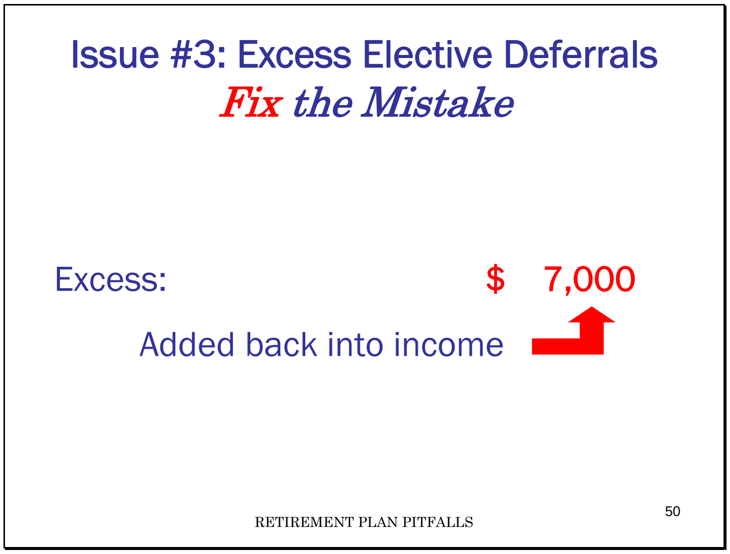


<u>INSTRUCTOR: Let's see a show of hands. Does Marisha have a 402(g) issue?</u>

The amount of elective deferrals should be compared to the section 402(g) limit. If the section 402(g) limit is surpassed by any participant during the year and not corrected, there could be a violation of Code section 401(a)(30), which could cause the plan to become disqualified.

<u>IRC § 402(g)</u> – Marisha deferred 10% of the 2006 Code section 401(a)(17) compensation limit of $220,000, or $22,000. The deferral limit for 2006 was $15,000.

Slide 50



Because Marisha is not yet age 50, and therefore, not eligible for catch-up rules, her excess deferral was $7,000. Her form W-2 reflected the full deferral as an adjustment to income – her Medicare wages was total comp of $225,000 less her deferral of $22,000 gave her box 1 taxable wages in the amount of $203,000. To fix this mistake, the $7,000 would have to be added back into income.

If the total of a plan participant's elective deferrals is more than the limit under Code section 402(g), to avoid failing Code section 401(a)(30), the excess amount plus allocable earnings must have been distributed to Marisha by April 15, 2007. Excess deferrals not timely returned to the participant are subject to additional taxation. Following is a discussion of the tax consequences of excess deferrals.

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Issue #3: Excess Elective Deferrals
Fix the Mistake

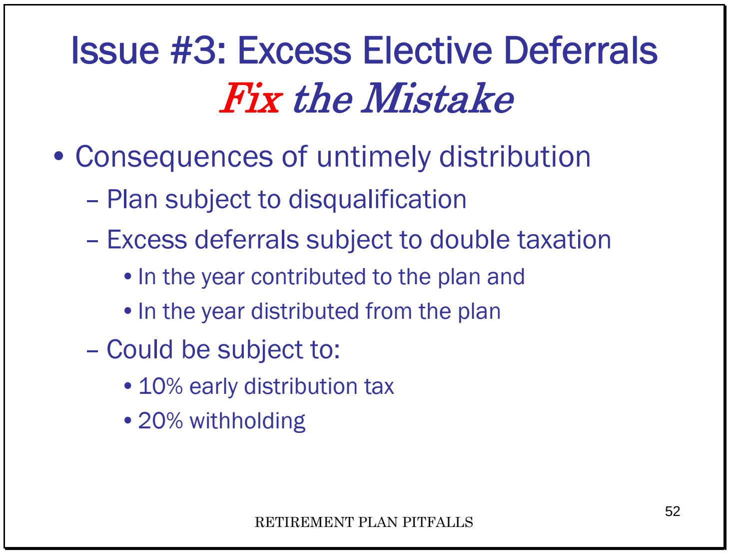
- Timely withdrawal of excess contributions by April 15
  - Taxable in year deferred
  - Earnings taxable in year distributed
  - No
    - 10% early distribution tax
    - 20% withholding

RETIREMENT PLAN PITFALLS 51

Timely Withdrawal of Excess Contributions by April 15.

- Excess deferrals withdrawn by April 15 of the year following the year of deferral are taxable in the calendar year deferred.
- Earnings are taxable in the year they are distributed.
- There is no 10% early distribution tax and no 20% withholding requirement on amounts timely distributed.

Slide 52



Consequences of an untimely distribution.

- Under 401(a)(30) if the excess deferrals arise under one or more plans of the employer and these excess deferrals are not withdrawn by April 15, each affected plan of the employer is subject to disqualification and would need to go through EPCRS.
- Under EPCRS, these excess deferrals are still subject to double taxation; that is, they are taxed both in the year contributed to the plan and in the year distributed from the plan.
- These late distributions could be subject to the 10% early distribution tax and 20% withholding requirement.

Excess deferrals distributed to HCEs are included in the ADP test in the year such amounts were deferred. Excess deferrals distributed to NHCEs are generally not included in the ADP test.

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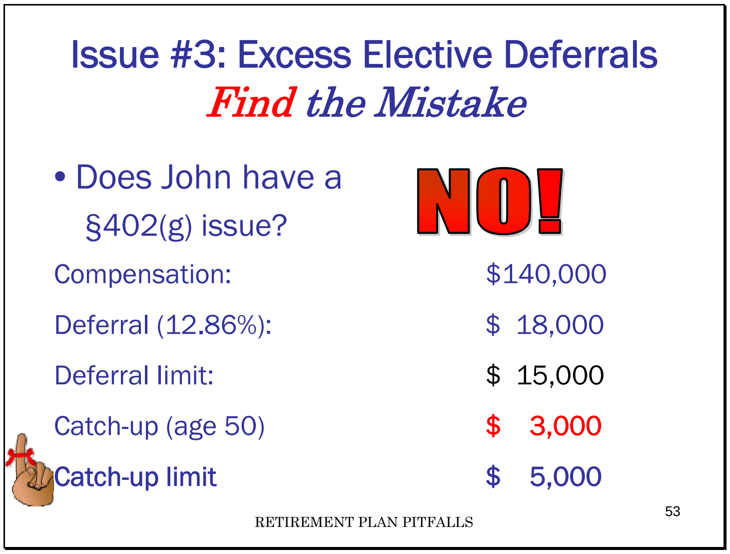
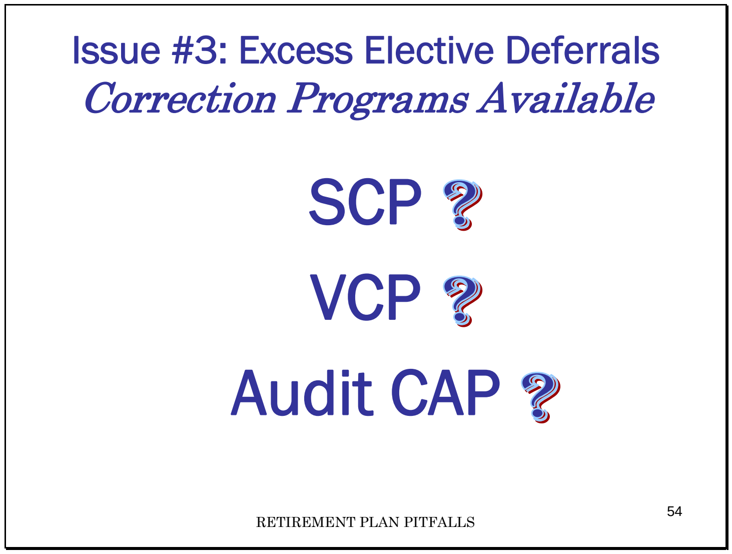


