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TPS newsletter

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Coming in 2006 – Roth 401(k) Contributions

You will be hearing more from ThePensionSpecialists,Ltd. about an exciting new feature available in 401(k) plans for 2006. The IRS recently issued proposed regulations for the new Roth contributions to 401(k) plans. Similar to Roth IRA contributions, Roth contributions to 401(k) plans will be made on an after-tax basis. When Roth contributions are withdrawn, both the principal amount and earnings (provided certain requirements are met) will come out tax free.

Look for further information in the months ahead about how to add this new feature to your existing or new 401(k) plan. The effective date is the plan year beginning on or after January 1, 2006.

New Bankruptcy Law Signed April 20, 2005

A new bankruptcy law, Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, was signed into law on April 20, 2005. This law includes some of the most comprehensive changes in the bankruptcy rules in more than 25 years.

Several provisions in the new law provide expanded protection for all types of retirement plans, as well as other employee benefit plans.

Bankruptcy and the Plan Participant

Exemption of retirement funds
This new law adds a specific exemption to the Bankruptcy Code to allow a debtor to protect certain retirement funds from the reach of creditors, including 401(k) plan assets and traditional and Roth IRA funds. There is a limit of $1 million of protected funds in IRAs; however, this limit is calculated without including any amounts attributed to rollovers from qualified plans. The law also provides that the bankruptcy court can increase this limit "if the interest of justice so require". This statutory exemption follows a recent Supreme Court decision providing expanded coverage for IRA funds in a bankruptcy. The new statutory exemption is more comprehensive than the Supreme Court case, since it applies, even if a state has opted out of the federal exemptions, or a debtor has chosen to apply state exemptions. This $1 million dollar limit does not apply to SEP's or SIMPLE IRA's.

401k Plan loans
The automatic stay, which prevents the collection of certain debt obligations, will not apply to stop a debtor's preexisting payroll withholding authorization to repay a qualified plan loan. A debtor's obligation to repay this loan will not be discharged in bankruptcy. A Chapter 13 reorganization is prohibited from

(Story continued on reverse side)

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substantially altering a plan loan. Amounts required to pay it will not constitute "disposable income" under the new bankruptcy rules.

Employer's Bankruptcy

Participant Contributions
When an employer files bankruptcy, amounts withheld from employee wages as contributions to any of the following plans are excluded from the employer's bankruptcy estate. These plans include: ERISA employee benefit plans, certain governmental plans, deferred compensation plans, or tax-deferred annuities, or to health insurance plans regulated by state law. This provides protection for 401(k) contributions that have been deducted from the employee's paycheck, but have not yet been deposited into the retirement plan.

Duties of the Debtor
Where the debtor is also a plan administrator for an ERISA plan, that debtor must continue to perform their duties as plan administrator during bankruptcy, unless the bankruptcy trustee undertakes those obligations.

Unsecured Benefit Plan Contributions
The dollar limit has been increased for unsecured claims for employee benefit plan contributions that are entitled to priority over most other unsecured claims. The Act also increases the dollar limit of wage claims, including vacation, severance, and sick pay claims entitled to priority.

Restrictions on Modifying Retiree Benefits

Bankruptcy law now prevents a debtor from unilaterally modifying certain retiree benefits, such as health insurance, while a bankruptcy case is pending or immediately prior to the bankruptcy filing. Retiree benefits must generally be reinstated if modified within 180 days prior to the filing of bankruptcy.

About ThePensionSpecialists,Ltd.

ThePensionSpecialists,Ltd. is an independent retirement plan administrator. Our mission is to provide the highest quality services to assist clients in reaching their objectives.

Formed in 1987, we have grown to service over 930 employer retirement plans, with services covering over 25,000 plan participants with over $350 million of retirement plan assets. We consult with clients to implement plans and proactively service them with interactive communication aimed at maximizing benefits, while solving problems. Our in-house staff performs all plan administration.

ThePensionSpecialists,Ltd. provides services to many well known companies, which include Broker Dealers, Investment Firms, CPA Firms, Law Firms, Medical Groups, hospitals, Engineers and Retail Businesses.

For more information about us, access our website at www.pensioninsider.com, or call us at 815.394.5500, or toll free at 800.963.5501.

The**Pension**Specialists,Ltd. continually stresses the importance of issues such as those published in this quarterly newsletter. Our specialists make every attempt to share such information directly with our clients through a variety of means including our website and broadcast emails. This newsletter is published as general information and is not intended to constitute legal advice in any manner. Specific information related to topics printed can many times be obtained by visiting the DOL and IRS websites.

Should any TPS client have further questions related to the topic(s) discussed in this publication or information seen on our website, please contact us by calling 815.394.5500 ext. 103.
Our Specialists are here to help.

Upcoming 2005 TPS Seminars

HR Seminar for Plan Sponsors:
How to Effectively Manage Your Retirement Plan Operations
Tuesday, August 2, 2005
Tuesday, October 25, 2005

Nationwide Usergroup Seminar for Brokers:
Tuesday, September 13, 2005