

457 Plan Automatic Enrollment Correction Process

(01-07-2011; corrected 02-22-2011)

The Employee is Automatically Enrolled in Error

In monitoring the DHRM file, VRS will identify employees who were sent on the DHRM file in error. VRS will communicate these erroneous records to the TPA by an entry on the DHRM file using the special identifier of 999-99-9999 in the Date of Data field. TPA will delete from its Auto Enroll process any records reported by VRS as ineligible. TPA does not report this back to VRS in the RIMS file because VRS has a report of records deleted and will see an Auto Enroll Eligibility record no longer exists in RIMS.

- A. If the employee has not had the first auto deferral taken the process stops and no further action is taken.
- B. If at least one automatic deferral has been taken the following steps will be followed:
 - o A notice is sent to the employee by the TPA along with directions to enroll in the Plan. Deferrals are set to 0 for feedback to the employer to stop deductions.
 - o If the employee submits an enrollment form, deferrals will resume at the amount indicated on the enrollment form.
 - o If the employee does not enroll within 20 days, deferrals received and any earnings will be refunded to the employee and a 1099-R issued. If there are losses on the erroneous deferral, money from the 457 Plan reserve account will be used to make the employee whole so the amount refunded is not less than the employee's deferral.
 - o The TPA will send a letter to the employer stating the refund has been made, a 1099-R will be issued and the employer is not to correct the participant's W-2 records.
 - o The refund to the employee from the TPA will be accompanied by a letter informing the employee the refunded amount cannot be rolled over to another plan.
 - o The employer paid cash match will be refunded to the employer outside the Plan. Gains will be deposited to the VRS Cash Match forfeiture account. Any losses will be made up by money from the Cash Match forfeiture account, or paid by VRS if the forfeiture account is depleted.

An Employee Eligible to be Automatically Enrolled is Not Enrolled

Salaried state employees hired or rehired on or after January 1, 2008 are to be automatically enrolled in the 457 Plan unless they are employed by a university that auto enrolls in a 403(b) plan, have an existing 457 Plan balance from prior employment, self enroll in the Plan, actively contribute to a 403(b) plan or opts out of plan participation. Federal regulations governing eligible automatic contribution arrangements require the employee be notified of the requirements for automatic enrollment and the method to opt out if they do not wish to participate. This document is the Automatic Enrollment Notice and is issued by the TPA when an eligible employee is identified. The employee should be auto enrolled on the end of month pay date of the month following the month in which the 90th day from the automatic enrollment mailing date falls.

If the eligible employee was sent the Automatic Enrollment Notice, did not remove himself from automatic enrollment eligibility by taking one of the actions stated above and 125 days have

passed since the date the automatic enrollment notice was mailed, VRS will issue an automatic enrollment correction directive:

- A.** The TPA and employer will be directed to start the \$20.00 contribution on the next available pay date.
- B.** If at the time the first deferral should have occurred there are 9 months remaining in the calendar year the employer will be instructed to double the deferral until the missed contributions are made up. The employer will pay the full cash match due on these make-up contributions.
- C.** If there are not nine months remaining in the calendar year from the date the first contribution should have made, the employer will be instructed to pay to the participant's 457 Plan account an amount equal to the 50 percent of the automatic contribution the employee should have contributed under the automatic enrollment rules. Once the corrective contribution is made the employer will be notified of any missed earnings which the employer will also pay to the employee's 457 Plan account.
- D.** Alternatively, if it is determined the TPA failed to send the automatic contribution amount on the correct file feed, the TPA will contribute 50% of the missing amount plus any earnings to the employee's 457 Plan account.
- E.** The employer will pay 100 percent of the cash match as though the employee 457 Plan contributions had occurred timely. Once the cash match corrective amount is posted to the employee's Cash Match Plan account, the TPA will calculate missed earnings, which the employer will pay to the employee's Cash Match Plan account.

Corrective actions related to Eligible Automatic Contribution Arrangements are contained in IRC 401(a)(14), Section 414(w) and reference procedures published by the Internal Revenue Service as Revenue Procedure 2008-50. The text of Revenue Procedure 2008-50, Appendix A.05 (5) issued September 2, 2008 follows:

5) Failure to implement an employee election. (a) Missed opportunity for elective deferrals. For eligible employees who filed elections to make elective deferrals under the Plan which the Plan Sponsor failed to implement on a timely basis, the Plan Sponsor must make a QNEC* to the plan on behalf of the employee to replace the "missed deferral opportunity." The missed deferral opportunity is equal to 50% of the employee's "missed deferral." The missed deferral is determined by multiplying the employee's elected deferral percentage by the employee's compensation. If the employee elected a dollar amount for an elective deferral, the missed deferral would be the specified dollar amount. The employee's missed deferral amount is reduced further to the extent necessary to ensure that the missed deferral does not exceed applicable plan limits, including the annual deferral limit under § 402(g) for the calendar year in which the failure occurred. ...

(c) Missed opportunity affecting matching contributions. In the event of failure described in section (a) or (b) of this section .05(5), if the employee would have been entitled to an additional matching contribution had either the missed deferral or after-tax employee contribution been made, then the employer must make a QNEC for the matching contribution on behalf of the affected employee. The QNEC is equal to the matching contribution the employee would have received had the employee made a deferral equal to the missed deferral determined under this paragraph. The QNEC must be adjusted for earnings to the date the corrective QNEC is made on behalf of the affected employee.

*Qualified Non-Elective Contribution