INSTRUCTOR: Let's see another show of hands. Does John have a 402(g) issue?

As for John, he did NOT exceed the 402(g) limit. His date of birth is stated as March 8, 1952, so he is over age 50. Further, he elected to contribute additional contributions towards catch-up.

The ADP/ACP test needs to be revised reducing his contributions to $15,000. Catch-up contributions should NOT be included for testing.

Slide 54



We have an operational error. Now we have to fix it. Since we have discussed the correction programs with the earlier issues, let's go through each one and by a show of hands, indicate if the correction program mentioned is applicable to this error.

(Ask the attendees if SCP is applicable here and give reasons.)

SCP would apply in this situation as even where the problem is significant, if the error is corrected within two plan years, the tax-favored status of the plan may be preserved and pay no fee. The relief under the SCP is limited to Operational Failures.

(Ask the attendees if VCP is applicable here and give reasons.)

VCP would apply in this situation.

(Ask the attendees if CAP is applicable here and give reasons.)

CAP would most certainly apply if a Plan Sponsor that does not come forward to the IRS, but which is instead discovered on audit to have problems in its plan, is also entitled under the audit correction program to preserve the tax benefits associated with properly maintained retirement plans.

We have determined that all three programs are applicable to this error in this situation.

The question arises: How can we tell our client to avoid this error in the future?

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Issue #3: Excess Elective Deferrals
Avoid the Mistake

- Sufficient payroll information
- Internal control
- Procedures to follow if contribution limits are exceeded

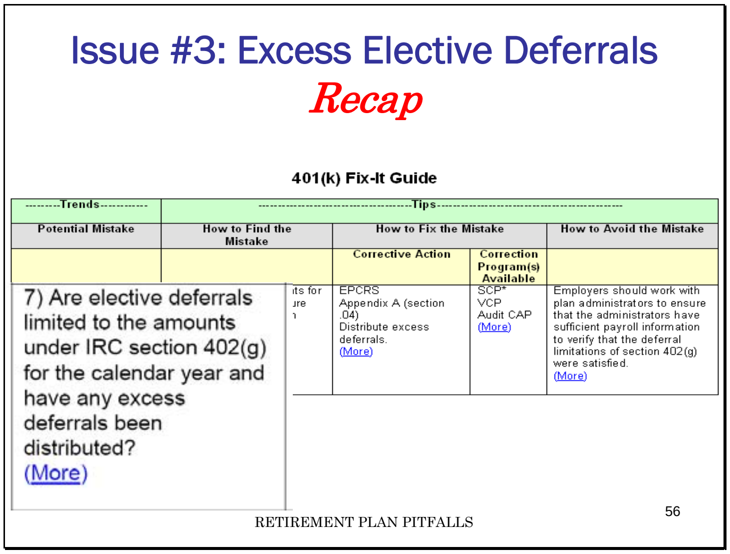
RETIREMENT PLAN PITFALLS 55

How to Avoid the Mistake:

Your client should work with its plan administrator to ensure the administrator has sufficient payroll information to verify that the deferral limitations of section 402(g) were satisfied. Procedures should be in place to ensure that, based on the participant election forms, the section 402(g) limit will not be exceeded. Also, there should be checks and balances in place to alert your client and its TPA when a participant does exceed the limit so corrective action may be taken on a timely basis.

Questions?

Slide 56



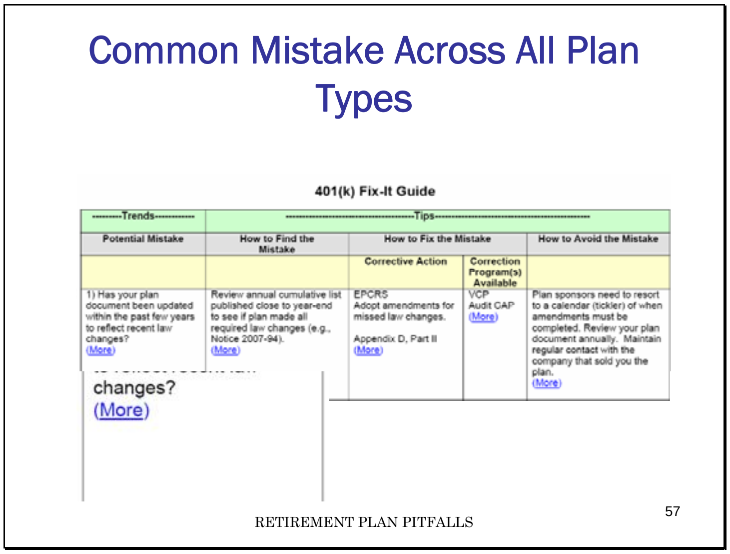
This slide shows the portion of the 401(k) Fix-It Guide relating to the excess elective deferral issue. It is the seventh item on the Guide.

Go over the objectives again and review:

<u>OBJECTIVES</u>: All the attendees should be able to:

- Identify the portions of a plan document and/or adoption agreement that pertain to the requirements of IRC 402(g).
- Analyze the plan document, adoption agreement, and facts to decide whether the plan meets the requirements of IRC 402(g) in operation.
- Employ the applicable correction programs to fix an IRC 402(g) operational error.
- Define the methods to avoid the IRC 402(g) operational error from occurring in the plan.

