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ALSO IN THIS ISSUE –

Collin W. Fritz and Associates, Inc.,
"The Pension Specialists"

Distributions of Roth 401(k) Funds and Impact on Roth IRAs

Effective January 1, 2006, a 401(k) plan or a 403(b) plan may be revised to allow a participant to defer a portion of his or her wages into a Roth elective deferral account, rather than into a standard elective deferral account. The purpose for making Roth elective deferrals is the same as making contributions to a Roth IRA. If certain rules are met, then distributions of the earnings related to such Roth elective deferral contributions will be tax free (i.e. a qualified distribution).

The IRS has recently issued a proposed regulation discussing various tax rules to be applied to distributions and rollovers with respect to such Roth elective deferral contributions. The effective date of the proposed regulations is January 1, 2006.

A 401(k) participant will be required to designate or instruct that his or her elective deferrals are either a standard deferral or a Roth elective deferral. The plan administrator for the 401(k) plan must maintain "separate accounts" within the plan, where the plan administrator will keep track of the basis (i.e. the Roth elective deferrals for which no tax benefit was received) and the earnings and losses associated with such Roth elective deferrals.

The employer will have to include an individual's elective deferral contributions in the individual's wage income,

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New $250,000 FDIC Insurance Limit for IRAs

After much political rankling, the "Deficit Reduction Act of 2005" was signed into law by President Bush on February 8, 2006. There were ten sections or titles to this reconciliation tax law:

Title I—Agriculture Provisions
Title II—Housing and Deposit Insurance Provisions
Title III—Digital Television Transition and Public Safety
Title IV—Transportation Provisions
Title V—Medicare
Title VI—Medicaid and SCHIP
Title VII—Human Resources and Other Provisions
Title VIII—Education and Pension Benefit Provisions
Title IX—LIHEAP Provisions
Title X—Judiciary Related Provisions

The law changes with respect to Deposit Insurance are found in Title II. This subtitle may be cited as the "Federal Deposit Insurance Reform Act of 2005."

What changes were made?

1. From the perspective of an IRA custodian, the most important change is that the amount of insurance coverage is increased for certain retirement accounts to $250,000 from $100,000. This $250,000 will also be adjusted for inflation in the same manner as the $100,000 amount is adjusted, as discussed later.

This change means that more individuals will be willing to have more than

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because Roth elective deferrals are not excluded from income, as is the case with standard 401(k) elective deferrals. The Roth elective deferrals will be invested within the 401(k) plan in the same manner the other types of contributions are invested. As long as there is an accounting formula to allocate the earnings and losses, the Roth elective deferrals may be aggregated with other types of contributions, for investment purposes.

The distribution from a 401(k) of Roth elective deferral contributions and the related income will be tax free, if the distribution is "qualified." To be a qualified distribution, the distribution must meet the five-taxable-year-period requirement, and the recipient must be a participant who is age 59½ or older, or is disabled, or is a Roth beneficiary. Note that there is no first-time home buyer situation with respect to distributions from a 401(k) plan as there is with a distribution from a Roth IRA.

If the distribution from a Roth elective deferral account within a 401(k) plan is a non-qualified distribution, then there will be a pro rata distribution of basis and earnings from the Roth elective deferral account. The ordering rules which apply to distributions from a Roth IRA do not apply to distributions of Roth elective deferral funds/earnings from a 401(k) plan.

The plan administrator has the duty to determine whether a distribution from a person's 401(k) elective deferral account/earnings account is qualified (tax free) or non-qualified (the earnings portion is taxable). Therefore, the 401(k) administrator must determine if the five-year rule has been satisfied, and whether the age 59½, disability or death requirement has been met. In general, the five-year period begins for the calendar year during which the individual makes their designated Roth elective deferral or makes a rollover of other Roth elective-deferral funds. An exception for certain rollovers is discussed below.

401(k) plan administrators (and CWF) will be modifying their 401(k) contribution forms, distribution forms, and notice forms to incorporate these new rules.

