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## Tax News

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### Roundtable Examines Pension and Retirement Plan Issues

by Dillon Taylor, Assistant Chief Counsel

On November 6, Advocacy hosted a roundtable where representatives from the federal government and small businesses discussed a number of important pension and retirement plan issues.

The first presenter, Sandy Turner of Retirement Plan Specialists, expressed concern about declining rates of employee retirement savings. Turner presented information on free resources that employers could use to help educate their employees about the importance of retirement saving.

Gary Kushner, of Kushner & Company, made a presentation on Internal Revenue Code Section 125 "cafeteria plans." Kushner described several Internal Revenue Service rules related to cafeteria plans that would benefit from revision. One of these rules prevents many employers from participating in the cafeteria plans that they sponsor for their employees. Second were the IRS 1984 "use it or lose it" rules, which should be updated to permit an employee who separates from service to roll over benefits to a different employer's plan. Third, the IRS should update its rules to provide a simplified method for nondiscrimination testing.

Judy Miller of the American Society of Pension Professionals and Actuaries discussed the IRS penalties to which many small business employers would be subject if Congress did not provide relief from the pension plan funding requirements.

George Buffington, from Buffington & Aaron, made a presentation on Internal Revenue Code Section 409A relating to deferred compensation. He noted that many pension plan sponsors were unsure

how this section applies to their plans, and of the definition of "deferred compensation." Buffington hoped that Congress would provide relief from this section to small employers who sponsor pension plans.

Alex Brucker of Brucker & Morra presented information on Internal Revenue Code Section 6707A, the penalty for failure to disclose a listed or reportable transaction. Brucker observed that this expensive penalty is burdensome for small businesses that sponsor pension plans because the IRS imposes the penalty regardless of whether the transaction at issue is de minimis in nature or a mistake.

Paula Calimafde, from the Small Business Council of America, discussed "interim plan amendments." Interim amendments are the annual amendments that the IRS requires to keep a pension

plan compliant with changing laws and rules between dates when the plan is fully restated. Calimafde presented data to show that the number of changes in laws and rules has required plan administrators to produce an increasing number of amendments over the last decade. Such changes are expensive and burdensome for employers that sponsor pension plans. Calimafde discussed ways in which the IRS could revise its rules to help reduce the number of such amendments for which employers are responsible. This topic generated so much conversation that Advocacy will host a conference call to continue discussing this issue on December 2.

For information on future roundtables contact Assistant Chief Counsel Dillon Taylor at (202) 401-9787 or [dillon.taylor@sba.gov](mailto:dillon.taylor@sba.gov).

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## r3 Update

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### Last Chance to Nominate!

Do you know of a federal regulation that is in need of review and reform? This is the time to speak up. Nominations for the Office of Advocacy's 2010 edition of the Top 10 List of Rules in Need of Review and Reform are due by December 31, 2009.

r3 includes a process by which interested stakeholders can nominate existing regulations for reform, and monitor the progress that agencies make toward achieving those reforms. The nomination criteria may be found on Advocacy's webpage at [www.sba.gov/advo/r3/r3\\_nomination.html](http://www.sba.gov/advo/r3/r3_nomination.html).

To suggest reviews and reforms, please contact Advocacy at [advocacy@sba.gov](mailto:advocacy@sba.gov).