Slide 57



--Trends--	--Tips--			
Potential Mistake	How to Find the Mistake	How to Fix the Mistake		How to Avoid the Mistake
		Corrective Action	Correction Program(s) Available	
1) Has your plan document been updated within the past few years to reflect recent law changes? (More)	Review annual cumulative list published close to year-end to see if plan made all required law changes (e.g., Notice 2007-94). (More)	EPCRS Adopt amendments for missed law changes. Appendix D, Part II (More)	VCP Audit CAP (More)	Plan sponsors need to resort to a calendar (tickler) of when amendments must be completed. Review your plan document annually. Maintain regular contact with the company that sold you the plan. (More)

Now that we have covered some of the common mistakes found in 401(k) plans, we'd like to spend a little time talking about the most common mistake that we see across all types of retirement plans – the failure to timely amend plans for current law. This is a pretty complicated issue and we'll just spend some time giving you a brief summary of the issues and how to find, fix, and avoid this mistake.

Please review your 401(k) Fix-It Guide in tab #2, which includes more in-depth information on what we are going to cover on the next slide.

Slide 58

Non-Amender - Qualified Plans

- All plans must be amended, but when?
  - Pre-approved plans
  - Individually designed
- How to fix this mistake
- Tips on how to avoid becoming a non-amender

RETIREMENT PLAN PITFALLS 58

Your client may have a written plan document that is a pre-approved plan or an individually designed plan.

In your binder, under tab #4, you will find a handout summarizing the differences between pre-approved and individually designed plans.

A pre-approved plan is one in which a plan is adopted that has already been reviewed favorably by the IRS. The two main types of pre-approved plans are Master & Prototype plans (M&P) and Volume Submitter plans (VS)**.**

An individually designed plan document is tailored to meet the particular needs of an employer by providing the maximum amount of flexibility in plan design. It has not been pre-reviewed by the IRS.

You may apply for a determination letter from the IRS to ensure that the retirement plan is written in accordance with the rules of the Code. Ensure that necessary amendments to the plan have been adopted when required by law prior to submitting the plan for the determination letter. If the plan is a pre-approved plan, you have a level of assurance that the plan is written in compliance with the law, even if you do not apply for a determination letter.

Laws related to retirement plans change quite frequently. Recent examples are EGTRRA and The Pension Protection Act of 2006. There are statutory deadlines for which many provisions must become effective. The Service generally establishes a firm deadline for adopting these changes. Look at Tab 4 of your binder for a “Qualified Timeline” of law changes and various deadlines for amending plans to meet these requirements.

Following is a list of documents you should keep in order to prove the plan has been timely amended:

- Original plan document.
- All subsequent amendments or restatements to the plan document.
- All adoption agreements.
- Any Opinion Letter or Advisory Letter issued by the IRS.
- Any determination letter issued by the IRS.
- Board of Director’s resolutions and minutes, or similar records related to the plan.
- Summary Plan Description.

PRE-APPROVED PLANS VS. INDIVIDUALLY DESIGNED PLANS

PRE-APPROVED	*INDIVIDUALLY DESIGNED*
Two types: Master & Prototype Volume Submitter	Tailored to meet employer's needs
Less flexibility in plan design	Maximum flexibility in plan design
Already favorably reviewed by IRS	Not reviewed by IRS
Determination letter not needed	Determination letter recommended

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Following is a list of documents you should keep in order to prove the plan has been timely amended:

- Original plan document.
- All subsequent amendments or restatements to the plan document.
- All adoption agreements.
- Any Opinion Letter or Advisory Letter issued by the IRS.
- Any determination letter issued by the IRS.
- Board of Director's resolutions and minutes, or similar records related to the plan.
- Summary Plan Description.

Qualified Plan Timeline

Effective Dates

GUST 3

GUST 2

GUST 1

1976	1976	1984	1/1/89	1/1/93	1/1/94		12/12/94	1/1/97	*8/5/97	1/1/99	1/1/97	1/1/98	1/1/99	1/1/2000	1/1/2001	Q P
	1979	06/30/86	12/31/94	12/31/94	12/31/94		2/28/2002 #	2/28/2002 #	2/28/2002 #	2/28/2002 #	2/28/2002 #	2/28/2002 #	2/28/2002 #	2/28/2002 #	2/28/2002#	
ERISA	Final	TDR	TRA 86	UCA 92	OBRA 93	GATT (RPA 94)	USERRA	Pre-98 SBJPA	TRA 97	RRA 98	Post-'98 SBJPA				CRA +	
Regs REA)		(TEFRA, DEFRA &		401(a)(31) (Rev. Proc 93-12)	401(a)(17) (Rev. Procs 94-13 & 95-12)		414(u) (Rev. Proc. 96-49)	414(q) HCE 401(a)(17) family agg. (Rev Proc 98-42 (412 & 404) 417(a)(7) - Optional 411(a)(2) 414(u) 414(n)(2) 401(a)(9) (Ann. 97-70 & Notice 97-75 Model Language – Notices 2000-18, 2000-82 and Rev Proc 2002-29) 415 gov't			$3500 to $5000 (8/5/97) 401(a)(26) - DB only TE & Indian tribe CODA Rural COOP 59 ½ distrib. Prior Year ADP for HCE - Notice 98-1 Dollar leveling Simple 401(k) New HCE Definition (Notice 97-45)	Comp. def. 415(c)(3)	Disregard ees not 21 & 1 yr. svc. Safe harbor 401(k) & (m) - (Notices 98-52 & 2000-3 and IRM 4.72.2.12) Exclude hardships from rollover (Notices 99-5 & 2000-32 can be effective 1/1/1999 but not later thn 1/1/2000)	For $5000 cashout, delete "ever exceeded" Repeal 415(e) (Notice 99-44 Q & A 10)	132(f)(4) 415(c)(3) 414(s)	

§401(b) Period Prior Plan (for general guidance see § 401(b) below)

Initial Plan Year (Adoption prior to the closure of initial plan year) – Rev. Rul. 69-231 (valid trust prior to close of initial plan year), Engineered Timber Sales, Incorporated v. Commissioner, 74T.C. 1980 U.S. Tax Ct. LEXIS 98; 2 E.B.C. 2071 (SPD constitutes a plan – Docket #s 99-9451 and 00-9568 2nd Cir Appls Ct)

TRA'86 Provisions with effective dates prior to 1/1/1989 – Model Language for Individually Designed Plan (IDP) sponsors for compliance with TRA'86 contained in Notice 87-2

TRA, UCA'92 and OBRA'93 – Rev. Proc. 93-39, Announcement 94-136, Rev. Proc. 95-12 (extension for OBRA'93 -)

TRA, UCA'92 and OBRA'93 - Tax-exempt - Last day of the1996 Plan Year (Notice 92-36, Rev. Proc. 93-39)

***TRA '97 – Amendments may be adopted retroactively if adopted before end of remedial amendment period.**

 # GUST – RAP extended to 6/30/2002 for victims of 9/11/2001 (with potential for victims to extend it to 12/31/2002) (Rev. Procs 97-41(Guidance), 98-14(Opened GUST I), 99-23 & 2000-27 (Opened GUST II), Notice 2001-42 & Rev Proc 2001-55)