A participant who is eligible to receive a distribution, and who made Roth 401(k) elective deferrals, will be eligible to roll over such contributions (plus the related income/loss) to another 401(k) plan authorized to receive such contributions. If a participant instructs the 401(k) administrator that they want to "directly" roll over the Roth 401(k) elective deferrals from the current 401(k) plan to the new employer's 401(k) plan, then the plan administrator of the receiving plan must use the five-year period of whichever plan would allow the individual to satisfy the five-year rule the earliest. If a participant instructs the 401(k) administrator that they want to take an actual distribution of their Roth 401(k) elective deferrals and earnings, and does so, and then decides to make a rollover contribution of some or all of the distribution, then the plan administrator of the receiving plan must use the five-year period with respect to its plan, and not the five-year period with respect to the other plan.

In the direct rollover situation, the plan administrator of the paying plan will need to provide a statement to the plan administrator of the receiving plan. The new plan administrator must be informed as to whether or not the distribution is qualified or non-qualified. If the distribution is non-qualified, then the new plan administrator must be told what portion of the distribution is "basis" and the first year which applies for purposes of the five-year rule. This statement must be provided within 30 days of the date the direct rollover occurred.

In the standard rollover situation, the plan administrator of the paying plan will need to provide a statement to the terminating participant, informing him or her whether or not the distribution is qualified or non-qualified. If the distribution is non-qualified, then the individual must be told what portion of the distribution is "basis." There is no requirement to discuss the five-year subject. This statement must be provided within 30 days of the date the terminating participant requested the distribution. Presumably, many plan administrators will incorporate this information into their Distribution Instruction Form.

If the distribution was a qualified distribution, then the plan administrator of the receiving plan must treat the contribution and earnings amount as "basis." This is true whether the rollover was a direct rollover or a standard rollover.

If the distribution was a non-qualified distribution, then the individual will be able to roll over the earnings portion into the receiving 401(k) plan.

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A participant who is eligible to receive a distribution and who made Roth 401(k) elective deferrals, will be eligible to roll over such contributions (plus the related income/loss) to a Roth IRA. This is true even if they are otherwise ineligible to make a regular Roth IRA annual contribution or a Roth conversion contribution. However, once the Roth 401(k) funds are rolled over to a Roth IRA, the proposed IRS regulation does not allow them to ever be rolled back into a Roth 401(k) elective deferral account. Note that there is no authority to roll over funds in a Roth IRA to a Roth elective deferral account within a 401(k) plan.

The IRS expects the Roth IRA custodian/trustee to determine whether or not a later distribution from the Roth IRA will be qualified (i.e. tax free) or non-qualified (i.e. taxable). If the distribution made by the 401(k) and which was rolled over into the Roth IRA was a qualified distribution, then the Roth IRA custodian does not need to acquire or maintain any basis/earnings information, because the entire amount is "basis" and will be tax free when ultimately distributed. If the distribution from the 401(k) plan was a non-qualified distribution, then the Roth IRA custodian will need to acquire and maintain any basis/earnings information, and the standard rules for a qualified distribution from the Roth IRA, including the five-year rule, must be met.

If this rollover contribution is the first contribution made to the 401(k) plan for this person, then the five-year period starts as of January 1 of this year.

If there are other funds already in the Roth IRA, then the five-year period commences as of January 1 of the year for which the first contribution was made.

If a 401(k) participant receives a non-qualified distribution and rolls over only a portion of his or her Roth elective deferral (and earnings) account, then the earnings portion of the account are deemed to have been rolled over first.

There are ordering rules which apply to distributions from a Roth IRA. The law provides that annual contributions are distributed first, conversion contributions are distributed second, and earnings are distributed last. The "basis" of a Roth IRA is comprised of both annual contributions and conversion contributions. The proposed regulation adopts the rule that if the distribution from the 401(k) of Roth elective deferrals and earnings is a qualified distribution, then the entire distribution amount will be treated as an annual contribution (i.e. the entire contribution is basis). However, to the extent the distribution is a non-qualified distribution, then there needs to be a determination of what amount is basis and what amount is earnings. The earnings portion will be treated as earnings within the Roth IRA for ordering and taxation purposes. The Roth accountholder (or the tax advisor) has this duty. It is not the duty of the Roth IRA custodian.

For some years, the IRS has taken the approach that a Roth IRA custodian, when making the determination as to whether a distribution is "qualified" or "non-qualified," is allowed to consider only the contribution activity made to its Roth IRA. That is, the Roth IRA custodian is not required to take into account the fact that the individual made contributions with another Roth IRA custodian. This rule will also apply to funds being rolled over from a 401(k) plan, because the Roth IRA custodian is not supposed to consider, for purposes of applying the five-year rule, whether or not the five-year rule was met with respect to the 401(k) plan. The IRS furnished 3 examples.

