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Published By

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Compensating for Compensation's Sake

The definition of compensation in your plan document is important for several reasons:

- Determining an employee's allocation in a defined contribution plan or benefit accrual in a defined benefit plan;
- Calculating the employer's deduction;
- Calculating the limitations under §415;
- Determining an employee's minimum benefit under the Top Heavy rules; and
- Performing nondiscrimination testing.

The regulations provide three safe harbor definitions of compensation:

- §415(c)(3);
- §3401(a); and
- W-2 compensation (§6041 and §6051).



§415(c)(3)

This is an all-inclusive definition of compensation. It includes total compensation plus certain items of income that are not included on Form W-2. Examples of 415(c) compensation include wages and fees included in gross income, self-employed earned income, taxable health reimbursements, cost of group-term insurance coverage in excess of \$50,000, reimbursed moving and auto

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Dorn's Corner



I want to continue the conversation I started last quarter about the Year of Relationships. I'll start with the relationships we each have within ourselves. To me, this is the foundation for all of our external relationships, because how we see the outside world is a mirror of what goes on within our minds and bodies.

So what goes on within? First, we have our internal dialogue: the things we say to ourselves. We talk to ourselves all the time and this internal dialogue creates our reality, and affects our self image. For example, whenever I forget something or make a

mistake, I'll say to myself, "I'm an idiot for forgetting that."

My mind hears this often enough to accept it as "the truth."

My mind doesn't understand that I really don't think I'm an idiot. Therefore, my self image is damaged by my continual internal conversation which puts me down. We all can be tough on ourselves and it hurts our self image.

If I think I'm an idiot for forgetting something, then I will tend to criticize others (and think they are idiots) when they forget something. Our external

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Client of the Quarter



We are proud to feature the Atlanta Alliance on Developmental Disabilities, Inc. (AADD) as our Client of the Quarter. We have administered their profit sharing plan since 2005.

AADD is a non-profit charitable organization primarily serving the greater metropolitan area of Atlanta. The organization began in 1952 when a group of parents gathered in a living room to share their concerns about the needs of their children with developmental disabilities. They knew their children had value and could learn, but there were no schools available. In 1956 this group of parents incorporated and started a school for their children. This was the official beginning of AADD.

AADD has led the way in advocating for systems and policy changes by state legislation. This hard-working organization has a long history of influencing public policy. Their staff continually seek opportunities to work with other agencies and providers to improve the quality of life for people with developmental disabilities. They touch many people, many families.

The term developmental disabilities covers a wide range of disabilities, other

than mental illness, that occur during the developmental stages of life or before age 22. Most often people are born with developmental disabilities, but some are acquired. These disabilities present significant challenges in daily functioning, and are life long.

Some of the most frequently occurring developmental disabilities are Intellectual Disabilities (formerly known as Mental Retardation), Autism, Cerebral Palsy, Fetal Alcohol Spectrum Disorders, Downs Syndrome, and Traumatic Brain Injury resulting from an accident or abuse. An estimated 10 to 18% of our population has developmental disabilities.

AADD has done much to improve the lives of Georgians affected by developmental disabilities, in such areas as:

- ★ education
- ★ legislation
- ★ community-based care
- ★ advocacy
- ★ employment
- ★ recreation
- ★ worship
- ★ family support
- ★ health and wellness
- ★ life choices
- ★ civil rights

For many of the people they support, AADD means the difference between isolation and inclusion; discrimination and dignity; illness and health; stability and homelessness. AADD is the difference between the frustration of being underestimated and misunderstood and the success of realizing goals and being valued in the community. The organization works to build strong communities that continually encourage and support all individuals to:

- make informed choices;
- actively participate in educational, sporting, social, vocational, and recreational activities;
- live in safe and positive environments;
- grow and develop at their own pace;
- access and utilize resources; and
- achieve health and wellness.

