The DATAIR News

NEWS FOR THE DATAIR PENSION AND BENEFITS PROFESSIONAL FALL 2004

From the Top

By Aaron Venouziou, President

As you read this newsletter, we are preparing the announcement of the pre-release of DATAIR's DC Pension System for Windows (PE/Win). The pre-release offers you the opportunity to see and learn the system at your convenience, before the start of the busy season.

This pre-release has made customer training even more of a focus for us than ever before. Over the years, the number of DOS Pension System customers needing training at one time was relatively small and easily accommodated in the training facilities of our offices. But how to effectively train over 1,000 companies and their employees in the nuances and enhancements of the new PE/Win system without sacrificing the quality and timeliness of ongoing customer support is quite a challenge. The answer? Webcasts.

Webcasts afford you many advantages, not the least of which is expense. For a modest fee you may have as many people as you want attend the live webcast. And, for reinforcement, attendees will receive a CD-ROM with a recording of the webcast for later reference. You'll have no transportation, hotel or downtime expenses, since our training will come to you.

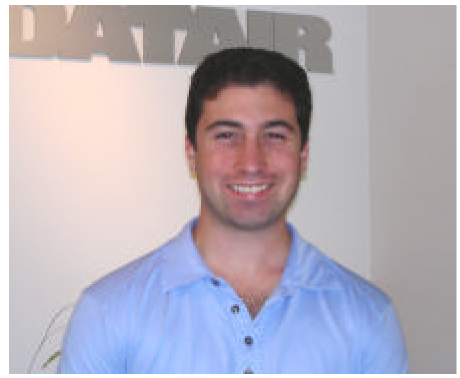
Initially, there will be a 3-hour live webcast, which will be an introductory tour of the new system. In order to maintain the interactivity that we feel is so vital to learning, we will limit the number of attendees so that everyone has an opportunity to participate and ask questions in each of the webcasts. Those watching the CD version can receive answers to any questions via email.

We are also developing an in-depth training program that will be delivered via webcast, and CD-ROM. The content will be broken down into a series of 15 to 30 minute topical "chapters" expected to total 15 to 20 hours in length. When delivered by webcast, it will be offered in half-day segments over a week's time. On the CD, it will be organized and indexed for quick access to make it easy to introduce new employees to the system at a rate that's comfortable for them, or to use as a refresher for experienced administrators.

We believe this new approach to training will better meet your needs for the Pension System for Windows, as well as for all of our other products. In-person training at DATAIR and on-site training will not be abandoned, but the demand for them is expected to drop dramatically.

We thank those users who signed on as beta testers for the new PE/Win program and who also tested our new webcast approach to training. They have helped us tremendously.

DATAIR Profile



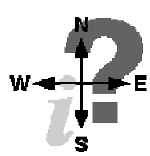
Meet Sam Venouziou, a DATAIR employee who has 'benefits' in his blood. Sam became an employee at the tender age of 17—giving him the opportunity to learn the business from the ground up.

After college, Sam came to work at DATAIR full-time and is currently developing the user interface (screens that you use to create documents and government forms) for the Pension Reporter and Document Systems.

Aside from being the middle generation of a 'benefit's family', Sam has also ventured into the real estate business. When he's not playing landlord, he's playing Dad. Married to his high school sweetheart, Jessica, they have two sons, Aaron, 20 months and Joshua, 2 months. Sam shares with them his love of soccer and music.

"What do you enjoy most about working at DATAIR, Sam?" My favorite thing about DATAIR is the casual, relaxed atmosphere and friendly, cooperative co-workers.

Special Points of Interest



USERRA and SCRA

By Kim Roberts, QPA, APA, FLMI, CPIW, ACS, AIRC

The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) and the Service members Civil Relief Act of 2003 (SCRA) both govern how an eligible military service member receives service credit, allocations and loan treatment upon return to employment.

The service member is entitled to the credited service, allocations and special loan treatment that would have been received if he had been employed during the military service period if the following conditions are met:

1. The employee was absent due to service in the uniformed services.
2. The employer had advance notice of the service member's qualified military service.
3. The service member had an honorable discharge or covered termination.
4. The absence was less than five years.
5. The service member submitted for reemployment timely.

