

Important Approaching Deadlines

Please make note of these important approaching deadlines for calendar year plans:

Last half of January:

- **Date indicated in census notification:** Deadline for the submission of 2016 census data to ensure completion of all applicable testing by March 15, 2017.

March 1, 2017:

- **Same date for all plan years:** Deadline for participants who made 2016 deferrals into another employer's plan to notify the plan administrator of any excess deferrals (i.e., deferrals over the calendar year deferral limit) that they want distributed from the plan.

March 15, 2017:

- **2 ½ months after plan year-end:** Deadline for completion of required actual deferral percentage (ADP)/actual contribution percentage (ACP) plan testing and corrective distributions for plans without an eligible automatic contribution arrangement to avoid Internal Revenue Service 10 percent excise tax assessed against the employer.
- **2 ½ months after fiscal year-end:** Deadline for filing calendar year corporate tax returns or filing for an extension and contribution deadline for deductibility purposes for corporations if no filing extension is requested.

March 31, 2017:

- **15 months after plan year-end:** Deadline for filing Form 5330, Return of Excise Taxes Related to Employee Benefit Plans, for the 2015 plan year. Form 5330 is used to report and pay the 10 percent excise taxes on excess contributions due to failed ADP or ACP tests that occurred in the 2015 plan year and were not distributed within 2 ½ months (six months if the plan has an eligible automatic contribution arrangement and provisions apply to all employees, not just employees hired after the eligible automatic contribution arrangement provisions were adopted).

If your plan year begins on a date other than January 1, please make adjustments to the dates to coincide with your plan year. Not all deadlines are based on the plan year. Examples of deadlines not based on the plan year include return of excess deferrals (April 15), required minimum distributions (April 1) and Form 5330 filing for prohibited transactions (last day of the 7th month after the end of the tax year of the employer or other person who must file the Form 5330). Under Internal Revenue Code section 7503, when a deadline falls on a weekend (i.e., Saturday or Sunday) or a legal holiday, the performance of such acts shall be considered timely if completed the next business day. However, corrective distributions and contributions should be processed the day before the weekend or legal holiday.

Census Reminder for Calendar Year Plans

Plan administrators should have been notified regarding annual census submission.

The notification includes the deadline by which we must receive your census submission in order to complete annual compliance testing by the Internal Revenue Service (IRS) deadline of March 15, 2017.

If your census is received after the due date, we will complete your annual nondiscrimination testing. However, we cannot guarantee that testing and corrective distributions (if necessary) will be completed by March 15. If your plan fails the actual deferral percentage (ADP) test or actual contribution percentage (ACP) test, you will be responsible for a 10 percent IRS excise tax on any amounts refunded after the March 15 deadline unless you have an eligible automatic contribution arrangement (EACA) in place that applies to all employees, not just employees hired after the EACA provisions were adopted. If you have questions regarding the deadlines for your census or corrective distributions, please contact your plan manager.

Corrective distributions processed due to failed ADP and/or ACP tests are taxable in the year of distribution.

It's Important to Classify Your Employees Correctly When Completing Your Census

The proper identification and classification of employees on your census is vital for accurate top heavy determination and nondiscrimination testing.

Classifications include:

- Statutory excluded classes of employees (e.g., union or nonresident employees if the plan document excludes from participation in your plan)
- Nonstatutory excluded classes of employees (e.g., employees who are excluded from participation if the plan document excludes employees other than statutory exclusions)
- Highly compensated employees
- Key employees

Other important considerations when completing your census include:

- Leased employees - If your business uses any individuals who are officially employed by a professional employer organization, please provide details for these employees.
- Controlled group and affiliated service groups - The rules for controlled groups and affiliated service organizations can be complex. If there are businesses that are partially owned or closely associated with your business, it is important to determine if they form a controlled group or affiliated service group with your business because all employees of a sponsoring employer and any controlled group or affiliated service group that the sponsoring employer is part of must be reported on the census. This is a matter to discuss with your legal counsel and/or benefits advisor.

Finally, please ensure data for all employees who were employed with your organization at any time during the plan year, regardless of their ability to participate or benefit under your plan, have been reported on your census.