Example 1. Employee D, who is over age 59½, takes a distribution from D's designated Roth account in 2008, <u>prior to the end of the 5-taxable-year period of participation</u> used to determine qualified distributions from a designated Roth account. The distribution is an eligible rollover distribution and D rolls it over in accordance with sections 402(c) and 402A(c)(3) to D's Roth IRA, which was established in 2003 (i.e., <u>established for more than 5 years</u>). Any subsequent distribution from the Roth IRA of the amount rolled in, plus earnings thereon, would not be includible in gross income, because it would be a qualified distribution within the meaning of section 408A(d)(2).

Example 2. Assume the facts are the same as in Example 1, <u>except that the Roth IRA is D's first Roth IRA</u> and is established with the rollover in 2008, which is the only contribution made to the Roth IRA. If a distribution is made from the Roth IRA prior to the end of the 5-taxable-year period used to determine qualified distributions from a Roth IRA (<u>which begins</u>

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in 2008, the year of the rollover which established the Roth IRA) the distribution would not be a qualified distribution within the meaning of section 408A(d)(2), and any amount of the distribution that exceeded the portion of the rollover contribution that consisted of investment in the contract is includible in D's gross income.

Example 3. Assume the facts are the same as in Example 2 except that the distribution from the designated Roth account is after the end of the 5-taxable-year period of participation used to determine qualified distributions from a designated Roth account. If a distribution is made from the Roth IRA prior to the expiration of the 5-taxable-year period used to determine qualified distributions from a Roth IRA, the distribution would not be a qualified distribution within the meaning of section 408A(d)(2) AND any amount of the distribution that exceeded the amount rolled in is includible in D's gross income.

The IRS will certainly be creating one or more new reason codes for the Form 1099-R, to report such distribution of Roth elective deferrals and earnings. The IRS will also be issuing guidance as to how the Roth IRA custodian and the plan administrator of a 401(k) plan receiving a rollover of Roth elective deferral funds will report the receipt of such contribution.

Summary. Many individuals are looking forward to making Roth elective deferrals into the 401(k) plan or the 403(b) plan in which they participate. Many individuals are very interested in having the earnings related to such Roth deferrals be tax free when distributed many years from now. Plan administrators will be establishing separate accounts for such contributions, and will also need to be able to identify the earnings or losses associated with such contributions. Roth IRA custodians will become involved, because there will be individuals who retire, quit or change jobs, and who will want or need to roll over such funds into a Roth IRA. ◆

How Should an IRA Account Be Titled?

An IRA is a special tax-preferred revocable trust authorized by Federal income tax laws. In order to have an IRA, there must be a written plan agreement. This agreement must create either a trust or a custodial account. That is, there is a fiduciary or a quasi-fiduciary relationship. A financial institution acts on behalf of the individual.

The IRA trustee or the custodian must be a bank, credit union or similar financial institution. The IRA plan agreement authorizes the individual to make contributions, and then it defines how such contributions will be invested by the IRA custodian on behalf of the individual. The agreement also defines when the individual or an inheriting beneficiary is authorized (or required) to withdraw funds from the IRA. Most IRA custodians allow the individual to choose how his or her IRA contributions will be invested. This is as true for savings and time deposits as it is for mutual funds, stock, bonds, etc.

The owner of the IRA funds is the bank as the IRA custodian. The owner is not the individual. When an individual withdraws funds from his or her IRA savings account or time deposit, the authority for the withdrawal is found in the IRA plan agreement; withdrawal is not authorized simply because the individual holds the passbook savings account or the time deposit. We at CWF believe the better administrative practice is to NOT furnish the individual with the "original" of the savings account or the time deposit account. Again, he or she does not "own" the savings or the time deposit. The bank owns these accounts on behalf of the individual, subject to his or her right to withdraw funds from the IRA. A truth-in-savings disclosure must be furnished. A copy of the savings account or time deposit may be furnished to the individual.

Therefore, the title of an IRA needs to read, "ABC Bank as IRA Custodian for Jane Doe's IRA account." In its role as custodian, the institution is the depositor, and is, in essence, issuing the savings or time deposit account to itself.

The problem arises because this is not the name an institution wishes to use when governmental reporting forms such as 1099-Rs and 5498s are generated.

