Internship Report

On

"Outsourcing of Retirement Provident Fund (RPF) Management: A Study on United States RPF."

A report submitted to the School of Business as a partly fulfillment
of the requirements of the Internship Program, Fall – 2013

Submitted to:

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May 18, 2013

Assistant Professor & Internship Supervisor
BRAC Business School
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Subject: Submission of internship report on **"Outsourcing of Retirement Provident Fund (RPF) Management: A Study on United States RPF".**

Dear Sir,

It is my immense pleasure to submit the internship report on **"Outsourcing of Retirement Provident Fund (RPF) Management: A Study on United States RPF".** I was assigned as a partial requirement of the MBA program. Despite several limitations, I hope that the report has attained its purpose to a considerable extent. I thank my supervisor Mr. **Mahmudul Haq** for allowing me the opportunity to do the report on this topic.

I have done my level best to complete this internship report in time and with the quality of your expectation. This report enabled me to get an insight about the Retirement Provident Fund (RPF) Management System of USA. I am thankful to you for giving me this opportunity.

We hope that our report will aid to make the concrete decision and live up to your expectations.

Sincerely Yours,

____

Jawad Ashraf Khan

ID : 11264004

BRAC University

ACKNOWLEDGEMENT

My heartfelt thanks is due to **Mahmudul Haq sir** for giving me support, courage, opportunity & a new out look to work on **"Outsourcing of Retirement Provident Fund (RPF) Management: A Case Study on United States RPF".** Without his help it was quite impossible to arrange analysis. He always tried to make the things easy and to feel what the reality is. He motivated me to be focused and work objectively. That helps me to do the report realistically.

I am also grateful to those people without whom it was quite impossible for me to continue the report. My special thanks goes to Mr. MD. Asfakur Rahman (MD of Data-Path Limited), Mrs. Shannon Edwards (Owner, USA) Mr. Saidur Rahman (Team Manager Bangladesh), , Mr. Khandakar Rashed Mahtab (Executive), Mr. MD. Arifuzzaman (Executive) and others. During my internship report I did not face any difficulty rather I enjoyed my each & every moment.

EXECUTIVE SUMMARY

The social security systems in the United States are very high. The government as well as the citizen is very much concerned about the retirement benefit. The government makes it mandatory for the employer to give the retirement benefit to their employee at their retirement. The IRS (Internal Revenue Service) and the DOL (Department of Labor) instruct the employer to set up the retirement benefit plan to give their employee retirement benefit which is known as "**Plan"** in the retirement industry. Every employer in the United States who has the retirement benefit plan mandatorily follows the IRS rules and regulations while preparing the report. As a part of maintaining the rules and regulations the employer has to prepare the allocation report and fill up the form 5500. As TPA (Third Party Administrator) this company's responsibility is to prepare the allocation Report and prepare the Allocation Letter on behalf of the client. The Allocation Report contains the Plan specification Report, Census Report, Summary of accounts Report, Plan totals report, Trust Accounting Report, ADP/ACP Testing Report, Top Heavy Testing Report. The company has to prepare Compliance Testing Report which includes Required Minimum Distribution Report, Maximum deductable contribution Report, and coverage testing Report and so on. My main focus will be on the rules and regulations which is mandatorily maintained by the employer for preparing the Allocation Report which prepared by the third party administrator on behalf of the client.

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CHAPTER: 01 **INTRODUCTION**

1.01 Background of the Study:

For business school student only theoretical knowledge is not enough for handling the real business situation, therefore it is an opportunity for the students to know about the field of business through the internship program. As internship program is a perfect blend of the theoretical and practical knowledge. This report is originated to fulfill the requirement of the assign project internship report on **"Outsourcing of Retirement Provident Fund (RPF) Management: A Case Study on United States RPF."** In this regard an organization attachment in the **Data path Ltd.** has been given to me a period of three months commencing from 15th January, 2014 to 14th April, 2014. During this period I learned the important issues about how the reporting rules and regulations about the American Retirement Benefit plan.

1.02 Objective of the report:

The broad objective of this research is to get an idea about the American retirement benefit plan and gather knowledge about the rules and regulations regarding the retirement benefit plan which is issued by the IRS(Internal Revenue Service And the DOL(Department of Labor) and the Acts passed by the US congress.