AADD is funded by private donations, scholarships and grants from foundations, government contracts, Medicaid fees, and the United Way of Metropolitan Atlanta. AADD is also supported by gifts of cash donations, stocks, bonds and property; the sale of donated used clothing and household goods; and articles that can be given directly such as toiletry kits, food, and store gift cards.

For more information contact Riki Bolster at 404-881-9777 ext. 223 or on the Internet at riki@aadd.org. ■



★ **Mission:**

The Atlanta Alliance on Developmental Disabilities seeks to build communities of acceptance, support, and opportunity for children, individuals, and families living with developmental disabilities.



Retiree Medical Costs

Due to rising retiree healthcare costs and the impact of modified FASB/GASB reporting standards, employers need to discover and implement new strategies to manage current and future retiree medical costs. Implementing a full-replacement Medicare Advantage Plan could provide reduced per member/per month costs, resulting in appreciable annual savings and reduced FASB and GASB liability.

A Group Medicare Advantage Plan replaces original Medicare and secondary plans with a single plan underwritten and administered by a private insurer. The plan may include a Medicare Part D rider, eliminating the need for freestanding pharmacy benefits. The result: more efficient and often less costly retiree medical benefits.

With Group Medicare Advantage plans, you'll have a wide choice of products and flexible plan designs. Insurers can tailor benefits to fit specific circumstances and often design them to mirror current plan designs.

Medicare Advantage plans can include the following options:

HMO: Helps control medical costs through an established network of providers and guidance from primary care physicians.

Local PPO: Allows members to obtain covered services from any provider but covers a larger portion of costs from in-network providers.

Regional PPO: Generally includes the same benefits and services as local PPO plans, but offers a wider choice of providers from multi-state networks.

Private Fee-for-Service (PFFS): Similar to a traditional "no-network" indemnity plan; members can choose any provider who accepts the insurance company's payment terms.

Prescription Drug Plan (PDP): Available with any Medicare Advantage plan (as well as a stand-alone plan), ranging from a standard option with basic Medicare-approved coverage to a higher level of benefits with no coverage gap or "donut hole."

Call Dell Kubler at 678.775.5578 to find out more about a Group Medicare Advantage Plan. ■



Is There Cash In Your ESOP?

By definition, Employee Stock Ownership Plans (ESOPs) are invested primarily in employer stock. However, with so many S Corp ESOPs, we see more cash in ESOPs than ever before. This raises the question, "What's being done with all that cash?"

Fiduciary responsibilities for ESOPs are the same as any other qualified retirement plan. The Department of Labor (DOL) and recent court cases indicate the advisability of preparing a written investment policy. There are numerous factors to consider in determining how or where to invest your ESOP cash, such as repurchase obligation, future outside stock purchases, and future mergers or acquisitions. The list goes on and on.

The important message is that you must actively manage the cash in your ESOP as well as the employer stock. The fiduciary responsibilities are not taken lightly by the regulators and should not be taken lightly by anyone in a fiduciary role. ■

What's Happenin'

We celebrate the following anniversaries this quarter: Carol Friend, 16 years; Susan Petrirena, 13 years; Julie Isom and Kim Hall 11 years; Melodi Kline, 10 years; Randy Pflueger, 8 years; Kristin Hamilton, Mike Raker and Sharon Kleiman, 4 years; Marie O'Sullivan, 3 years; Kirsty Simmons, 2 years; Linda Mathews, Peggy Jones and Shenita Spivery, 1 year.

Congratulations to Kathy Latour on her promotion to Senior Pension Administrator.

Kudos to Emily Spencer and John Breier on

passing the ASPPA RPF-1 exam.

At our Quarterly Workshop on February 26, Ron Bachman spoke on The Future of Health Care in Georgia.

Dee Robbins, Donna Martin, Melissa Spencer and Susan Petrirena attended the Southeast Regional ESOP Conference in Charlotte on March 6-7, 2008. Melissa participated in a panel discussion "ESOPs and 401(k)s Combined – the Pros and Cons."

The February, 2008 S Corp ESOP

Conference in Orlando was attended by Joanne Swerdlin, Karen Miracle and Susan Petrirena.