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Mistaken HSA Distributions

Mistaken HSA distributions remain an area of less than complete IRS clarification. An example may serve as the best way to review this situation.

Example: An HSA owner uses HSA assets to pay for what he believes to be a qualified medical expense. He later receives a refund on the purchase. Is this a "mistaken distribution" available for re-contribution? If it is a mistaken distribution, how is it reported?

The refund could be from a merchant or from an insurance company. The source of the refund is immaterial. Q&A 37 of IRS Notice 2004-50 briefly discusses mistaken distributions, and is really our only IRS guidance. It states that, "If there is clear and convincing evidence that amounts were distributed from an HSA because of a mistake of fact due to reasonable cause," it may be repaid to the HSA no later than April 15 following the first year the HSA owner knew or should have known the distribution was a mistake. The problem is in the determination of what constitutes a mistaken distribution. What does "clear and convincing evidence" and "reasonable cause" mean? Beyond this language in Q&A 37, there is no further clarification.

What is an HSA owner and HSA custodian/trustee to do?

The HSA owner should clarify his or her interpretation of the transaction with his or her tax advisor. It really becomes a tax issue, because if it is determined to not be a mistaken distribution, it is a taxable distribution subject to an additional 10% tax. If it has already been recontributed, it could be an excess, subject to penalties.

It is a bit easier for the HSA custodian/trustee. First, Q&A 76 of IRS Notice 2004-50 clearly states that the acceptance of a mistaken distribution is entirely up to the custodian/trustee. They do not have to accept such a deposit. If they do, they can rely solely on the HSA owner's representation that the distribution was a mistake. It puts the determination of whether or not a distribution is a mistake on the HSA owner and makes documentation of the mistake extremely important for the custodian/trustee. A form like CWF's Form #64, HSA—Certification of Mistaken HSA Distribution, can be used for documentation.

The 2006 Instructions for Forms 1099-SA and 5498-SA, however, include a significant change in reporting. Prior to these instructions, there was no reporting requirement on the part of the HSA custodian/trustee. Everything was taken care of through the HSA owner's personal tax return.

The instructions now say that as soon as the HSA custodian learns that a distribution is mistaken, the 1099-SA must be corrected. The instructions do not say to correct the 1099-SA if you have accepted the mistaken distribution, it indicates corrections must be made, period. Until further clarification, it would appear the HSA custodian/trustee must correct any prior 1099-SA, regardless of the year originally made, and regardless of whether the mistaken distribution is accepted by that custodian/trustee.

While this may be a nuisance for HSA custodians/trustees, it is reasonable, and has been expected. It was obvious with the previous lack of reporting, that the HSA owner was going to have a problem accounting for the mistaken distribution on his/her tax return so that the IRS could verify it. Prior to this change, the HSA owner would be showing one amount as taxable, and the 1099-SA would be showing another. It was certain to raise a "red flag" with the IRS. This change should take care of that situation.

CWF will keep you informed if the IRS further clarifies this reporting change. ◆

How Should an IRA Account Be Titled?
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As financial institutions know only too well, the IRA custodian must prepare certain reporting forms. The Form 5498 is used to report contributions and the fair market value of the account as of December 31. The Form 1099-R is used to report distributions received by the IRA accountholder or an inheriting beneficiary.

Note that such reporting forms do not list who is the "owner" of the account. The reporting forms are furnished to the "recipient" so that the IRS can verify that the individual is correctly handling the tax effects of contributions and distributions on his or her federal income tax return.

Computer systems need to be able to handle both situations — they need to be able to reflect the proper ownership and the proper reporting. ◆

Dying With an HSA May Be Tricky Business...for the Custodian/Trustee

CWF recently had this HSA consulting question. An HSA owner dies October 31, 2005. His spouse was the sole primary beneficiary. The HSA becomes the spouse's HSA. What is reported to the deceased HSA owner as well as the spouse beneficiary, the new HSA owner?

The IRS instructions are less than clear on how to report HSAs upon the death of the HSA owner. Let's review this situation for the decedent and for the new owner, the spouse beneficiary.

Since the HSA becomes the spouse's HSA, the HSA assets would be transferred to the HSA of the spouse, leaving a zero balance in the original owner's HSA. The instructions for the 1099-SA state, "If you learn of the accountholder's death **AND** (emphasis added), make a final distribution to the beneficiary in the year of death, issue a final Form 1099-SA..." Since no distribution was made to anyone in the year of death, it appears no 1099-SA is prepared to either the original owner or the spouse.

