

401(k) FACT SHEET

401(k) plans have many regulations with which they must comply. One of the reasons for requesting detailed information at year-end is to collect the data needed to ensure that all government requirements are being met. If any limits have been exceeded, a corrective distribution is often made as a means of resolving the infraction. For tax purposes, it is often desirable that such a distribution be made within 2½ months after the plan year end. Corrections made after this date are subject to a 10% employer penalty tax. Accordingly, the requested data should be returned within 1 month after the plan year end to allow time for all necessary testing and adjustments to be effected in a timely manner.

Corrective distributions are sometimes necessitated by one or more of the following circumstances:

- 1) 401(k) deferrals in excess of the annual dollar limit: \$16,500 for 2010
- 2) Plan's failure to satisfy the 401(k) disparity test *
- 3) Plan's failure to satisfy the employer match disparity test *
- 4) Total allocations to an employee in excess of the percent-of-pay limit: 100% for 2010

* The amount of contribution that a Highly Compensated Employee (HCE) may receive in the form of a salary deferral or an employer matching contribution is limited by the amount received by the non-HCEs. In general, the HCE average may not exceed the non-HCE average by more than 2 percentage points. If the difference is more than 2 percent, either a booster contribution must be made on behalf of the non-HCEs or the HCEs must receive a refund of excess amounts.

HCEs are generally defined as anyone that owns more than 5% of the company or anyone that earned more than \$110,000 in the prior plan year.

Also, if HCEs terminate employment and wish to receive distribution of their funds prior to year-end, please contact Sunburst so that a waiver form can be provided for them to complete along with the normal distribution paperwork.