RAP for Volume and M&P Rev. Proc. 2000-20(Section 19), See Announcement 2001-12, Modified by Notice 2001-42, RAP extended by Rev. Proc. 2002-73 Also, see Bob Bell's email dtd 11/13/2002 on Evidence of Eligibility for Extended Remedial Amendment Period [Evidence of Eligibility to Extend RAP (Section 19.06)]

+ CRA – Can be effective as early as 1/1/1998 (to match operation of plan) but no later than 1/1/2001 – Notice 2001-37, Modified by Rev. Proc. 2002-73

GOVERNMENTAL – 2/28/2002 (or later depending on victim status or adoption of M&P or Volume) - Announcement 95-48, Notice 96-64, Rev. Procs. 99-23, 2000-27, 2001-55 and 2002-73, Notice 2003-6

NON-ELECTING CHURCH – 2/28/2002 (or later depending on victim status or adoption of M&P or Volume) - Notices 96-69 and 98-39, Rev. Procs. 99-23, 2000-27, 2001-55 and 2002-73

Verification Of Prior Plan Document for Timely Compliance with Prior Laws:

No Favorable Determination Letter (FDL) – QAB 2000-2 (Rev. 1) 7-18-2001

Researching Internal Sources to Verify Prior FDL - Resource Guide on Researching Internal Sources Verification of Prior FDL

Effective Dates

Non-EGTRRA Rules (effective 1/1/2002)

New Comparability Plans (Gateway – to cross testing for DC Plans) – testing under 401(a)(4) - T.D. 8954, IRB 2001-19, pg 47, Notice 2000-14 and Rev. Rul 2001-30
72(p) – Final Regs(T.D. 8894) issued 7/31/2000 effective for participant loans made on or after 1/1/2002 and Final Regs (T.D. 9021) issued 12/3/2002 effective 1/1/2004
401(a)(9) - Final Regs 1.401(a)(9) –1 through 1.401(a)(9)-5 and 1.401(a)(9)-7 through 1.401(a)(9)-1 and Temporary Reg 1.401(a)(9)-6T issued 4/17/2002 (T.D 8987) – effective for MRDs made on or after 1/1/2003 (for 2002 plan year taxpayer may rely on these final regs, 2001 proposed reg or 1987 proposed regs) Rev. Proc. 2002-29 (deadlines to amend IDP, M&P and VS and model language (modified by Notice 2003- 2 and Rev. Proc. 2003-10 – DB and Annuity are delayed, as are governmental plans) DC plans must be amended for compliance by the end of the 2003 PYE - IRAs Notice 2002-27 guidance on reporting MRDs (clarified by Notice 2003-3)
Audit for Small Plans - DOL Final Reg issued 10/19/2000 (65 FR 62958) effective for plan years beginning after 4/17/2001 (There is a waiver of IQPA, engaging an Independent Qualified Public Accountant – 95% of assets are in qualified plan assetss)

EGTRRA

QP

1/1/2002

1/1/2003
Act § 602 – Deemed IRA Under Qualified Plan (Added § 408(q))
Rev. Proc. 2003-13 **

1/1/2005
Act § 656 – Added 409(p)
12/31/2005^

1/1/2006
Act § 617 – Elective Deferrals Treated as After Tax Roth
12/31/2010*

QP

Act § 611(a) - § 415(b) – $ Limit - Notice 2001-57 Model Amendment
Act § 611(b) - § 415(c) - $ Limit - Notice 2001-57 Model Amendment
Act § 611(c) – § 401(a)(17) Comp Limit (optional) - Notice 2001-56 Guidance, Notice 2001-57 Model Amendment, Rev. Rul 2003-11
Act § 612 – § 4975 - Loan Changes - Notice 2001-57 Model Amendment
Act § 613 – § 416 - Top Heavy Changes - Notice 2001-57 Model Amendment
Act § 616 – § 404(a)(3) and (h)(1) increased to 25% - Notice 2001-57 Model Amendment
Act § 618 – Added §25B - Saver's Tax Credit – Announcement 2001-106 (IRB 2001-44, Page 416)
Act § 620 – Elimination of the User Fee – Applies to plans effective on or after December 9, 1989 – Notice 2002-1 (Applications Filed After December 31, 2001 – Modifies Rev Procs 2002-6 & 2002-8)
Act § 631 – § 414(v) Added – Catch-UP 50 and Older (optional) – Proposed I.T. Reg. 1.414(v)-1(REG 142499-01, 2001-45 I.R.B. 476(10-23-01)), Reporting requirements Announcement 2001-93 and Transitional rules Notice 2001-4
Act § 632 – § 415(c) increased to 100% of 415(c)(3) compensation
Act § 633 – § 411(a)(12) - Faster Vesting Matching Contributions
Act § 636 – § 402(c)(4) – Provisions Relating to Hardship Distributions – Notice 2001-57 (Model Amendment), Notice 2002-4
Act § 641 (a) – Added § 402(c)(8)(B)(v) Rollovers From and To § 457 Plans – Notice 2001-57 (Model Amendment
Act § 641 (b) – Added§ 402(c)(8)(B)(vi) Rollovers From and To § 403(b) Plans - Notice 2001-57 (Model Amendment
Act § 642 - § 408(d)(3) – Rollover of IRAs to Workplace Retirement Plans -
Act § 643 - § 402(c), 401(a)(31) - Rollovers of After-Tax Contributions
Act § 644 – Amended §§ 402(c)(3), added 408(d)(3)(I) – Hardship waiver of the 60 day rollover requirement (Rev. Procs 2003-4 (procedure for requesting a waiver) and 2003-16 (guidance for applying for waiver (condition where automatic Approval is granted and no application is required § 3.03); Rev. Proc. 2002-71 (postponement of time by service in combat zone §7508 and Presidentially declared disaster §7508A, rev proc is effective for acts on or after November 18, 2002), Conference Committee (H.R. Conf. Rep. No. 107-84)
Act § 645 – § 411(d)(6) – Plan Transfers and Elimination of Forms of Distribution (DC PLANS ONLY), Notice 2002-46
Act § 646 – §§ 401(k), 403(b) and 457 - (Modification of Same Desk Restrictions on Distributions), Notice 2002-4 – using principles of GCM 39824
Act § 652 -
Act § 656 - Added 409(p) - ESOP - In most cases it is effective for plan years beginning after December 31, 2004 – there are exceptions where it could be effective for plan years beginning after March 14, 2001 (Act § 656(d)) Rev. Rul 2003-6
Act § 659 - Added § 4980F Excise Tax for failure to provide the notice required under ERISA Act § 204(h) – Modified ERISA Act § 204(h); I.T. Reg. 54.4980F-1 (Final Reg 4980 - April 9, 2003 (TD 9052 - 68FR17277), Rev. Rul. 2002-42, 2002-28 I.R.B. 76 Rev Rul 2002-42 (July 15, 2002) ; Also see Michael Rubin's email dtd April 9, 2003
Act § 666 – Repeal Multiple Use Test –Notice 2001-57 Model Amendment

