



2005 Year-End Compliance Reminders

For Defined Contribution Plans not subject to ERISA

This information applies to defined contribution plans, such as qualified governmental plans (including “grandfathered” 401(k) plans), qualified church plans that do not elect to be covered by ERISA (“non-electing church plans”), 403(b) programs, and section 457 plans that are not subject to Title I of ERISA.

Every year, defined contribution plan sponsors should make sure their plans meet certain compliance requirements, including those listed below. This publication identifies the materials you need to review and will help you prepare for year-end.

- **2005 Compensation Limit is \$210,000.** In general, when determining 2005 contributions plan sponsors may only take into account each participant’s compensation up to \$210,000. However, a special limit of \$315,000 applies to eligible participants in certain governmental plans that were in effect on July 1, 1993.
- **Annual Deferral Limit and Correction Deadline.** For the 2005 calendar year, a participant’s deferral contributions to a 401(k) plan, 403(b) program or section 457 plan could generally not exceed \$14,000. A single \$14,000 limit applies to deferral contributions made to any combination of 401(k) plans and/or 403(b) programs. However, deferrals made to 401(k) plans and/or 403(b) programs do not reduce the limit on deferrals that may be made to a section 457 plan. As a result, an individual could contribute \$14,000 to a combination of 401(k) plans and/or 403(b) programs and contribute an additional \$14,000 to a section 457 plan.

Some 401(k) plans also may have allowed participants age 50 or older in 2005, to contribute an additional \$4,000 of “catch-up” deferrals during the 2005 calendar year. Similar catch-up deferrals may be made to 403(b) programs and governmental section 457 plans. Additional catch-ups (i.e., 15 year catch-up, last three year catch-up) are available under some 403(b) programs and section 457 plans.

Excess deferrals made in 2005 to a single plan, or to multiple plans sponsored by the same employer (determined on a controlled-group basis), must be distributed to the participant, with related earnings, by April 15, 2006. Failure to make these corrective distributions by April 15, 2006, may result in plan disqualification or loss of the tax deferred status of plan assets.

If your plan needs to distribute 2005 excess deferrals to any participants, complete and return to your Client Consultant a [Request for Distribution of Excess Elective Deferrals](#) form for each affected participant.

- **Annual Additions Limit.** In general, employer contributions, employee post-tax and pre-tax contributions, and forfeitures reallocated (if any) to a participant during the 2005 limitation year (collectively referred to as “annual additions”) are limited to the lesser of \$42,000 or 100% of the participant’s compensation. However, church employees may receive annual additions under a 403(b) program of up to \$10,000 per year, even if this amount exceeds the standard 100% of compensation limit on annual additions. This special limit is limited to a \$40,000 lifetime maximum.

We have included an [Annual Additions Limit Worksheet](#) that you may photocopy and use to calculate each participant’s limit, under the standard rules, and actual annual additions. For each participant who has excess annual additions, complete and return to your Client Consultant a [Request for Distribution of Excess Annual Additions](#) form. The sample form provides additional information about acceptable correction methods.

- **2005 Forfeitures.** In general, qualified defined contribution plans may not carry unallocated suspense accounts at plan year-end. The IRS makes specific exceptions to this rule for suspense accounts arising from the correction of excess annual additions, assets transferred from a terminated defined benefit plan to be allocated over a seven-year period. Otherwise, the IRS expects all plan assets to be allocated among participant accounts at year-end. Generally, whether your plan reallocates forfeitures, applies them as a credit toward employer contributions, or applies them as a credit toward plan expenses, there should be no unallocated forfeitures remaining at year-end. Plan documents may contain language specifically addressing the timeframe by which forfeitures must be applied.
- **2006 Top-Heavy Determination.** To determine if your plan is top-heavy for the 2006 plan year, you must first identify your "Key Employees." An employee is a Key Employee only if he is:
 - An officer of the organization who received more than \$135,000 compensation in 2005.

Employees who performed no services for your organization during the one-year period ending on the last day of the 2005 plan year are disregarded in determining top-heavy status.

Also, the lookback period for adding back distributions to account balances depends on the type of distribution made. A five-year lookback applies to in-service withdrawals, including hardship withdrawals. However, other distributions (e.g., due to retirement, disability, death or termination of employment) are added back only if they were made during the one-year period ending on the last day of the 2005 plan year.

If you determine that your plan is Top Heavy for the 2006 plan year based on 2005 plan year-end data, complete and return to your Client Consultant the [Top-Heavy Compliance Form](#) provided in this mailing. If Prudential Retirement does not provide top-heavy testing services for your plan, you may use the [Top-Heavy Test Worksheet](#) we have provided to perform this test or make other arrangements to do this testing.

- **2005 Top-Heavy Contributions.** If your plan was Top Heavy for 2005, based on 2004 plan year-end data, you must make a minimum contribution to satisfy the Top-Heavy requirements. This contribution is subject to the same timing requirements as any other 2005 employer contribution.

- **EGTRRA Provisions.** Plan sponsors that maintain plan documents and have decided to implement optional EGTRRA provisions in 2005, such as catch-up contributions, may need to appropriate "good faith" EGTRRA plan amendments by the last day of the 2005 plan year.

If you have questions about this publication, please contact your Prudential Retirement representative.

Pension Analyst by Prudential Retirement

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