Application for reemployment must be submitted after completion of qualified military service as follows:

- Service less than 31 days must apply in under one day and eight hours, not including travel time.
- Service that is more than 30 to less than 18 days must apply no later than 14 days.
- Service that is greater than 180 days up to five years must apply no later than 90 days.

Eligibility & Vesting: The service member is credited with hours or elapsed time that would have been allocated if not on duty. For service members that were already participants in the plan, re-entry is immediate. The service member who became eligible during active duty will become a participant following the normal entry date provisions. Vesting will reflect proper credited service.

Compensation: The compensation used will be the rate of pay that the service member would have received. If not determinable, then the 12 months of compensation prior to duty can be used. *Example:* The service member receives a raise prior to active duty, the allocation is based on the new compensation. However, if there was a change in the company and it could not be determined if the service member would have received a raise, then you may be able to use the past 12 months of compensation history.

Prior Year Allocations: Any makeup of allocations due to prior years are subject to the prior year limits and testing. They are not included in the current year testing and limits. Allocations made up due to the military service period will not cause a prior year to fail coverage and nondiscrimination tests. Deductions and tax reporting will be handled for the current year(s) that are being filed. *Example:* A 2002 employer contribution and employee deferral made in 2004 would be deductible to the employer on the 2003 tax forms if they have not been filed. If they have been filed, then the deduction will be for the 2004 year. The employee however, will have the deferral reported on the 2004 W-2.

Defined Contribution Allocation: *Employer contributions* must be funded within a period of three times the service period that the service member was away but not to exceed five years. Funding must start when the service member returns to employment. *Employee Deferrals* must also be allowed. The timing for the funding deferrals is the same as employer contributions. *Employer Matching* must be made as soon as the employee deferral is made. *Annual Additions* will not include any forfeitures or any past gains that would have been allocated.

Defined Benefit Service Allocation: Defined benefit plans must allocate past service credit as soon as any mandatory employee contributions have been made. If the plan does not have mandatory employee contributions, then past service credit must be immediately allocated.

Loans: Loans will be suspended for the period that the service member is on duty. The loan must then be repaid at the same or greater rate. The repayment period is the same as the original obligation time. Example: A 5-year loan that was paid for 12 months prior to military service needs to be repaid in 48 months from the time of rehire.

Interest on loans will continue to accrue during the time period that the service member is on duty. The loans must have a maximum limit of 6% interest per year for the time period that the service member was on duty. This includes all fees and charges associated with the loan. All interest and expenses above 6% must be waived during the period. The periodic payments that are due for the time period are reduced by the amount over 6% interest.

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The DATAIR News

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The DATAIR News strives to provide our customers with valuable and enjoyable information about DATAIR software, services, and the pension industry. Reader contributions are welcome.

Automatic Rollovers

By Lanning Hochhauser, J.D.

Automatic Rollovers under 401(a)(31)(B)(i) of the Code

On March 2, 2004 the DOL published a proposed safe harbor regulation for automatic rollovers and invited comments. After considering the comments, the DOL published a final regulation (2550.404a-2) September 28, 2004. The regulation will be effective for distributions made on or after March 28, 2005. The regulation is intended to provide deemed safe harbors but in addition says that these safe harbors are not the exclusive means of meeting a fiduciary's responsibilities under ERISA.

According to the regulation, the following conditions must be met for a fiduciary using the deemed safe harbor:

- The amount of the automatic rollover must apply to amounts of $5,000 or less but more than $1,000. The automatic rollover can be extended to amounts less than $1,000, if desired.
- The automatic rollover is to an IRA meeting the requirements of the Code (7701(a)(37)).
- The fiduciary initiating the automatic rollover enters into a written agreement with the IRA trustee or custodian that provides for the investment of the funds rolled over and expenses.
- The participant for whom the IRA is established shall have the right to enforce the terms of the agreement between the IRA trustee or custodian and the fiduciary initiating the automatic rollover.
- The participants are furnished a Summary Plan Description or Summary of Material Modification that describes the plan's automatic rollover provisions, including how the rollover will be invested, the fees and expenses to be charged and a plan contact in case the participant has further questions.