The specific objective of this research is:

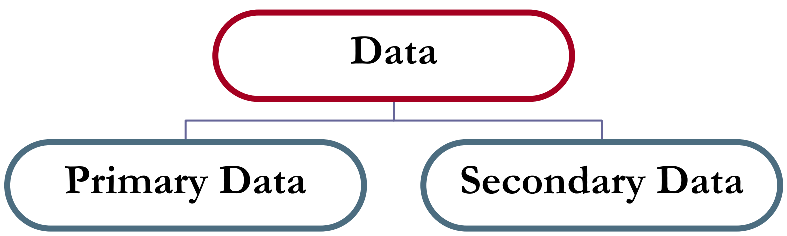
- To know about the governance and transparency of their retirement plan.
- To be introduced with their reporting systems and record keeping houses.
- To know about the procedure maintained by the employer to narrow up the discrimination between the highly compensated employee and non- highly compensated employee when they are making the employer contribution.

1.03 Methodology:

For this paper, I conducted qualitative research work. For this, I collected the necessary data by took structured and unstructured interviews. I performed the following things in group (focus group) discussion:

- Observe/ask questions with open-ended answers
- Take notes on what is said and/or done
- Return to observe/ask more questions
- Theorizing
- Draw conclusions

- **Exploratory Research:** This type of research was used to identify and define the problems related to the objective more precisely, to gain insights for developing approaches to problems.
- **Diary Method:** I kept a personal account of daily trainings, feelings, discussions, interactions when doing the classification, recognizing policies and guidelines.
- **Type of collected Data:**



- **Primary Data:**
    - Personal Observation (Both disguised and undisguised)
    - Content Analysis
    - Personal Interviews

- **Secondary Data:**
    - **Internal Data:**
        - Data-Path Database
    - **External Data:**
        - Printed Publications
        - Internet

- **Tools:**
    - Microsoft Word
    - Microsoft Excel

1.04 Problem Statement:

The retirement benefit system in Bangladesh is not so organized both in the public sector and also in the private sector. The government rules and regulations are not well organized to protect the employee benefit. There employee are not very aware about their retirement benefit. The regulatory body to protect the employee benefit is not taking the necessary steps to protect the employee right and benefit. The rules regarding the employer contribution is not up to date with the time. The nature of retirement benefit is not specifically defined or determined in the private sector whether the benefit will be the defined benefit or the defend contribution. There is no specified benefit plan in the most of the organization which can give the old age security to their employee. There is no step taken by the employer to reduce the discrimination among the highly compensated employee and non-highly compensated employee.

1.05 Limitations:

- Most of the materials are collected from the secondary sources and the validity of the data is questionable in some cases.
- Due to client confidentiality rule some important information is not presented here though it is very essential to understand and elaborate some DIT (Deposit-in Transit) issues.
- As the congress change the rules and regulations every year depending upon the economic and fiscal policies so it is difficult to compare the result with previous year.
- In some cases the law give more freedom to the employer in that situation it is difficult to create the action item for the client.
- Due to the lack of publication relating to Retirement benefit plan the information which is collected is not representative

1.06 Organizational Overview:

Data path is a professional services firm committed to delivering focused retirement plan and other administrative services to business clients. We work closely with employers and financial partners to build customized services to meet their unique goals. Our consultants provide hands-on solutions for plan implementation and ongoing plan operation. We have many years of industry experience with clients ranging from small, closely-held businesses to large corporations competing in the global economy.

Founding Partners:

Jim Hudson began his retirement plan specialization in the early 1980s while pursuing his career as a Certified Public Accountant. During this time, Jim became known as a specialist in this highly technical field. He was directly responsible for developing and managing a large retirement plan practice before founding July Business Services in 1994.

John Humphrey also began his career as a Certified Public Accountant, providing tax consulting services with a large accounting firm before specializing in retirement plan administration. John co-founded July Business Services in 1994.

Getting Started:

Data-Path began operations in 1995, with no clients and a small professional office suite. During the early years, management worked to develop strategic business partnerships, hire key employees, and create business processes and procedures. The firm's marketing efforts resulted in important referral relationships, including investment advisors, mutual fund companies, banks, and brokerage firms. These relationships helped to create modest growth over the first several years. By the end of 1996, Data-Path had more than 250 retirement plan clients and 5 employees.

Building Team:

From 1996 through 2000, Data Path experienced an increased growth rate and added a number of key employees and partnerships. During this time, company management accomplished the following key objectives:

- Developed Foundation for Employee Culture
- Improved Efficiency of Service Delivery
- Implemented New Business Team
- Created Client Consulting Teams
- Created ERISA Consulting Team
- Created Dedicated Distribution Team
- Promoted Blake Willis to Partner & CAO
- Added and Developed Key Employees
- Improved Marketing & Sales Presence

Building Strategic Partnerships:

Relationships were formed with several key financial partners, including American Funds, MFS, First Mercantile, Hartford, ING, Manulife, John Hancock and others. These relationships continue to benefit Data-Path clients by providing them with diversified investment options and automated plan recordkeeping services. By the end of 2013, Data-Path served more than 2600 retirement plan clients and had approximately 115 employees.

