



Plan Administrators, Inc.

To: Plan Sponsor

From: MVP Plan Administrators, Inc.

Date: 12/16/2003

Re: Regulatory Changes to Required Minimum Distribution (RMD) Rules

Dear Plan Sponsor,

Recent regulatory changes to required minimum distribution (RMD) rules require you to amend your qualified retirement plan. As part of our continuing commitment to provide you with the best retirement plan services available, accompanying this memo is the RMD amendment documents that you must incorporate. These are the final RMD regulations for your plan. You may elect one of the following:

- A Basic Plan Document amendment (no signature required) with an effective date of April 17, 2002; ***This applies to plans that used the new RMD provisions during the 2002 year.***
- A Basic Plan Document amendment (no signature required) with an effective date of January 1, 2003; ***This applies to plans that used the new RMD provisions during the 2003 year; and***
- An Adoption Agreement amendment to be used only if you wish to override the effective date or the default provisions of the Basic Plan Document amendment. (Most employers will accomplish the RMD amendment by electing one of the above methods; however, *when applying the Adoption Agreement amendment to override the Basic Plan Document, an employer's signature is required.*)

Amendment Steps

1. Amend the Basic Plan Document.

You must adopt **one** Basic Plan Document amendment. For this, no signature is required; simply place the appropriate Basic Plan Document amendment with your other plan documents. **You must amend your plan the end of your 2003 plan year, regardless of the effective date of the amendment.** The two Basic Plan Document amendments described below are identical in content except for the effective date.

- If you have applied or intend to apply the final and temporary RMD regulations in **2002**, then you must adopt the version of the Basic Plan Document amendment that carries an **effective date of April 17, 2002.**
- If you intend to apply the final and temporary RMD regulations in **2003**, then you must adopt the version of the Basic Plan Document amendment that carries an **effective date of January 1, 2003.**

2. Employers that wish to override the Basic Plan Document amendment.

You have the option to override the effective date of the Basic Plan Document amendment and/or some of its distribution default provisions (explained next). To do this, you must execute and sign an Adoption Agreement amendment in addition to adopting one of the Basic Plan Document amendments. **If you executed an Adoption Agreement amendment, please provide us with a copy for our files, and place the original with your other plan documents.**

Explanation of Distribution Default Provisions

Unless otherwise specified in the Adoption Agreement amendment, Section 5, Part B of the Basic Plan Document amendment provides for the following distribution defaults. First, participants and beneficiaries may elect on an individual basis whether distributions will be based on the five-year rule or life expectancy payments, when death occurs before the required beginning date. Second, a beneficiary who is currently receiving payments under the five-year rule may make, until December 31, 2003, a new election to receive life expectancy payments.

Therefore, you should execute an Adoption Agreement amendment if you intend to

- specify an amendment effective date other than January 1, 2003, or April 17, 2002 (but not earlier than April 17, 2002);
- require beneficiaries to distribute assets under the five-year rule when the plan participant's death occurs before the required beginning date;
- prohibit participants or beneficiaries from electing whether the five-year rule or life expectancy payments applies; and/or
- prohibit beneficiaries from switching to life expectancy payments if they are currently receiving payments under the five-year rule.

Special Alert If You Maintain a Qualified Plan and IRC Sec. 125 Cafeteria Plan

If you maintain both a qualified retirement plan and an IRC Sec. 125 cafeteria plan you may need to amend your qualified retirement plan to clarify the definition of compensation. Specifically, this amendment is only required if you maintain both types of plans, where the

1. cafeteria plan has automatic enrollment, and mandates deferrals for health insurance unless a participant opts out, and
2. You do not request or collect health insurance coverage information from the participant.

If the above conditions apply to you, then you may adopt the amendment by the end of the plan year in which the changed definition takes effect so that you may consider the mandatory deferrals to the cafeteria plan as compensation. *If you have already included mandatory cafeteria plan deferrals in the definition of compensation for a plan year prior to 2003, you must adopt the model amendment by September 30, 2003, or the end of the 2002 plan year, if later.* Please contact MVP Plan Administrators, Inc. at 866-687-6877 for a copy of the model amendment.

If you have any questions or would like more information regarding the enclosed amendment documents, please feel free to contact us at 866-687-6877.

P.O. Box 5828, Cary, North Carolina 27512-5828 • (919) 852-0121 • Toll Free (866) 687-6877 • Fax (919) 854-7727
Internet www.mvplanadmin.com • **Email** mvp@mvplanadmin.com