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(USERRA, continued from page 2)

The interest reduction is effective once the service member has given the required notice after duty ends. The reduction is retroactive for the entire period that the service member was on duty. The limit on the interest rate may be waived by the service member if elected with proper notice.

Proposed Regulations:

- Requiring the service member to be provided with rights and benefits of pay and seniority that would have been provided if the member had been on leave and not active duty, including vacation and insurance
- Certain employer contributions will only have 30 days to make up the contribution
- Matching contributions that were available would be required to be made on after-tax contributions for service members that are no longer employed, after first being reemployed
- Allowing repayment of any withdrawals that were taken upon reemployment
- Defined benefit plans will require repayment of interest that would have been accrued as well
- The last employer of a multiple employer plan will be required to make the employer contribution

Café Corner

By Delwyn Horton, CFC

Cafeteria plans and 5500 filings

Cafeteria plans that are either government or church plans are exempt from filing the 5500 form. If you have a cafeteria plan that does not fall into one of these two categories, you will have to take a closer look at the plan design.

A cafeteria plan is merely a plan that allows employee contributions to filter through to other plans on a pre-tax basis. In order to determine if the 5500 filing is required, we will examine the most common components (health FSA and Dependent Care reimbursement) that exist under a cafeteria plan.

One common component is a health FSA plan. This falls under the category of a welfare plan (it reimburses for medical expenditures). In most cases, the plan is funded either partially or fully from employee contributions. Welfare plans with 100 or more participants at the beginning of the plan year are required to file the 5500 form. If a welfare plan has fewer than 100 participants, it may meet an exemption if it is unfunded, fully insured or combination unfunded/ insured. A plan is considered unfunded if the payments are made from the general assets of the employer. Normally a plan would be considered funded if there are employee contributions. However, Department of Labor Release 92-01 states that employee contributions to a cafeteria plan do not cause the plan to become funded. According to the IRS, a plan is considered to be funded (thus losing the 5500 filing exemption) if there is a trust, meaning employee contributions are deposited and the payments are made from a checking account that bears the name of another company (usually the TPA), or if the name specifies the cafeteria plan. For example, if a checking account name is ABC Company Cafeteria Plan, this would

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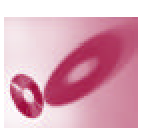
separate the cafeteria contributions from the general assets of the employer.

When filing form 5500 for a health FSA, there are only 2 attachments to consider. Schedule C will be filed if there are more than 100 participants at the beginning of the plan year and more than $5,000 is paid to a service provider (i.e. TPA or accountant), or the plan terminates the accountant. A Schedule G would only be filed if there were any prohibited transactions during the plan year. Note that the schedule F filing is no longer required.

A second component is an IRC section 129 dependent care reimbursement plan. It generally falls under the category of a fringe benefit plan. This type of plan is not subject to ERISA and is no longer required to file a 5500 form. In very rare occasions, it may lose it fringe benefit status and become subject to ERISA. Examples would be if the plan only covers expenses from the employer's on-site daycare facility or if reimbursements are provided for other benefits listed in the ERISA plan definition. If it is subject to ERISA, then the 5500 filing would be required..

The typical cafeteria plan may have contributions flow through to the health FSA, dependent care or underlying health plan (insurance premiums). Therefore, this funding vehicle itself is considered a fringe benefit plan and exempt from the 5500 filing. Note that the underlying health plan (example: health coverage from Blue Cross Blue Shield, or dental coverage from Commonwealth) are welfare plans and may be required to file the 5500 form. These types of welfare plans would be required to include the Schedule A attachment, when insurance premiums are paid to the insurance company.

Current Software Versions



CA Cafeteria Administration	4.55	FA FAS 132 Reporting	2.01
CA/Win Cafeteria Admin	1.04	QP Qualified Plan Distribution	2.01
CD Cafeteria Plan Document	1.24	PA Plan Accountant	2.03
CM/Win Client & Task Manager	1.04	PE Pension Administration	3.22
DE Data Entry & Review	1.13a	PR/WIN Pension Reporter	1.18
DS/Win Document	1.10	PT Participant Term. Calc	2.03
DV DATAIR Voice	1.02	RW Report Writer	3.22