** Act **§ 602 – proposed regulations 68 FR 27493 (May 20, 2003) Deemed IRAs in Qualified Retirement Plans**

Slide 59

Non-Amender - Qualified Plans

- How to fix this mistake
  - Adopt amendments for law changes

  OR

  - Adopt a pre-approved plan.
  - File a VCP submission with the IRS

RETIREMENT PLAN PITFALLS 59

If you find your client's plan hasn't been amended timely for the various law changes your client should take the following steps:

Adopt amendment(s) for the law changes that have been missed. You may be able to utilize model or sample amendments published by the IRS that apply to your client's 401(k) plan. You will need to confirm that the operation of the plan is consistent with the terms of the plan.

Adopt a pre-approved plan. In this case, the process for entering into the VCP is a quicker process since the scope of review for the IRS is limited. The IRS has already reviewed the provisions in the pre-approved plan adopted by the employer, as opposed to an individually designed plan, where the IRS would have to review the entire plan document.

The effective date of the amendment should be retroactive to conform the terms of the plan to the requirements of the applicable laws.

File a VCP submission with the IRS using the EPCRS Rev. Proc.

Slide 60

Non-Amender – IRA Based Plans

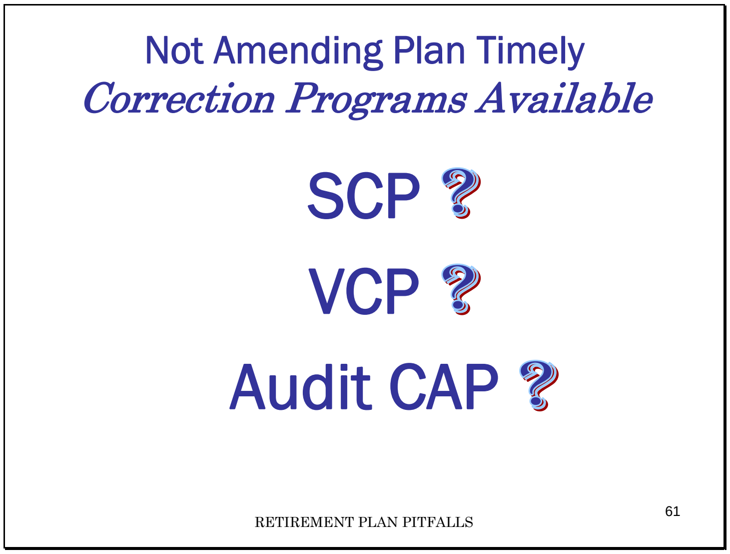
- May also require amendments
  - SIMPLE IRA
    - EGTRRA – by 12/31/2002
  - SEP IRA
    - If using higher contribution/deduction limits
- How to fix these mistakes
- Tips on avoiding these mistakes

RETIREMENT PLAN PITFALLS 60

Many of your clients have IRA-based plans, either SEP or SIMPLE IRA plans. It is much easier to know if these plans are up to date. The IRS has model SEP and SIMPLE IRA forms. Many, many employers adopt these model forms. There are copies of the most recent forms in tab #4 of your binder. If you look in the upper left hand corner, you will see a revision date. If the date is earlier than 12/31/2002, your client's plan is not up to date and a more recent revision needs to be adopted.

We have Fix-It Guides for SEPs and SIMPLE IRA (coming soon) plans as well. You will find hard copies of these in your binder under tab #5.

Slide 61



Correction Programs Available:

SCP <u>would not</u> apply in this situation. SCP is limited to operational problems, and this mistake is the result of the failure to keep the plan language up to date. In order to retain plan qualification, this mistake must be corrected under VCP.

VCP <u>would</u> apply in this situation. The plan sponsor makes a VCP submission to the Service pursuant to the EPCRS Rev. Proc. identifying the failure.

VCP compliance fee: The fee for certain failures for qualified plans is a reduced fee of $375 for qualified plans and $250 for IRA-based plans, regardless of the number of participants in the plan. Under the regular fee schedule, if you submit the VCP application within a year of the expiration of the required due date, the fee is half price.

If the employer decides to forego using VCP, or does not discover the nonamender mistake, then it runs the risk of incurring higher fees and possibly disqualification.

If this mistake is discovered on audit, it may be corrected under Audit CAP. Correction of the plan under Audit CAP should be very similar to correction under VCP. The sanction under Audit CAP is a percentage of the Maximum Payment Amount (MPA).

The question arises: how can you tell your client to avoid this mistake in the future?

There are a number of ways to avoid this mistake:

- Plan sponsors may resort to a calendar (tickler file) of when amendments must be completed.
- Do an annual review of the plan document.
- Make sure the plan document and Summary Plan Description (SPD) match. If the plan document is amended, check the language against the old plan document, noting any differences.
- Knowing your client's plan has been properly updated may not be a simple process. Certain plans must be individually amended for each change, while others may have a prototype document that is amended. We recommend contact be maintained, on at least a yearly basis, with the company that sold you the plan. If the company sends the employer a set of amendments to formally adopt, make certain the documents are timely executed per their instructions. Keep signed and dated copies of the plan document and any amendments for your records.

Questions?

Slide 62

Meet the Manager, EP Voluntary Compliance

Video

RETIREMENT PLAN PITFALLS 62

Workshop Instructor: We want to thank our client, Marisha Ward. The role of Marisha was played by Joyce Kahn, Manager of EP Voluntary Compliance. Her office helps taxpayers voluntarily fix mistakes found in their plans via the Voluntary Correction Program (VCP). We have a special video message from Ms. Kahn.

Joyce Kahn: ***Hi, I'm Joyce Kahn. I hope you enjoyed our presentation today, and gain an appreciation of the importance of finding, fixing, and most importantly, avoiding retirement plan mistakes. We at the IRS realize that the law in this area is complex and that much is at stake. Mistakes can and do happen but the earlier these mistakes are found and corrected, the better off everyone – the employer, participants and beneficiaries under the plan – will be. We have established a system of correction programs to enable employers to correct plan mistakes, often with no fees paid to the IRS or IRS involvement. These programs help ensure that benefits promised to employees are paid and retain their tax-favored status. We have created Fix-It Guides, reference tools that present the most common mistakes we find in retirement plans. These will take you through the***

process of finding, fixing, and avoiding plan mistakes. I urge you to use our Fix-It Guides today to help you and your clients avoid "retirement plan pitfalls."