We welcome new employees: Janet Wadlington and Takeya Simmons to the Blue Team; Karen Smith and Lynn Taylor to DayPak; Rayna Filson to the Gold Team; and Tim Bowen and Trevor Braunius to our Actuarial Team.

We are sorry to announce that Tony Brizzolara has left the firm to pursue new opportunities. ■

QDIA Summary

On October 24, 2007, the Department of Labor (DOL) published final Qualified Default Investment Alternative (QDIA) regulations. These final regulations were effective December 24, 2007.

The use of a default investment usually arises in an automatic enrollment arrangement. Often the participant's elective deferral is defaulted into a money market or stable value fund because the participant never made an affirmative election into a fund.

The default investment may also be used in other situations, such as when a fund is eliminated, money is rolled into the plan, or in any situation where a participant has the opportunity to direct the investment of his or her account but fails to do so.

The benefit of these QDIA regulations is simple. When certain conditions are met, plan fiduciaries are relieved from liability for losses resulting from the investment of the participant's account in a QDIA. Participants who do not make an affirmative investment election will be deemed to have directed the investment of their accounts if the plan utilizes a QDIA. This deemed direction provides plan fiduciaries with the relief from liability similar to that afforded by ERISA §404(c).

The Pension Protection Act goal for the QDIA is that it meet a participant's long-term retirement savings needs, rather than just preserving capital. The following investment mechanisms qualify as a QDIA:

- Life cycle or targeted-retirement-date fund;
- Balanced fund;
- Professionally-managed account;
- Variable annuity contract;
- Common and collective trust funds;
- Other pooled investment funds; and
- A capital preservation product (a money market or stable value fund), but only for the first 120 days of participation. After that time a plan fiduciary must redirect this investment into one of the other QDIA choices.

Generally, at least 30 days prior to the initial investment in the QDIA (and 30 days prior to the start of each subsequent year), participants must be provided a notice that describes:

- The circumstances under which their accounts will be directed to the QDIA;
- The right to make an alternative investment election or to transfer out of the QDIA at any time;
- The risk/return characteristics; and
- Any associated fees.

If the notice is not provided within the 30 day window, the Plan fiduciary will not have liability protection until 30 days after the notice is actually given. Finally, QDIA rules cannot be used with respect to participants who have already made elections.

If you have further questions, please do not hesitate to contact your Client Manager. ■



Q We have a 401(k) plan with a matching formula that is based on years of service. Because of this, are we required to perform an additional test on our matching formula to make sure it is not discriminatory?

A Yes. Because the match formula uses different percentages based on years of service, you must have an additional non-discrimination test performed.

Q Our plan says that if a participant takes a hardship distribution, he must stop salary deferrals for six months. What happens if we forget to stop the deferrals?

A The amount deferred during the suspension period must be forfeited to the plan and you must give back the deferrals to the participant through payroll. Any

match made during the suspension period must also be forfeited.

Q We have many Spanish speaking employees who have questions on how a retirement plan works and how to invest their money. Is there a web site where they can go for help?

A Yes. They can go to dol.gov/ebsa/investing.html where they will find information in Spanish that should be helpful. ■

What Will My FSA Pay?

A Flexible Spending Account (FSA) allows employees to pay for certain medical expenses on a pre-tax basis. Therefore, their taxable income is lower, they pay less taxes, and they increase their take-home pay.

Since this is a tax benefit, the IRS regulates what is considered eligible for reimbursement. Examples of eligible expenses include:

- co-payments for medical visits,
- prescriptions,
- dental cleanings,
- orthodontia, and
- hearing aids.

Examples of ineligible expenses include:

- cosmetic expenses,
- expenses claimed on your income tax return,
- teeth whitening, and
- toiletries such as toothpaste and deodorant.

To be reimbursed, the medical expense must diagnose, cure, mitigate, treat or prevent a disease.