Recent History: Expanding Services:

In 2013, Data Path has continued to experience an increased rate of growth and has maintained good client retention statistics resulting from our efficient service, depth of technical knowledge, and friendly service team. The employee-friendly culture has created low turnover and high employee satisfaction. Other significant accomplishments since 2000, include the following:

Expanded Office Facilities

Expanded Employee Training Program

Improved Technology with Added IT Staff

Added Dedicated Sales Department

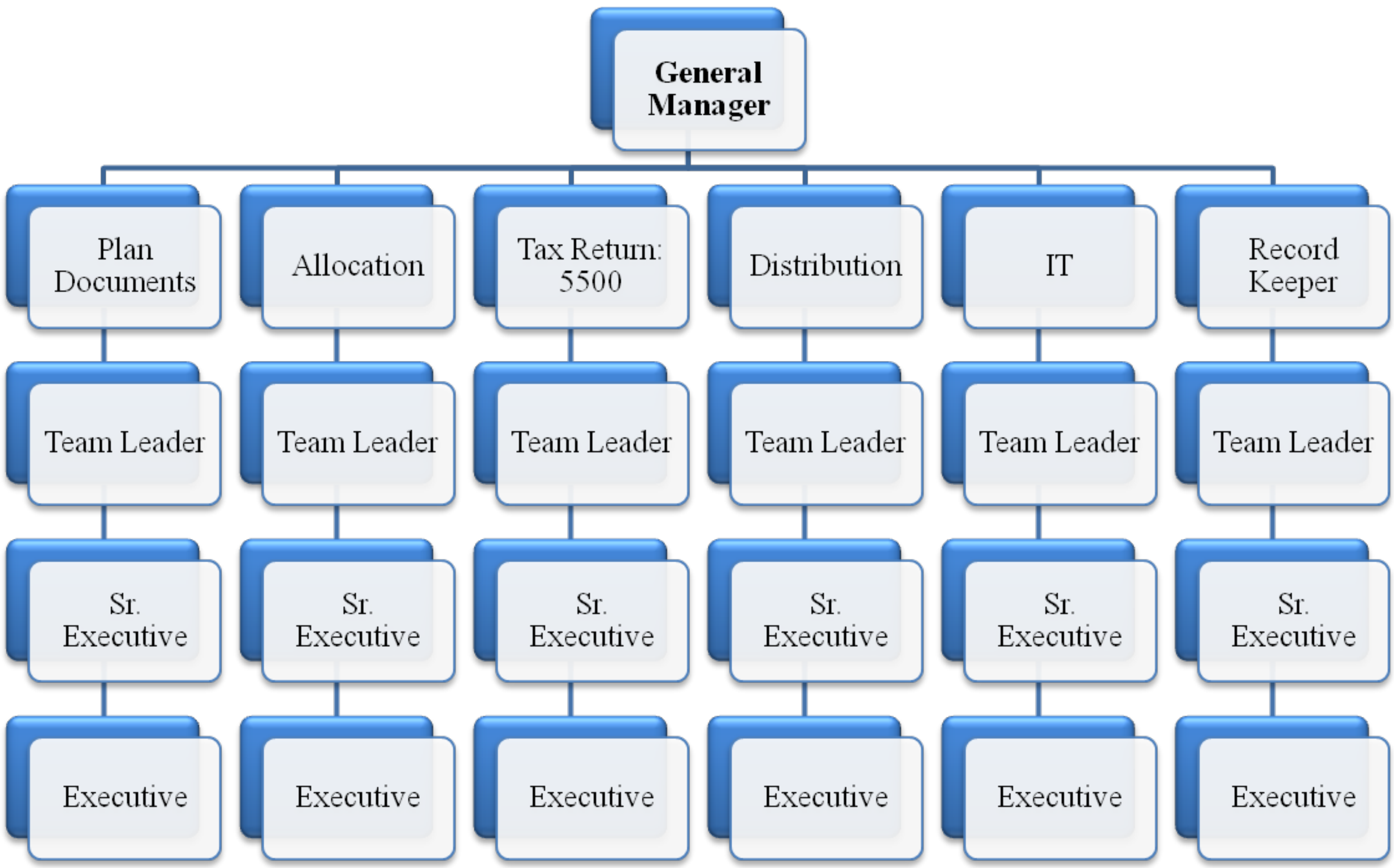
Started Daily Recordkeeping Services

Opened Dallas & Houston Offices

Started Payroll Outsourcing Services

Started Cafeteria Plan Administration Services

1.07 Organizational Structure:



There are many types of benefits provided by employers for their employees in addition to wages, and indeed benefits represent an increasingly larger proportion of the total employee-related cost of doing business. In some cases, the employer pays the full cost of these benefits, such as paid vacation days, and they are considered fully funded by the employer. Often, however, the employee and the employer share in the expense of providing and obtaining employee benefits.