Slide 63

Web-Based Resources

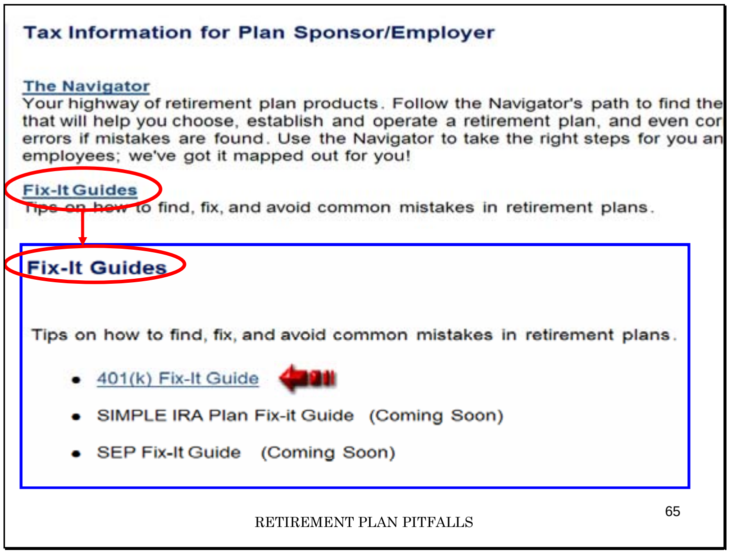
We have given you a lot of information today on how to find, fix, and avoid plan mistakes. Now we want to give you some resources to take home with you so if you run into these or other problems when working with your clients' retirement plans in the future, you will know where to go for help.

Employee Plans has our own web site dedicated to retirement plans. You can access it through the irs.gov home page or by entering www.irs.gov/ep in the address line of your computer. This web site is filled with great resources to help you keep your clients a step ahead of the IRS.

Slide 64

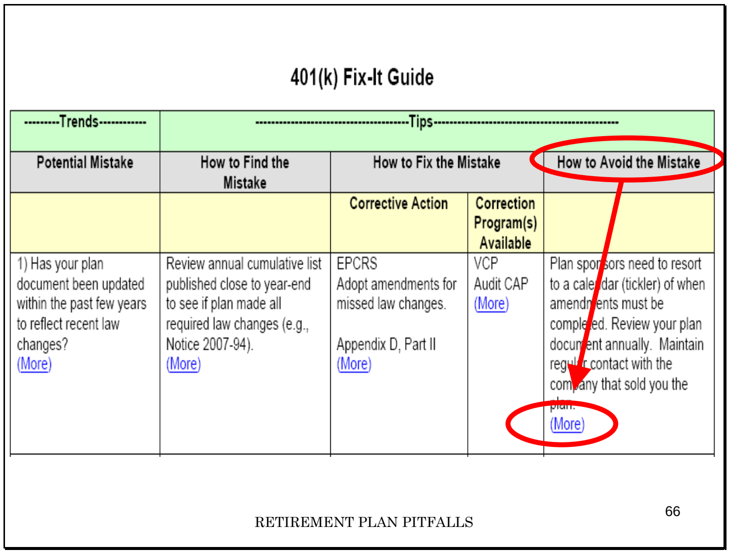
This is the retirement plans home page. We have the information broken down into categories for benefits practitioners, plan participants/employees, and plan sponsors/employers.

Slide 65



By selecting "plan sponsor/employer," you will be directed to this page. As you can see, the second link leads you directly to the Fix-It Guide that we have been discussing throughout our presentation. This link will take you to the 401(k) Fix-It Guide and our other Fix-It Guides.

Slide 66



401(k) Fix-It Guide

--------Trends-----------	-----------------------------------Tips---			
Potential Mistake	How to Find the Mistake	How to Fix the Mistake		How to Avoid the Mistake
		Corrective Action	Correction Program(s) Available	
1) Has your plan document been updated within the past few years to reflect recent law changes? (More)	Review annual cumulative list published close to year-end to see if plan made all required law changes (e.g., Notice 2007-94). (More)	EPCRS Adopt amendments for missed law changes. Appendix D, Part II (More)	VCP Audit CAP (More)	Plan sponsors need to resort to a calendar (tickler) of when amendments must be completed. Review your plan document annually. Maintain regular contact with the company that sold you the plan. (More)

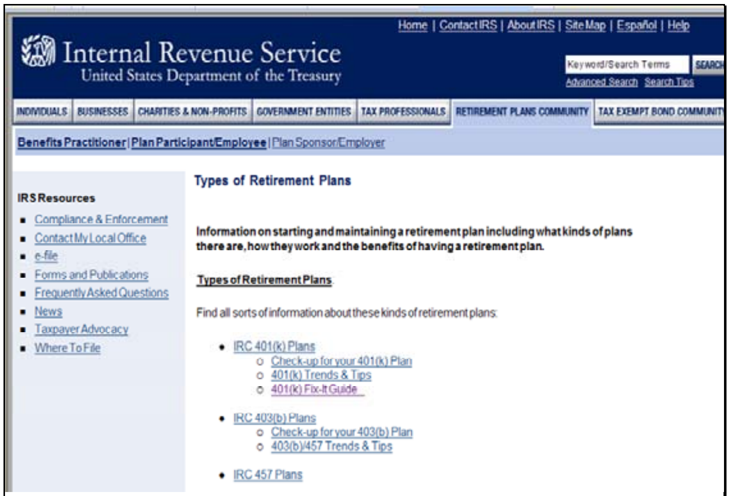
RETIREMENT PLAN PITFALLS 66

Our online guide is very user-friendly. If you are only interested on how to avoid the mistake of not updating the plan timely, simply select “more” in the right hand column and you will jump to the discussion of this within the document.

Slide 67

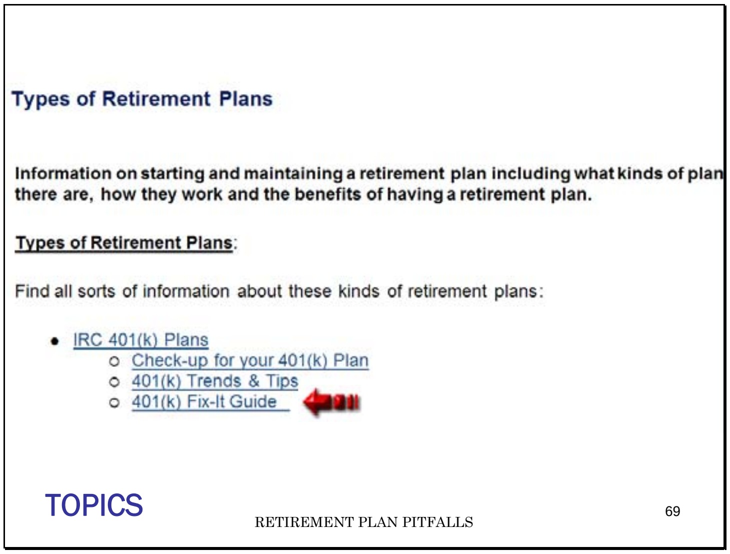
Also on our home page, you will find "Types of Plans" in the left-hand navigation bar. By selecting this link, you will be directed to more information on many different types of retirement plans.