However, some items are considered “dual purpose.” Gym memberships and dietary aids are examples of dual purpose items. An individual cannot be reimbursed for these items just for general health and weight management; they require a doctor’s written recommendation. Additionally, gym memberships can only be reimbursed as services are provided.

Our FlexPak Department can assist you with any questions you may have. Please call Cynthia Navan-Clark at 678.775.5551. ■



Welcome
New Employees

Clockwise from left:
Rayna Filson, Lynn Taylor,
Janet Wadlington, Trevor
Braunius, Takeya Simmons,
Karen Smith and Tim
Bowen.

Dorn's Corner

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relationships are a reflection of our internal dialogues.

We travel with many selves that need to be integrated for our health and well being. These internal selves reflect our basic beliefs.

For example, let me tell you about two of my internal beings who very often conflict. I have a very strong rebellious child. He likes to be “bad.” He likes to have fun, feel good, get what he wants – and right now. He likes to rebel against anything he perceives as telling him what or what not to do.

The fact that I had trouble with almost every boss I ever had in previous jobs shows my rebellious child’s presence and strength. For a long time I couldn’t believe how many bad bosses I kept running into. How unlucky could one person be? Then I realized the common denominator in all these relationships was me. I don’t like to be told what to do.

I even rebel against structures that I set up for myself. For example, I can set out a plan for some goal, say to lose weight. Then I find myself fighting my own structure (anything telling me what to do). My rebellious child focuses on what he wants. He wants to eat what he wants when he wants it! He doesn’t care much for the goals that have been imposed on him. The part of me that imposed these goals is what I call my adult.

My adult is very smart and logical. He knows that it is best for me to lose weight. However, if the adult in me doesn’t deal with the rebellious child in me, the rebellious child becomes stronger and takes over my decision making. My rebellious child is like any child. He needs attention and needs limitations. The stronger the relationship between my adult and my rebellious child, the more my adult can come out and take control of the choices I make. If my adult ignores my rebellious child, my rebellious child will get attention by acting up and choosing actions that “he” wants.

The moral of the story: to enhance external relationships, look within. Personal transformation is the only way to achieve global transformation. ■

Compensating for Compensation's Sake

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expenses, and taxable nonqualified stock options and restricted property.

§3401(a)

This is compensation subject to federal income tax withholding and is easiest to understand because it is shown in Box 3 on Form W-2. It starts with an individual's wages, bonuses and commissions, and includes stock options taxable at the time of grant.

It excludes all taxable reimbursements and taxable cost of group-term life coverage.

W-2

W-2 compensation is the last safe harbor. This is the amount reported in Box 1 of Form W-2. This definition is most often used because the information is easily downloaded from your payroll provider.

Nonstandardized prototype and individually designed plans may use alternative definitions to exclude

items such as bonuses, commissions and overtime. While this provides flexibility and can lower the employer contribution, the plan must demonstrate that this definition is nondiscriminatory. The IRS requires an additional annual compensation test be performed.

The definition of compensation can include or exclude salary deferrals to a 401(k) plan or pre-tax contributions to a cafeteria or §457 plan. It can exclude fringe benefits, expense reimbursements, deferred compensation and welfare benefits.

Be sure the compensation you send to your recordkeeper is consistent with the definition in your plan document. If you have any questions, please call your Client Manager or Relationship Manager for assistance. ■



Vision Statement

We strive for financial strength for our clients, our employees and our company by caring to be the best.

We are committed to be the leading employee benefit consulting firm in our market. We achieve this through cooperative teamwork, community building and continuous learning and development.

Mission Statement

We focus primarily on design and administration of all types of employee benefit plans. Our mission is to develop relationships with our clients, our employees and our community so that all parties grow and develop financially and otherwise.

Shaping Your Benefits World

Knowing the complexities and understanding the choices and options available in the benefits world shouldn't be a focus of your job; it's a focus of ours. We help you shape your benefits program to better meet the needs and goals of your company and your employees. Swerdlin & Company is the only resource you need to answer all of your benefit questions. Our job is to make yours easier!



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