Employee benefit plans fall into two broad categories:

1. Welfare benefit plans that provide a variety of benefits ranging from vacation pay to health and life insurance; and
2. Pension benefits plans that provide retirement income.

2.01 Employee Benefit Plans

To promote the physical, financial and mental well-being of employees and their families, employers routinely offer benefits such as health and life insurance, vacation time, disability income and retirement plans. Certain benefits are designed to protect employees from suffering serious financial hardship due to unforeseeable catastrophic events, while others serve to provide stability and productivity in the workforce by enhancing employee morale and enabling competitive recruitment practices. Because employees have come to expect benefits in addition to their salaries, employee benefit plans often are provided instead of additional cash payments as an integral part of a total compensation Package.

[A] Welfare Benefit Plans

ERISA defines an employee welfare benefit plan as any plan, fund or program established or maintained by an employer or employee organization that provides any of the following types of benefits:

- Medical, surgical or hospital care;
- Benefits in case of sickness, accident, disability or death;
- Unemployment benefits;
- Vacation benefits;
- Apprenticeship or other training programs;
- Day care centers;
- Scholarship funds;
- Prepaid legal services; or
- Any benefit described in Section 302(c) of the Labor Management
- Relations Act of 1947 (Taft-Hartley Act). This includes holiday and
- Severance pay or similar benefits. It excludes retirement and survivor
- Pensions or insurance to provide such pensions.

Not surprisingly, the body of legislation covering benefit plans has expanded extensively beyond the original 1974 ERISA.

This course will focus on pension benefit plans, particularly those plans meeting the qualification requirements for special tax considerations under the Internal Revenue Code. Such plans are commonly referred to as qualified plans.

[B] Pension Benefit Plans

ERISA defines an employee pension benefit plan as any plan, fund or program established or maintained by an employer or employee organization that:

Provides retirement income to employees; or results in a deferral of taxable income until distribution.

ERISA's definition of an employee pension benefit plan applies to such arrangements despite the method of:

- Calculating the contributions made to the plan;
- Calculating the benefits under the plan; or
- Distributing benefits from the plan.
- A plan that provides any of the following types of benefits falls under the definition of an employee pension benefit plan:
- Retirement benefits for age and/or service;
- Disability retirement benefits;
- Retirement benefits provided through accumulating savings;
- individual account plans such as profit sharing plans; or Deferral of income for periods extending to or beyond the end of employment.

2.02 Pension Benefit Plans

[A] In General

As life spans increase and the Baby Boomer generation marches ever more quickly toward retirement, debates escalate over the ongoing viability of Social Security and Medicare. The continuing evolution of traditional family support structures coupled with the fact that the savings habits of Americans have deteriorated alarmingly in recent years raise serious doubts about our ability to enjoy our retirement years in financial security. It is now more important than ever that an individual assume an active role in preparing financially for retirement, and the wide variety of employer-sponsored retirement plans existing today offer themselves as a valuable savings tool for that individual. To minimize the potential for their misuse, employer-sponsored retirement plans are subject to a complex and dynamic set of rules and regulations. For a plan to be a qualified retirement savings plan, that is, for participants and plan sponsors to be entitled to favorable tax treatment in conjunction with their use and operation of the plan, it must follow these rules. While nonqualified plans exist, by definition they do not comply with the rules for qualified status, and they are more individually tailored toward their particular plan sponsors. Since they are far less common than qualified plans, they are generally beyond the scope of this course.

Within the context of the ever-changing qualified plan rules and regulations, today's retirement plan professionals must meet several challenges: they need to understand thoroughly the complexities and interplay between qualification requirements and plan administration, keep up-to-date with the sometimes chaotic legislative environment, effectively explain the evolving rules and their consequences to plan sponsors and participants and professionally and efficiently implement changes where necessary

Retirement income planning begins with the basic premise that all employees desire economic security throughout their lifetime. As part of the planning for that economic security, most employees anticipate a reduction in earnings upon retirement and intend to offset this reduction with personal savings that supplement employer-sponsored pension benefit plans and governmental programs such as Social Security.

Traditionally, these three elements (personal savings, employer-sponsored pension benefit plans and Social Security) combine to become the three-legged stool supporting retirees. However, each leg of the stool often is not perceived as equal in strength. The confidence level in the Social Security leg of the stool, particularly for average workers under age 45, is low. Many also worry that within the current economic environment they will be unable to accumulate adequate personal savings before reaching retirement age. With two of three legs on shaky ground, today the three-legged stool model is being strengthened by the addition of a fourth leg — continued employment. Presently, many of us choose or are required to continue working past retirement age in order to remain active, to increase income or both.

