



From the desk of Gene Schloss ...

We are not just rearranging the deck chairs ...

The stock market turmoil has wreaked havoc on 401(k) plan balances as well as defined benefit plan assets. Our best defense against forces beyond our control is to help provide financial advisors and participants as broad a range of investment options as possible for clients' plans with self-directed investment accounts and offer in-depth consulting and compliance solutions for those clients where a plan's financial obligation is based on a diminished asset value.

Open architecture investment platforms with transparent expenses are offered not only with the requisite equity, fixed income and money market (or dollar option) offerings but the addition in most programs of U.S. Treasury money market options. A major effort has been undertaken to assist advisors and clients to meet with plan participants in groups or in one on one sessions to educate and assist in fund selection such that a participant has a basic comfort level while his investments allow for continued growth.

We are now preparing administrative service agreements formalizing and making more transparent the financial arrangements between Schloss & Co, LLC and each plan sponsor. These new letters of agreement will be forthcoming during 2009.

Our compliance team has completed most required section 415 amendments, with full completion due early in 2009.

All defined contribution plans must be amended and restated by April, 2010 with defined benefit plan restatements due at a later date to be determined by government regulations. The plan approval and amendment process is well under way.

403(b) plans for non-profit institutions must have a governing document in place by December 31, 2009. In addition, non-qualified deferred compensation plans must be amended by December 31, 2008, to comply with the final 409A regulations. We have been assisting clients with these types of plans so that compliance can take place on a timely basis.

While looking at a retirement program through the prism of a wildly fluctuating asset base it is easy to forget that the fundamental objective is to provide a basic level of retirement security. The foundation for strengthening and maintaining *unsinkable* retirement programs must include experienced and knowledgeable consultants, administrators and compliance professionals supported by efficient updated technology. We at Schloss & Co, LLC recognize that and are working to build and retain your support.

- **Congress passes Pension Relief, including moratorium on Required Minimum Distributions for 2009 from IRAs/Individual Account Plans. President expected to sign into law.**
- **IRS extends deadline to December 31, 2009 for Section 403(b) written plan document compliance.**

Table of Contents

- Updated 2009 Employee Benefit Information
- Deadline Reminders
- Calculation of 2008 Keogh Contribution

Late Breaking Developments

For more details on these developments, visit www.schlossco.com.

UPDATED 2009 EMPLOYEE BENEFIT INFORMATION

IRS has announced the 2009 employee benefits plan limits which are shown below in comparison with the 2008 figures.

2009 Value	2008 Value	
\$ 16,500	\$ 15,500	Maximum elective deferral under 401(k), 403(b) and 457(b) elections.
\$ 5,500	\$ 5,000	Maximum "catch-up" elective deferral for employees age 50 and over under 401(k), 403(b) and 457(b) elections.
\$ 49,000	\$ 46,000	Maximum participant allocation under all defined contribution plans, including 401(k), matching, profit sharing, etc. Total allocation cannot exceed 100% of compensation.
\$ 245,000	\$ 230,000	Maximum compensation allowed for determining benefits, contributions and tax-deductible contributions for all retirement programs.
\$ 195,000	\$ 185,000	Maximum annual lifetime benefit allowed to be paid in a defined benefit plan commencing anytime between ages 62 and 65.
\$ 106,800	\$ 102,000	Social Security Taxable Wage Base taxed at 6.2%.
No Limit	No Limit	Medicare Wage Base taxed at 1.45% on all wages.
\$ 110,000	\$ 105,000	Salary in current year to be considered Highly Compensated Employee (HCE) in subsequent year. More than 5% owners (and their family members) in prior or current year are automatically HCEs regardless of salary.

The above limits are increased only when the Cost of Living Adjustment (COLA) reaches the next rounded threshold. Certain figures are rounded *down* rather than up, and the increments are not uniform for all figures. Thus, some figures may change for a given year, while others may not.

