



PENSION STRATEGIES

QUALIFIED PLAN DESIGN & ADMINISTRATION

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Ideas, news and tips from Pension Strategies

July 2013

Non-Traditional Plan Investments

Occasionally plan sponsors find investment opportunities that involve investment in non-publicly traded assets. These generally involve either real estate or small closely held corporations. Done properly these can be prudent viable investments for a qualified plan. However there are rules and potential pitfalls that can result in penalties. One of the tricky areas involves financing these investments.

Generally debt financed investments result in current taxable income to the plan to the extent the investment was leveraged by debt, unless the debt involves financing of real estate. If the investment is owned by a partnership or limited liability company the investments of the partnership are treated as if directly owned by the qualified plan. Where the investment is owned by a Subchapter-C corporation usually only the stock is considered the investment of the plan. All of this works well until a lender for the investment debt wants a personal guarantee, which may constitute prohibited self-dealing.

A new case, *Peek v Commissioner TC*, states these personal guarantees may not only be considered taxable prohibited transactions but may actually disqualify the plan. This case is particularly problematic for plan sponsors since lenders will almost never loan to a plan without some form of personal guarantee.

Be extremely careful of your plan investments, but especially those where unusual assets are involved. If you have any debt financed real estate in your plan, make sure that you have no personal guarantee on the debt. Consult with our office or your other tax professionals to be sure you are in compliance with this new interpretation.

Alert: MAP-21 Legislation

MAP-21 Legislation for Defined Benefit Plans may impact the minimum funding requirements for defined benefit plans for plan years beginning in 2012. If you have not sent in your annual data request, please do so as soon as possible. This will help us identify how this legislation impacts your plan.



Pension Strategies News



Our very own, Jill Hastings, J.D, a Principal here at Pension Strategies, ran her first 10k this month! She is pictured here with her son, Evan, and husband, John, after just completing the 'Wichita River Run' in Wichita, Kansas. She certainly is an inspiring member of the Pension Strategies Team.

Please let us know if you would like us to address any topics in upcoming issues of Strategic Update. We're here to be your best resource in the Retirement Planning industry.

Sincerely,

Jack Lawless, CPA, APM

Pam Johnson, QPA, CPC

Jill Hastings, JD

David Schattenberg, APA, Senior Consultant

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And the entire Pension Strategies team