What about in the year after the death? The instructions state, "If you learn of the death of the accountholder **AND** (emphasis added), make a final distribution after the year of death, issue a final 1099-SA in the year you learned of the death of the accountholder." Again, in our example, since no distribution was made to the spouse beneficiary, there appears to be no required 1099-SA.

What if there were distributions in the year of death to the decedent before he died and/or to the spouse after the death, but still in the same year. A 1099-SA would be required for the distributions received by the decedent before his death. Whether or not the FMV on the date of death is reported on the decedent's final 1099-SA is unclear. The only instruction for Box 4, FMV on date of death, of Form 1099-SA states, "If the accountholder died, enter the FMV of the account on the date of death." The instructions do not indicate whose 1099-SA they are describing.

Any distributions taken after the HSA owner's death by the spouse beneficiary, now the owner of the HSA, are reported on a 1099-SA in the same manner any other distribution is reported, but as the owner, not as a beneficiary. It appears that since the spouse is now the owner of the HSA, the FMV at date of death would not need to be reported, but again, it is not clearly spelled out by the IRS.

The 5498-SA issue is much clearer if contributions were made by the decedent before dying and/or by the spouse beneficiary after the date of death. 5498-SAs would be required for both. The one for the deceased owner would be completed as noted earlier, but would now include the contributions made before death. The 5498-SA for the spouse beneficiary, now the new owner of the HSA, would be completed as noted below, but contributions made after the date of death would be included. Just normal contribution reporting.

There are some additional questions for non-spouse reporting, but we'll address them later.

Are 5498s required? The instructions state "in the year an HSA...owner dies, generally you must file a Form 5498-SA and furnish a statement for the decedent." In this scenario, there are no contributions for the year, but it appears a 5498-SA must be filed for the decedent. The FMV is apparently reported as zero. There is no provision or requirement to report the date-of-death FMV as there is for IRAs. Providing the required statement for the decedent can be accomplished with Copy B of Form 5498-SA.

And, since the spouse is now the owner of the HSA, a 5498-SA and statement will be required as it is for any other HSA. The actual 12/31/05 FMV is reported.

Before moving on to the next part, reporting for non-spouses, it might be good to mention that in conversations CWF has had with the IRS, they have indicated that the decedent's HSA becoming the HSA of the spouse beneficiary "appears" to only apply when that spouse is the sole primary beneficiary of the HSA. We indicate "appears" because that is what the IRS said. They could not direct us to any formal instruction from the IRS. CWF can also not find any clarification of this in the law, or published guidance. Until such time as the IRS clarifies this, we recommend abiding by the sole primary beneficiary concept.

Also, only the spouse who is the sole primary beneficiary could take an HSA distribution and roll it over

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to his or her own HSA, but he or she would be doing it as the owner of the HSA, not the beneficiary. There are no provisions for rollovers for non-spouse beneficiaries. If the HSA owner wants to name beneficiaries in addition to his or her spouse, it might be a good idea to establish multiple HSAs, so the ability to have the spouse's portion become an HSA is not lost. And as with all matters like this, the HSA owner should always seek his or her own legal advice before naming beneficiaries on any account.

What about reporting for non-spouse beneficiaries?

How would reporting change if the beneficiary were a non-spouse?

The procedure appears to differ, depending on when the custodian/trustee learns of the death of the HSA owner. Again, the instructions noted earlier specify the difference.

If the custodian/trustee learns of the death and makes a final distribution to the beneficiary in the year of death, a 1099-SA is issued to the beneficiary in the year of death reporting the distribution and the FMV on the date of death. Even if the beneficiary is the estate, the date-of-death FMV is reported even though it would be taxed on the final tax return of the deceased HSA owner.

If the custodian/trustee learns of the death and makes a final distribution to the beneficiary in a year after the death, a 1099-SA is issued for that year, reporting the distribution and the FMV on the date of death. This procedure is curious, since the FMV is taxed to the beneficiary, other than the estate, in the year of death, not a subsequent year. And for the estate, the deceased individual's tax return reports the date-of-death FMV. The IRS instructions for the recipient explain this on the back of their copy.