Census Reporting of Compensation for Terminated Employees

Treasury Regulations for Code §415 require that 415 compensation include regular pay after severance of employment if:

- The payment is regular compensation for services during the participant's regular working hours or compensation for services outside the participant's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments.
- The payment would have been paid to the participant prior to a severance from employment if the participant had continued in employment.
- The payment is paid by the later of 2½ months after severance from employment or by the end of the limitation year that includes the date of the severance from employment.

These Treasury Regulations permit, but do not require, plan compensation to include regular pay after severance of employment. Additionally, the regulations allow, but do not require, certain other types of post-severance compensation to be included in 415 compensation and plan compensation.

If your plan is an adoption of the OneAmerica 401(a) VS PPA document, post-severance regular pay generally will be included in the definition of plan and is always included in 415 compensation. See 24.a. - 24.o. in the 401(k) adoption agreement and 24.a. – 24.i. in the profit sharing and money purchase adoption agreements for post-severance compensation elections that affect the plan and 415 compensation you report.

Contact your plan manager if you have any questions.

Changes to Your Organization's Structure May Affect Your Retirement Plan

When an organization is involved in a sale, purchase of or merger with another organization, the impact to their retirement plan is often one of the last considerations.

If you intend to make changes to your organization, we encourage you to contact your plan manager as soon as possible. We will send a questionnaire to you that will highlight some of the effects of the changes and choices related to your plan design, which include:

- Coverage and nondiscrimination testing implications
- Contribution considerations
- Eligibility decisions

Your plan may need to be amended, merged with another plan or even terminated. Regardless of what design changes are required, we can help.

The Federal Reserve Interest Rate Increase and Participant Loans

The Federal Reserve increased the short-term interest rates in December from a range of 0.25 percent to 0.5 percent to a range of 0.5 percent to 0.75 percent.

The prime rate banks charge on loans is usually tied to the short-term interest rates. If your plan's loan rate is tied to the prime rate, you may need to update your loan interest rate. Your loan procedures will state how the rate is determined.

We encourage you to review the following Internal Revenue Service (IRS) publications related to participant loans including:

- [IRS Retirement Plans FAQs regarding Loans](#)
- [Fixing Common Plan Mistakes – Plan Loan Failures and Deemed Distributions](#)

If you need to adjust the interest rate for new participant loans, please contact your plan manager.

Identifying Highly Compensated Employees

The proper identification of highly compensated employees (HCEs) is critical for accurate 2016 nondiscrimination testing.

An employee is considered highly compensated for the 2016 plan year if he or she:

- Was a more than 5 percent owner of the employer at any time during the plan year beginning in 2016 or the preceding plan year (plan year beginning in 2015)
- Had compensation from the employer in excess of \$120,000 during the 2015 plan year and, if the employer so elected in their adoption agreement or plan document, was in the top-paid group of the employer

Other considerations when determining HCE status include:

- Controlled groups and affiliated service groups
- Family member attribution rules for more than 5 percent owners

Please contact your plan manager if you have any questions.

Identifying Key Employees

The proper identification of key employees on your 2016 census is critical to the accurate determination of your plan's 2017 top heavy status.

Key employees include employees (or former employees) who, at any time during the plan year beginning in 2016, met any one of the following criteria:

- An officer having annual compensation greater than \$170,000
- A more than 5 percent owner of the employer (or related employer)
- A more than 1 percent owner of the employer (or related employer) with compensation in excess of \$150,000

Other considerations when determining key employee status include:

- Determination of officers
- Former key employees
- Controlled groups and affiliated service groups
- Ownership attribution rules for family members of owners

Officers are limited to 50 employees, or if lesser, the greater of 3 employees or 10 percent.

While organizations may have many employees who have officer titles, for purposes of compliance testing an officer is generally considered a person who has the authority of an officer. Authority refers to the nature and extent of the employee's duties such as an administrative executive who is in regular and continuous service. Employees with the authority of an officer but not the title of an officer should be considered an officer. Employees with the title of an officer but not the authority of an officer should not be considered officers.

Contact your plan manager if you have any questions.