Consequently, employees may increasingly look to their employer's plan to provide supplemental retirement income, making an employer-sponsored pension benefit plan a powerfully influential element of retirement income planning.

There are two broad categories of employer-sponsored pension benefit plans: defined contribution plans and defined benefit plans. Throughout this course, we will refer to both types of plans generically as retirement plans.

[B] Defined Contribution Plans

A defined contribution plan is sometimes known as an individual account plan because a separate account is maintained for each individual participant. These types of plans define the contribution amount to be deposited into the participant's account. For example, a plan may provide that every eligible participant will receive an allocation, or share of the total plan contribution, equal to 5 percent of his or her compensation. Or, the plan may define a participant's contribution as a specific dollar amount, such as $1,000.

Example 1-1: Defined Contribution Amount Mary works as a graphic artist for XYZ Corporation and earns $45,000 during the year. If the plan provides contributions equal to 5% of compensation, Mary will receive an allocation of contribution for the year in the amount of $2,250 ($45,000 x 5%). This amount will be deposited into her individual account under the plan.

The participant bears the investment risk in a defined contribution plan because there is no requisite or promised amount paid to the participant at retirement. The participant's total benefit from the plan will be the accumulated value (total contributions plus total earnings) of the participant's account at retirement or termination of employment. Although the participant's contribution amounts will be invested under the plan with the intent of increasing in value, investment results are not guaranteed and do not affect the employer's cost. Rather, the employer's defined contributions are the extent of the employer's commitment to the participant's retirement income. In this manner, the participant will reap the rewards of positive investment earnings but also bear the brunt of any investment losses.

Generally, employees readily understand a defined contribution plan as it is easy to see how much has been added to their accounts for the year. Each participant regularly receives a statement of his or her individual account that displays the participant's share of contributions and plan earnings or losses for the reporting period.

Example 1-2. Sample Employee Statement. The investment related portion of a sample employee statement might look like:

XYZ Corporation Profit Sharing Plan
Statement of Account for the Plan Year Ended December 31, 2013
Participant: Mary

- Beginning Account Balance as of January 1, 2013 $10,000
- Employer Contribution $ 2,250
- Investment Gains/(Losses) $ 1,000
- Ending Account Balance as of December 31, 2013 $13,250

Younger employees may find the defined contribution plan more attractive than their older counterparts. This is primarily because defined contribution plans generally favor younger employees as contributions for these employees accumulate and earn compound interest over a longer period of time under these plans. Consider the situation in which an employer allocates $500 per year each employee's account. An employee who begins working for the company at age 25 will accumulate a much larger account by retirement than an employee who begins working for the company at age 50.

Example 1-3. Accumulation Based on Age. Jane was age 25 when she began working as a graphic artist with ABC Corporation. Based on a $500 a year allocation to her *account (ignoring investment gains/(losses)), at retirement age 65 she would have an account balance of $20,000 ($500 x 40 years).However, if Jane had been age 50 when she began working, her account balance at retirement age 65 would only be $7,500 ($500 x 15 years).*

[C] Defined Benefit Plans

In comparison to a defined contribution plan that generally dictates a certain contribution amount each year; a defined benefit plan promises to pay a specified benefit at a future retirement age. Rather than defining the contribution to be allocated into a participant's individual account, these plans define the amount of retirement benefit to be paid. The actual level of benefit is calculated using a formula stated in the plan document. The benefit is usually payable at a specified future time, such as attainment of age 65. Some plans also provide benefits upon the disability or death of the participant before retirement.

Defined benefit plans usually express the benefit to be paid as an annuity, a series of generally equal payments made at specified intervals, for example monthly or annually. Typically, payments commence at the normal retirement age chosen by the plan, often attainment of age 65, with payments ending upon the death of the participant. This is known as a life annuity because payments extend over the lifetime of the retired participant. There are other types of annuities which may be employed by a defined benefit plan, for example annuities which extend over the joint lifetimes of a participant and his or her spouse or beneficiary.

Unlike a defined contribution plan, defined benefit plans do not maintain a separate account for each participant. All of the assets in the plan are available to pay the benefits promised. Since the promised benefits must be paid regardless of the amount of investment gains or losses, the employer assumes the investment risk. Consequently, investment gains or losses incurred by the plan's assets serve to decrease or increase employer costs. One might view the promise of a specified retirement benefit payable at a future date as tied intrinsically to the financial viability of the sponsoring employer and the strength of the plan's invested assets. To alleviate some of the participant's risk of seeing that promised benefit evaporate when an employer endures a bankruptcy or similar period of business instability, ERISA ensures that participants in most defined benefit plans are guaranteed at least a portion of their benefits from the plan. This guarantee is provided through a program administered by a government agency called the Pension Benefit Guaranty Corporation (PBGC). Employers covered by the PBGC pay premiums each year to the PBGC based on the number of plan participants and a comparison of plan assets versus plan benefit liabilities. In return, the PBGC will step in to pay participant benefits should the need arise. It should be noted that there are limits on benefits covered under the PBGC's termination insurance program.

