



Case of the Week: Treatment of an Acquired Company's 401(k) Plan

Our ERISA consultants on the Columbia Management Learning Center Resource Desk regularly receive calls from financial advisors who have questions about the treatment of employer plans in cases of acquisitions and mergers.

Through our relationship with the Columbia Management Learning Center, we are able to guide Columbia Management's financial advisor partners through the IRS and/or Department of Labor rules and regulations that govern the coverage of eligible employees in all circumstances—including acquisitions and mergers.

A recent call with an Ameriprise advisor in Kentucky is representative of a common scenario involving the merger of two companies and their retirement plans. In this case, the business-owner client acquired another company. He was told by the plan service provider he would have to make a decision regarding whether to continue to maintain the acquired company's 401(k) plan separately or merge it into his existing plan within 18 months.

The advisor wanted to know: **"In light of the merger of the two companies, how long do I have to make a decision regarding the operation of the 401(k) plans?"**

Highlights of Recommendations

- Typically, the merger agreement will specify how the new owner will deal with the retirement plans.
- The IRS requires qualified plans to meet minimum coverage requirements under Internal Revenue Code (IRC) Section 410(b). Under these rules, the plan must cover all employees of the company, except for certain permitted employee class exclusions.
- Minimum coverage testing is usually conducted on an annual basis, as of the last day of the plan year.
- A special rule applies for minimum coverage testing in the case of acquisitions and mergers; the employer is given a "transition period" to make decisions regarding the plan and get the plan documents in order to meet the minimum coverage requirements [IRC Sec. 410(b)(6)(C)].
- The transition period is defined as beginning on the date of the change (acquisition/merger date) and ending on the last day of the first plan year beginning after the date of change. For example, if a business maintains its plan on a calendar-year basis, and is acquired on May 19, 2010, the plan would be deemed in compliance of the minimum coverage rules until December 31, 2011.

Conclusion

Company acquisitions and mergers can be complicated—especially when they involve qualified plans. The transition period allows the owner some time to make decisions regarding the qualified plans and still meet the minimum coverage requirements. With the expert guidance of the Columbia Management Learning Center, advisors can confidently assist their clients in plan decisions that result from company acquisitions.