401(k) SALARY DEFERRAL DEPOSIT REQUIREMENTS & PAYROLL WITHHOLDING & CONTRIBUTION TRANSMITTAL INFORMATION

Under the terms of a 401(k) Plan, by executing a Salary Reduction Agreement, a Plan participant may elect to have his or her salary reduced, with the amount of the reduction being transmitted by the Employer to the Trust of the Plan.

For purposes of determining the amount to be withheld for federal and state income tax, the employee's gross pay minus the amount of the salary reduction would be used. For purposes of FICA, Medicare and SDI, the employee's gross pay would be used. In addition, you would also use the employee's gross pay in computing the Employer's FUTA and State Unemployment tax liabilities.

Thus, if an employee making $1,000 per pay period elected to have a 10% salary reduction, $100 would be transmitted to the Plan's Trust. State and federal income tax withholding would be computed on the basis of "net" pay of $900. FICA, Medicare and SDI would be computed on the basis of "gross" pay of $1,000. "Gross" pay of $1,000 would also be used in computing the FUTA and State Unemployment tax liabilities.

The transmittal of salary reduction contributions (as well as loan payments withheld) by the Employer to the Trust for each payroll period should be completed as soon as possible. Department of Labor (DOL) proposed regulations for plans with a fewer than 100 participants at the beginning of the year will be treated as complying with the regulations if the contributions are deposited no later than the ***7th business*** day following the day on which the amounts would have been payable to the participant in cash or following the day on which such amount is received by the employer (in the case of a participant loan payment given to the employer). Contribution deposits satisfying the requirements of the proposed regulations will be treated as having been made timely even if such contributions could clearly have been segregated from the employer assets more rapidly.

Although there are no proposed regulations as yet for a large plan (more than 100 participants at the beginning of the year), we recommend following the deposit requirements as stated above.

A delay in transmitting salary reduction contributions or loan repayments to the plan assets can result in the assessment of excise tax penalties and could affect the qualified status of your plan.

Salary re-directions to a Cafeteria or Section 125 plan are not subject to Federal and State income tax. Nor are they subject to FICA, Medicare, SDI, FUTA and State Unemployment tax liabilities. They are also not considered wages for purposes of Workers Compensation premiums.