A decision to use a defined benefit plan as the preferred retirement program depends upon the goals and objectives of the plan sponsor. Part of this determination involves an examination of the workforce, since the ultimate cost of the benefits under a defined benefit program will depend upon the employee demographics such as age, years working for the plan sponsor and compensation. In general, if the employee population is older, the annual funding requirement that the employer must make to the defined benefit plan is higher for the same benefits than if the employee group is younger. This is because an employer has less time to take advantage of the accumulation of plan earnings to support the funding of retirement benefits for older employees. From the employee's point of view, those closer to retirement age and with less time to seek relative financial stability usually prefer the guaranteed retirement income aspect of the defined benefit plan rather than the potential value fluctuations inherent in a defined contribution plan. Where employer costs weighed against employee considerations support the aims of its desired retirement benefit program, an employer could decide in favor of a defined benefit plan or even a defined benefit plan in unison with a defined contribution plan.

2.03 Trends of Retirement Plans:

[A] Number of Retirement Plans

One of the most obvious trends in the past years is the declining number of defined benefit plans and the increasing number of defined contribution plans. The ERISA reporting requirements allows one to track the number of private retirement plans. Public plans, those offered by governmental entities for instance, are not subject to these reporting requirements, therefore, statistics are not available for them. The chart below shows the statistics for private retirement plans

Number of Private Defined Benefit and Defined Contribution Plans 1975-2003

	1975	1980	1985	1990	1995	2000	2003
Defined Benefit	103,346	148,096	170,172	113,062	69,492	48,773	47,036
Defined Contribution	207,748	34,805	461,963	599,245	623,912	686,878	652,976
Total	311,094	488,901	632,135	712,308	693,404	735,651	700,012

Source: US Department of Labor, Employee Benefit Security Administration, "Private Pension Plan Bulletin" (Abstract of 2000, & 2003 Form 5500 Annual Reports).

Much of the growth in defined contribution plans is from the tremendous increase in the number of 401(k) plans. A 401(k) plan is a type of defined contribution plan that allows employees to make contributions towards their retirement on a pre-tax basis. 401(k) plans were added to the Internal Revenue Code in 1978.

The chart below shows the number of 401(k) plans and their growth.

401(k) Plan Growth

	1975	1980	1985	1990	1995	2000	2003
Defined contribution	207,748	340,805	461,963	599,245	623,912	686,878	652976
401(k)	0	N/A	17,303	97,614	200,813	348,053	403,648
%401(k) to total DC plan			3.7%	16.3%	32.2%	50.7%	61.8%

Source: US Department of Labor, Employee Benefit Security Administration, "Private Pension Plan Bulletin" (Abstract of 2000, & 2003 Form 5500 Annual Reports).

[B] Assets Held in Retirement Plans

Another important trend is the increase in assets held by retirement plans. Part of the increase is due to the rise in the number of participants making contributions toward their retirement. The chart below shows the increase in assets. The decrease in assets shown between 2000 and 2003 is due to the bear market during the three year period

Assets Held in Retirement Plans

	1980	1985	1990	1995	2000	2003
Defined Benefit	$401.5	$814.0	$896.0	$1,444.0	1,947.0	$1,715.0
Defined Contribution	$162.1	$417.0	$676.0	$1,312.0	$2,295.0	$2,246.0
Total	$563.6	$1,231	$1,572.0	$2,756.0	$4,242.0	$3961.0

Source: EBRI Pension Investment Report: Fourth Quarter 2005, and Federal Reserve Board Flow of Funds Accounts: Fourth Quarter 2005.

As noted in the charts illustrating the growth of defined contribution plans, the addition of 401(k) plans also has had a significant influence on the increase in retirement plan assets. This can be seen in the following charts:

401(k) Assets (in billions)

	1980	**1985**	**1990**	**1995**	**2000**	**2003**
Defined contribution	$162.1	$417.0	$676.0	$1,312.0	$2,295.0	$2,246.0
401(k)	N/A	$91.8	$384.9	$863.9	$1739.0	$1,900.0
% 401(k) to Total DC plans		22.0%	56.9%	65.8%	75.7%	84.6%

Source: Employee Benefit Research Institute, Pension Investment Report, and Federal Reserve Board, Flow of funds Accounts.