A literal reading of the instructions begs the question, "What happens if you learn of the death in one year and pay it out in another? For instance, you learn of the death in December, 2005 and distribute the funds in 2006. There is no published answer for this. Presumably, you would report the date-of-death FMV on the 1099-SA for the year of the distribution. Except for the estate, a beneficiary reports the FMV as income on his or her tax return for the year of death, regardless of the year in which the distribution is made.

One more unanswered question. Since the instructions refer to making a final distribution, how are partial distributions reported? Distributions are, of course, reported, but the question here is whether or not the date-of-death FMV is reported on any of the 1099-SAs. Example: An HSA owner dies late in 2004. The non-spouse beneficiary does not take a distribution in 2004, and only takes a partial distribution in 2005. The date-of-death FMV is still taxed in the year of death. However, it appears any accumulated earnings since the date of death are not taxed until taken by the beneficiary. There currently is no reporting of the earnings while these funds remain in the account. The law says the HSA no longer is an HSA, but it really does not define what it is, or how the earnings should be reported. And the instructions reviewed earlier do not clarify what 1099-SA would include the date-of-death FMV other than with a "final distribution."

CWF will keep you informed of any clarifications. ◆

New $250,000 FDIC Insurance Limit for IRAs, Continued from Page 1

$100,000 deposited with the same bank or credit union. Many financial institutions will soon start to inform their customers and prospective customers of this new rule. Customers can now "consolidate" their IRAs for convenience purposes, yet retain full FDIC insurance coverage.

The new limit of $250,000 will apply as of the effective date of the FDIC regulations. The new law mandates that "not later than 270 days after the date of enactment, the FDIC Board of directors shall prescribe final regulations, after notice, and opportunity for comment." Since the President signed this bill into law on February 8, 2006, we calculate that the regulations must be issued by November 5, 2006.

2. There has been a merger of the Bank Insurance Fund and the Savings Association Insurance Fund. There will now be just one fund, and it is to be called the Deposit Insurance Fund (DIF). It appears this change is effective as of July 1, 2006 (i.e. the first day of the calendar quarter that beings after the end of the 90-day period beginning on the day after the date of enactment).

3. The law has been changed to create a method as to how and when the standard insurance amount of $100,000 will be increased. The new law provides for adjusting the $100,000 amount for inflation, if found appropriate to do so. This adjustment is to be made jointly by the FDIC Board of Directors and the National Credit Union Administration Board. Although this is supposedly an adjustment for inflation, the factors to be considered are not necessarily inflation related. There are three factors to be jointly considered: (1) the overall state of the DIF (Deposit Insurance Fund) and the economic conditions affecting insured depository institutions; (2) potential problems affecting insured depository institutions; and (3) whether the increase will cause the reserve ratio of the fund to fall below 1.15 percent of the estimated insured deposits.

This joint adjustment is to be made by April 1, 2010, and the first day of each subsequent five-year period. The new insurance coverage limit (i.e. the standard maximum deposit insurance amount or the standard maximum share insurance amount) would become effective as of the next January 1.

4. A clarification is made that the pass-through insurance rules apply to employee benefit plan deposits, including any eligible section 457 deferred-compensation plan. In such case, deposit insurance coverage is based on the interest of each participant in the employee benefit plan in accordance with FDIC regulations.

5. There has been a shortening of the assessment recordkeeping period.

6. There has been an increase in the fees for late assessment payments.

7. In general, a three-year statute of limitations is to apply if an insurance institution wishes to recover from the FDIC an overpaid amount and it also applies if the FDIC wishes to recover from a financial institution an underpaid amount. Be aware, there are some exceptions to the three-year rule.

8. There has been a fixed designated reserve ratio required and this ratio has been replaced with a reserve range. This reserve ratio will be defined by the FDIC Board of Directors on an annual basis. The reserve ratio may not exceed 1.50 percent of estimated insured deposits and may not be less than 1.15 percent of estimated insured deposits.

9. If the reserve ratio is in excess of the 1.50 percent, then the FDIC is required to declare a dividend of the excess to be paid to insured depository institutions. If the reserve ratio is in excess of 1.35 percent, but less than 1.50 percent, then a dividend shall be declared equal to 50% of the amount in excess of 1.35 percent.

10. If a financial institution overpays an FDIC assessment, then the FDIC may either refund the overpayment or give a credit for such excess amount to be used against subsequent assessments. In plain English, this means there will be very few refunds. ◆