Slide 68



RETIREMENT PLAN PITFALLS 68

Slide 69

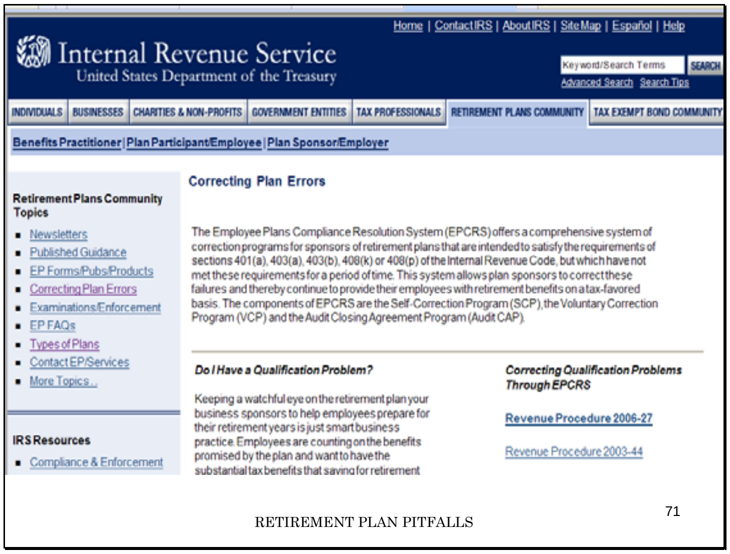


Under each of the types of retirement plans, you will have the option of selecting a number of additional resources. Here is another way to find the 401(k) Fix-It Guide.

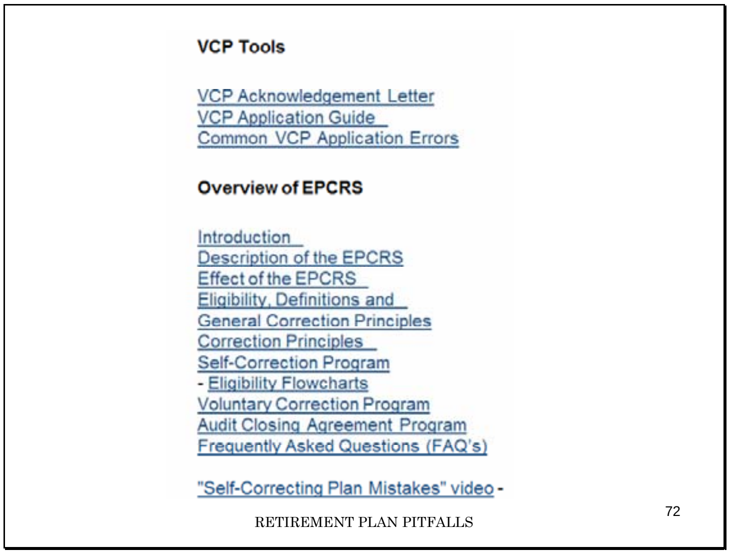
Slide 70

Another topic that can be found on the left-hand navigation bar is "[Correcting Plan Errors]."

Slide 71


Home | Contact IRS | About IRS | Site Map | Español | Help
Internal Revenue Service
United States Department of the Treasury
Keyword/Search Terms
SEARCH
Advanced Search Search Tips
INDIVIDUALS | BUSINESSES | CHARITIES & NON-PROFITS | GOVERNMENT ENTITIES | TAX PROFESSIONALS | RETIREMENT PLANS COMMUNITY | TAX EXEMPT BOND COMMUNITY
Benefits Practitioner | Plan Participant/Employee | Plan Sponsor/Employer
Retirement Plans Community Topics
Newsletters
Published Guidance
EP Forms/Pubs/Products
Correcting Plan Errors
Examinations/Enforcement
EP FAQs
Types of Plans
Contact EP/Services
More Topics...
IRS Resources
Compliance & Enforcement
Correcting Plan Errors
The Employee Plans Compliance Resolution System (EPCRS) offers a comprehensive system of correction programs for sponsors of retirement plans that are intended to satisfy the requirements of sections 401(a), 403(a), 403(b), 408(k) or 408(p) of the Internal Revenue Code, but which have not met these requirements for a period of time. This system allows plan sponsors to correct these failures and thereby continue to provide their employees with retirement benefits on a tax-favored basis. The components of EPCRS are the Self-Correction Program (SCP), the Voluntary Correction Program (VCP) and the Audit Closing Agreement Program (Audit CAP).
Do I Have a Qualification Problem?
Keeping a watchful eye on the retirement plan your business sponsors to help employees prepare for their retirement years is just smart business practice. Employees are counting on the benefits promised by the plan and want to have the substantial tax benefits that saving for retirement
Correcting Qualification Problems Through EPCRS
Revenue Procedure 2006-27
Revenue Procedure 2003-44
RETIREMENT PLAN PITFALLS
71

Slide 72



By selecting this link, you will be directed to all of the information that EP has to offer on fixing plan mistakes. This is just a sample of the information that you can access from this page.

Slide 73

EP has launched a newsletter designed specifically for small businesses entitled *Retirement News for Employers*.

Retirement News for Employers is an electronic newsletter, which is posted on our web site as a PDF document every quarter. Being a web-based product, the newsletter makes an excellent reference guide, as it is chock-full of embedded links to guidance sources, products, and other sites. It contains a recurring column called "Fixing Common Plan Mistakes." This column addresses a different plan mistake each edition, with tips on how to find, fix, and avoid the mistake.

It is easy to subscribe, just select "Newsletters" on our Retirement Plans Community home page, then "*Retirement News for Employers,*" and "subscribe." You only need to type in your e-mail address and select "submit!"

Slide 74

Objectives

You are now able to:

- Recognize benefits of a retirement plan for an employer and its employees
- Assist your clients in choosing the right retirement plan for their business
- Find, fix, and avoid common plan errors
- Locate and utilize retirement web-based resources to help maintain plan qualification

RETIREMENT PLAN PITFALLS 74

Go over objectives again. Questions?