There are many types of defined contribution plans. However, there are more 401(k) plans than all the other defined contribution plans put together. There are more 401(k) plans than defined benefit plans. The assets held in 401(k) plans exceed those of defined benefit plans and exceed those of all the other defined contribution plans.

[C] 401(k) Plan Investment Direction

The chart in Section 1.05A above, titled 401(k) Plan Growth reflects that in 2003 there were 403,638 401(k) plans in existence. The DOL has analyzed this number further and provides, in the "Private Pension Plan Bulletin –Abstract of 2003 Form 5500 Annual Report", published October 2006, that in 88% of the plans participants direct the investment of all or a portion of the assets in their account. The Trustees control the investment of the assets in the remaining 12% of the plans.

[D] Types of Assets Held by 401(k) Plans

As of the end of 2003, approximately 49% of 401(k) plan assets were held in mutual funds. This accounted for $922 billion or 12% of the total mutual fund assets at year end 2003. Mutual fund assets in 401(k) plans were broken down as follows:

Mutual fund category	Assets(Billions)	Share%
Domestic Equity Fund	$560	$61%
Foreign Equity Fund	$84	9%
Hybrid Fund(Stocks and Bond)	$112	12%
Bond fund	$86	9%
Money Market Fund	$80	9%
Total	$922	100%

Source: Fundamentals Investment Company Institute Research in Brief Vol. 13/N0.2 June 2004

Company stock accounted for 16.4% of all 401(k) assets at year end 2003. Participant loans made up 13% of assets in 401(k) plans. Part 2 of the RPF Course will consider investments that are found in 401(k) plans and particularly those in 401(k) plans where participants are directing the investment of their account balances.

2.04 401(k) Influences

401(k) plans have influenced the retirement plan industry in many ways. They have changed:

- How administration is performed (balanced forward vs. daily);
- The frequency of when information is reported to participants (annual vs. daily);
- How information is provided to participants (paper vs. electronic);
- Who is investing the plan assets (trustee vs. participants);
- How trading of assets is accomplished (employer/broker vs. trading platforms);
- Where the majority of assets are being invested (individual stock/bonds vs. mutual funds);

- Who has the liability for investment decisions (trustee vs. participant); and
- How retirement plans are marketed (bundled, unbundled and strategic alliances).

In addition to the above changes, 401(k) plans have caused an enlightenment on the subject of fees charged by various investment products as well as those charged by administration firms. Fiduciaries must be concerned about these charges since participants of 401(k) plans bear the burden of most fees and the fiduciary is given the responsibility to make sure the fees are reasonable.

CHAPTER: 03 FACTORS FOR SETUP THE PLAN

The type of business entity that sponsors a qualified plan can have a significant impact on the manner in which contributions are deducted or allocated, and also may place restrictions on rights, features or benefits available to certain participants under the plan. In addition, the degree of common ownership among a group of businesses might cause them to be considered a single employer for a number of plan purposes, adding layers of complexity to what would at first appear a routine administrative task or design consideration. "Know the employer" then, is a maxim best spoken often and with depth of conviction by successful retirement plan professionals.

3.01 Employer/Plan Sponsor

[A] Plan Sponsors

The plan sponsor is the entity that establishes the plan. Corporations, partnerships, limited liability companies (LLCs), limited liability partnerships(LLPs), tax-exempt organizations, state and local governments, trade unions, and sole proprietors may all sponsor retirement plans. Each entity type, however, will not be sponsoring mirror-image retirement plans. Rather, the plans will be reflective of their sponsor's particular business type and must show compliance with any specific qualified plan rules that apply to that business entity type.

Note that the terms employer and plan sponsor are frequently used interchangeably, but are separate concepts.

[B] Entity Change

It is essential for retirement plan professionals to request and keep on hand current information from the plan sponsor which identifies its tax status, owners, partners, officers, and relationships to other business entities and their retirement plans. Modification of the entity's structure for tax purposes, regardless of the entity type, can demonstrably affect administrative work and could potentially require that the plan document be amended. Additionally, changes in ownership and officers may influence the application of testing procedures, such as those for compliance tests, or cause multiple plans to be combined and tested as one plan because they are sponsored by entities linked through common ownership.

3.02 Taxpayer Status of Employer/Plan Sponsor

The Internal Revenue Code establishes the tax classifications of organizations as taxpayers and sets out the standards for meeting these classifications. There are four main categories of employers for tax purposes:

1. Sole Proprietorships;
2. Partnerships;
3. C Corporations; and
4. S Corporations.

[A] Sole Proprietors

Sole proprietors are individuals who own 100% of their unincorporated businesses and are commonly referred to as self-employed persons. (A distinction should be made here. While all sole proprietors are self-employed, not all self-employed individuals are sole proprietors.) As someone "in business for him or herself," a sole proprietor is fully responsible for the liabilities of the business. The income or loss generated by a sole proprietorship is reported on the owner's personal income tax return, as determined on a separate schedule: Form 1040 Schedule C (Profit or Loss From Business – Sole Proprietorship), Schedule C-EZ (Net Profit from Business – Sole Proprietorship) or Schedule F (Profit or Loss From Farming). This Schedule C income is usually the basis for calculating required and/or deductible plan contributions for the self-employed person.

