

Important Deadlines to Keep in Mind Before You Leave 2009 Behind!

This chart describes certain deadlines and planning items for the months of November and December that apply to tax-qualified¹ plans. The deadlines are noted by the type of tax-qualified plan. The term **DC Plan** refers to a defined contribution plan including a 401(k) Plan and the term **DB Plan** refers to a defined benefit plan. Items that only apply to a 401(k) Plan are shown separately. Please note that the chart assumes a calendar year plan year.

November 2009			
Due Date	Type of Plan	Action Item	Brief Description
November 13	DC Plan	Provide benefit statement for quarter ending September 30, 2009, for plans providing for participant-directed investments.	The Pension Protection Act of 2006 (PPA) requires benefit statements to be provided within 45 days after the end of the quarter. As an alternative, an annual notice of the availability of an online statement may be provided.
December 2009			
Due Date	Type of Plan	Action Item	Brief Description
December 1	DC Plan	Provide qualified default investment alternative (QDIA) notice.	Applies if the DC Plan has designated what is known as a QDIA investment option (e.g., a family of target retirement date funds) as the default investment fund(s).
December 1	401(k) Plan	Provide annual automatic contribution notice. Should be provided in the period of October 2 to December 1.	Applies if the 401(k) Plan has any type of automatic contribution arrangement.
December 1	401(k) Plan	Provide safe-harbor notice. Should be provided in the period of October 2 to December 1.	Applies if the 401(k) Plan is a so-called safe-harbor plan and thus does not have to conduct the ADP and/or the ACP test.
December 14	DB Plan	Check with actuary about presumed AFTAP (AFTAP stands for the Adjusted Funding Target Attainment Percentage) for the period from January 1, 2010 to March 31, 2010.	If a DB Plan's actual or presumed AFTAP is less than 80%, certain plan restrictions may be triggered and the employer may be required to provide a written notice within 30 days of the triggering date.
December 31	401(k) Plan	Deadline for processing corrective distributions for failed ADP/ACP test for the 2008 plan year (10% excise tax applies if correction is made after March 15, 2009). ²	Applies if the 401(k) Plan has failed the ADP test and/or the ACP test (as applicable) for the 2008 plan year and such failure is corrected by making a corrective distribution.
December 31	DC Plan DB Plan	Make required minimum distributions (generally to participants who have retired and attained age 70½) other than those that may be delayed to April 1 of next year. Not applicable for any DC Plan for which the employer is waiving 2009 required minimum distributions.	Applies if the DC Plan or the DB Plan does not require mandatory distribution before age 70½.
December 31	DC Plan DB Plan	Deadline for adopting PPA amendments.	The PPA made several changes that apply to DC Plans and DB Plans. Certain PPA changes are mandatory while other changes are optional.
Planning Items For Early 2010 - Please Check With Your ERISA Lawyer			
<ul style="list-style-type: none"> > PPA benefit statements may be due for the DB Plan or for a DC Plan that does not have participant-directed investments. > Favorable determination letter filing due January 31, 2010, if the plan is an individually designed plan and the sponsor's EIN ends in four or nine. 			

¹ Separate requirements may apply to tax-deferred annuity plans (such as a 403(b) plan), governmental plans and church plans.

² The excise tax applies for correction after June 30, 2009, if the plan has an *eligible* automatic contribution arrangement.

Employee Benefits & Executive Compensation Practice Group

Kathleen O'Connor Adams
(312) 569-1306
Kathleen.Adams@dbr.com

Kelly S. Kuglitsch
(414) 221-6059
Kelly.Kuglitsch@dbr.com

Jean D. Renshaw
(610) 993-2259
Jean.Renshaw@dbr.com

Gary D. Ammon
(215) 988-2981
Gary.Ammon@dbr.com

David Levin
(202) 230-5181
David.Levin@dbr.com

Michael D. Rosenbaum
(312) 569-1308
Michael.Rosenbaum@dbr.com

Mark M. Brown
(215) 988-2768
Mark.Brown@dbr.com

Howard J. Levine
(312) 569-1304
Howard.Levine@dbr.com

Dawn E. Sellstrom
(312) 569-1324
Dawn.Sellstrom@dbr.com

Barbara A. Cronin
(312) 569-1297
Barbara.Cronin@dbr.com

Benjamin S. Lupin
(215) 988-2905
Benjamin.Lupin@dbr.com

Lori L. Shannon
(312) 569-1311
Lori.Shannon@dbr.com

Mona Ghude
(215) 988-1165
Mona.Ghude@dbr.com

Joyce L. Meyer
(312) 569-1305
Joyce.Meyer@dbr.com

Mark J. Simons
(610) 993-2247
Mark.Simons@dbr.com

Amy Lynn Graves
(312) 569-1318
Amy.Graves@dbr.com

Sarah Bassler Millar
(312) 569-1295
Sarah.Millar@dbr.com

Joshua J. Waldbeser
(312) 569-1317
Joshua.Waldbeser@dbr.com

Megan Glunz Horton
(312) 569-1322
Megan.Horton@dbr.com

Joan M. Neri
(973) 549-7393
Joan.Neri@dbr.com

Holly C. Kopack Willobee
(312) 569-1312
Holly.Willobee@dbr.com

Sharon L. Klingelsmith
(215) 988-2661
Sharon.Klingelsmith@dbr.com

Monica A. Novak
(312) 569-1298
Monica.Novak@dbr.com

David L. Wolfe
(312) 569-1313
David.Wolfe@dbr.com

Christine M. Kong
(212) 248-3152
Christine.Kong@dbr.com

Cristin M. Obsitnik
(312) 569-1303
Cristin.Obsitnik@dbr.com

Disclaimer Required by IRS Rules of Practice:

Any discussion of tax matters contained herein is not intended or written to be used, and cannot be used, for the purpose of avoiding any penalties that may be imposed under Federal tax laws.

Drinker Biddle

Employee Benefits & Executive Compensation Practice Group

CALIFORNIA | DELAWARE | ILLINOIS | NEW JERSEY
NEW YORK | PENNSYLVANIA | WASHINGTON DC | WISCONSIN