Slide 75

Binder Resources

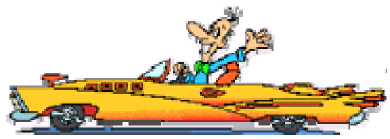
- Lots of Benefits
- Choosing
- Navigator
- 401(k) Fix-It Guide
- SCP Flowchart
- Qualified Timeline
- Form 5305-SEP
- Form 5305-SIMPLE
- Form 5304-SIMPLE
- Retirement News for Employers
- 401(k) Plans for Small Businesses
- 401(k) Checklist

You will find these resources in your binder for your use when you get back to the office.

The very last item that you will find in your binder is a survey. We would like you to please take a couple of minutes to complete it. Your responses will help us improve future workshops. Please complete the survey and let us know what you think.

Slide 76

Keep That Plan Running Well!



JACK'S PICKLEWORKS COMPANY

PERSONNEL FILE

Employee: Mary B. Alpine

Current Position: Office Manager

Salary: $35,000/ Year

Date of Birth: 09/05/53

Employment History:

Hired 2/8/03 – Full-time
Salary increase 12/15/04 -- $35,000/YR

JACK'S PICKLEWORKS COMPANY

PERSONNEL FILE

Employee: William Q. Bennett

Current Position: Manufacturing

Salary: $12.85/ Hour

Date of Birth: 05/17/72

Employment History:

Hired 7/15/95 – Full-time
Terminated 3/1/98
Re-hired 9/5/98 – Full-time
Increase 1/1/05 – $12.85/hour

JACK'S PICKLEWORKS COMPANY

PERSONNEL FILE

Employee:	Jay P. Cole
Current Position:	Quality Control
Salary:	$45,000/ Year
Date of Birth:	07/31/60

Employment History:

Hired 3/5/03 - Full-time
Quit 8/7/06 – took another job

JACK'S PICKLEWORKS COMPANY

PERSONNEL FILE

Employee:	Lucy E. Dade
Current Position:	Salesperson
Salary:	$48,000/ Year
Date of Birth:	12/08/42

Employment History:

Hired 9/5/87 – Full-time
Promoted 6/17/97 to sales – commissioned

JACK'S PICKLEWORKS COMPANY

PERSONNEL FILE

Employee:	Robert N. Dane
Current Position:	Vice President – Sales
Salary:	$100,000/ Year
Date of Birth:	06/02/53

Employment History:

Hired 3/27/96 – Full-time
Quit 10/1/00
Rehired 7/21/01 – Full-time
Fired for embezzlement 5/3/06

JACK'S PICKLEWORKS COMPANY

PERSONNEL FILE

Employee:	Pincus H. Duval
Current Position:	Vice President – Operations
Salary:	$65,000/ Year
Date of Birth:	06/21/68

Employment History:

Hired 10/23/02 – Full-time $55,000/ year
Promoted 10/8/04 $65,000/ year

JACK'S PICKLEWORKS COMPANY

PERSONNEL FILE

Employee:	Charles R. Furman
Current Position:	Manufacturing
Salary:	$10.90/ Hour
Date of Birth:	09/08/74

Employment History:

Hired 1/9/94 – Full-time
Quit 8/3/98
Rehired 3/30/99 – Full-time

JACK'S PICKLEWORKS COMPANY

PERSONNEL FILE

Employee:	Bonnie L. Glynn
Current Position:	Web site Administrator
Salary:	$40 per hour
Date of Birth:	05/07/75

Employment History:

Hired 9/22/04 – Part-time web site administrator (25 hours per week)

JACK'S PICKLEWORKS COMPANY

PERSONNEL FILE

Employee:	Susan G. Hood
Current Position:	Receptionist
Salary:	$10.85/ Hour
Date of Birth:	05/11/60

Employment History:

Hired 3/5/93 – part-time
Changed to Full-time 7/1/97
Pay increase 1/1/98 from $9.00 to $9.50
Pay increase 1/1/00 to $10.85

JACK'S PICKLEWORKS COMPANY

PERSONNEL FILE

Employee:	James A. Jasper
Current Position:	Manufacturing
Salary:	$28,500/ year
Date of Birth:	05/12/67

Employment History:

Hired 3/6/97 – Full-time
Salary increase to $28,500 12/1/05

JACK'S PICKLEWORKS COMPANY

PERSONNEL FILE

Employee: John F. Pace

Current Position: Purchasing

Salary: $30,400/ Year

Date of Birth: 08/13/78

Employment History:

Hired 2/13/97 – Full-time
Salary increase to $30,400 12/1/04

JACK'S PICKLEWORKS COMPANY

PERSONNEL FILE

Employee: Sarah O. Pratt

Current Position: Foreman

Salary: $42,000/ Year

Date of Birth: 07/10/70

Employment History:

Hired 8/2/03 – Full-time
Quit 10/17/06 – Moved to another state

JACK'S PICKLEWORKS COMPANY

PERSONNEL FILE

Employee:	Blanche J. Scott
Current Position:	Corporate Secretary
Salary:	$95,000/ Year
Date of Birth:	05/24/67

Employment History:

Hired 3/5/92 – Full-time $40,000/ year
Promoted to Corp. Secretary 1/1/99 $70,000/ year
Salary increase 1/1/02 $85,000/ year
Salary increase 1/1/05 $95,000/ year

JACK'S PICKLEWORKS COMPANY

PERSONNEL FILE

Employee:	Dane C. Story
Current Position:	Manufacturing
Salary:	$23,000/ Year
Date of Birth:	11/28/55

Employment History:

Hired 4/17/06 – Full-time

JACK'S PICKLEWORKS COMPANY

PERSONNEL FILE

Employee:	Harold D. Sumter
Current Position:	Research and Development
Salary:	$31,000/ Year
Date of Birth:	02/23/71

Employment History:

Hired 5/15/06 – Full-time

JACK'S PICKLEWORKS COMPANY

PERSONNEL FILE

Employee:	John M. Tate
Current Position:	C.F.O
Salary:	$110,000/ Year
Date of Birth:	03/08/52

Employment History:

Hired 6/24/04 – Full-time Controller $90,000
Promoted 1/1/06 – Chief Financial Officer $140,000

JACK'S PICKLEWORKS COMPANY

PERSONNEL FILE

Employee:	Marisha I. Ward
Current Position:	Owner, President
Salary:	$225,000
Date of Birth:	08/19/66

Employment History:

Started company on 6/7/86
Latest salary increase 12/1/00 $225,000

JACK'S PICKLEWORKS COMPANY

PERSONNEL FILE

Employee:	Reneé K. Worth
Current Position:	Salesperson
Salary:	$43,500
Date of Birth:	01/10/77

Employment History:

Hired 1/2/03 – Full-time $40,000
Salary increase 1/1/06 $43,500 - commissioned