DEADLINE REMINDERS

<u>Date</u>	<u>Action Required</u>
2/2/09	Distribute Form 1099-R to all recipients of 2008 distributions, including direct rollovers of lump sum payments to IRAs or other qualified plans, minimum required distributions and monthly pensions. File Form 945 to report any income tax withheld from 2008 distributions.
3/2/09	File Forms 1099-R using transmittal Form 1096 (applicable only for forms that are mailed to IRS). Deadline for large defined benefit plans (500 or more) to pay estimated flat rate premium for 2009 calendar plan year (\$34/participant).
3/15/09	Distribute 401(k) contributions plus imputed earnings to the Highly Compensated Employees from 401(k) Plans that fail ADP/ACP Test for 2008 calendar Plan year. Amount distributed is taxable 2008 income. (For non-calendar plans, distribute within 2½ months of plan year end). Employer subject to 10% penalty tax on distributions after this date, but then amount is taxable to participants in 2009. NEW RULE: Excess contributions and imputed earnings taxable as <u>2009</u> income. Eligible Automatic Contribution Arrangement (EACA) 401(k) Plans have until 6/30/09 to distribute 2008 excess deferrals and imputed earnings.
4/1/09	Pay out first minimum distribution to participants who reach 70½ in 2008 and did not take the first payout by 12/31/2008. Second minimum payout due by 12/31/2009, with annual payouts thereafter. Participants with a valid TEFRA 242(b) election and non-owner employees born <i>prior to</i> July 1, 1917 may continue deferral of distributions until actual retirement. Non-owners attaining age 70½ in 1997 and beyond may also elect to defer if the Plan document is properly amended and a valid deferral form (with spousal consent) is timely signed, until actual retirement.
4/15/09	Distribute any 2008 salary deferrals in excess of \$15,500 (\$20,500 for employees age 50 or older) plus imputed earnings made to 401(k) Plans. First Quarterly Contribution for 2009 due for calendar year defined benefit plans, unless notice is given to participants by 6/15/2009 or Plan is exempt.
4/30/09	NEW Annual Funding Notice must be distributed for defined benefit plans with 2008 calendar plan year to plan participants, beneficiaries, union(s) representing participants and beneficiaries (if applicable), contributing employers (multi-employer plans only) and filed with PBGC, if applicable. NEW deadline for small defined benefit plans (under 100) to pay 2008 calendar plan year full premium; medium (101-499) and large (500 or more) plans to pay 2008 calendar plan year reconciled premium (from original 10/15/08 payment), plus applicable interest charges.

CALCULATION OF 2008 KEOGH CONTRIBUTION

The calculation of contributions for self-employed individuals must reflect the deduction of ½ of the Social Security taxes on self-employment earnings (SEE). The procedure is complicated by the two-tiered Social Security tax (*i.e.*, 12.4% of the first \$102,000 of SEE, plus 2.9% of all SEE). The \$230,000 compensation limit further complicates the calculation, regardless of the Plan type – Profit Sharing (PS) or Money Purchase (MP).

The 2008 Keogh contribution may be determined as follows*:

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|---|----------|
| 1. Enter Net Schedule C profit – but not more than \$286,155.63 | \$ _____ |
| 2. (a) If item #1 is greater than or equal to \$110,443.59 multiply item #1 by .98661 | \$ _____ |
| (b) Subtract from item #2 (a) \$6,324.00 | \$ _____ |
| 3. If item #1 is less than \$110,443.59 multiply item #1 by .92935 | \$ _____ |
| 4. For defined contribution plan enter the contribution rate percentage as a decimal, but not to exceed .25 | \$ _____ |
| 5. Multiply item #4 by item #2 (b) or item#3, whichever is applicable | \$ _____ |
| 6. Add one (1) to item #4 | \$ _____ |
| 7. Divide item #5 by item #6 equals the 2008 Keogh Contribution (maximum \$46,000) | \$ _____ |

* **NOTE:** If the plan provides for contributions or allocations that are not pro rata on compensation (*e.g.*, the plan provides for permitted disparity, or is age-weighted or otherwise cross-tested), or the self-employed individual also has regular W-2 wages subject to FICA taxes *from any employer*, then the above method **requires modification**.



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