[B] Partnerships

A partnership is not taxable as a separate entity: the partners are taxed as individual taxpayers to the extent of their share of the partnership's taxable income, whether or not it has been paid to them . The treatment of liability for the debts of the partnership, including required contributions to the qualified plans, also resemble that of the sole proprietorship, for liability is passed through the partnership to the individual partners. Earned income is the term used to define the compensation of a self-employed partner. The partner's earned income is net earnings from self-employment adjusted for certain modifications. The starting point for determining net earnings from self-employment of a partner is the Schedule K-1, line 14. Adjustments made for certain business deductions the individual partners claim on their Forms 1040, as well as one-half of the self-employment tax (computed on Schedule SE of Form 1040) are taken into consideration.

[C] Corporations

A corporation is a legal entity formed by business associates to conduct a professional venture and divide profits among investors. It is created under state law via filing of a charter or articles of incorporation within a state or states, and consequently becomes subject to the laws of those states as well as federal law. After drawing up bylaws to govern its operation, issuing stock, and appointing a board of directors to manage its affairs, the corporation then begins to "do business," and in many ways functions as if it were an individual taxpayer, existing separately and apart from owners. The corporation files its own tax return and pays taxes on its income. It can buy and sell property, and it can sue and be sued. The rights and liabilities of a corporation generally remain distinct from those of its underlying owners, and as such formation of a corporate entity provides a measure of protection or limited liability for investors. In most cases, none of the owners will be under obligation for the debts of a corporation, and the corporation's creditors may not attack the personal assets of the investors.

1. C Corporations

C corporations are what most people think of when they hear the term: corporation. They are subject to the largest tax bite, since corporate earnings are actually taxed twice. First, the corporation must pay corporate income tax on its net income. Thereafter, net income, if distributed to owners, is paid in the form of a dividend. Commonly, this dividend represents taxable income to the owner, thus creating the double payment of taxes: first at the corporate level and again at the level of the owner. Conversely, if the corporation has sustained a loss during its fiscal period, the corporation carries the loss forward to be applied against future earnings. The individual owners cannot claim the loss.

2. S Corporations

By electing "S" status for income tax purposes, S corporations, sometimes referred to as Subchapter S corporations, avoid the double-taxation of company earnings associated with their C corporation brethren. The S corporation itself usually does not pay any income tax. Both the income and the losses of the corporation pass through to the individual owners who must claim the income or losses on their personal income tax returns, whether or not the income has been distributed to them. These differences in taxation may be a primary consideration when a company chooses S status. It allows income taxes to be paid on company earnings just once: all at the individual level and at individual tax rates.

[D] Limited Liability Companies (LLCs) or Limited Liability Partnerships (LLPs)

Limited Liability Companies (LLCs) and Limited Liability Partnerships (LLPs) are created under state laws which govern their formation. Not all businesses can operate as LLCs or LLPs. For example, companies in the banking and insurance industries are prohibited from electing LLC status, and some states forbid professionals such as physicians and architects from forming LLCs. The attraction of LLCs and LLPs is advertised in their name. They offer limited liability to their members as a separate and distinct legal entity, as a corporation does, but they are generally taxed as partnerships under state and federal law. Indeed, LLCs and LLPs use the same reporting forms to their owners as partnerships: the Schedule K-1. Should a state allow LLCs and LLPs to elect to be taxed as a corporation, as some states do, the form in which they elect to be taxed will determine the status to be used for qualified plan purposes.

The owners of an LLC are known as members. There is no limit to the number of owners in an LLC. Contrast this with an S corporation that may have no more than 100 shareholders.

3.03 Ownership Issues

The Internal Revenue Code defines a 5% owner as a person who owns more than 5 percent of the outstanding stock of the company. While this may appear straightforward on the surface, an individual who does not actually own stock may be treated as a 5% owner through attribution of ownership.

Attribution of ownership is the concept of treating an individual as owning an interest that the individual does not actually own. Attribution of ownership may be the result of a family relationship or a business relationship. Under IRC §318 an individual is attributed ownership in the stock owned by a spouse, children, grandchildren and parents. Since application of nondiscrimination testing and qualified plan rules revolve around the identities of 5% owners as determined under IRC §318, awareness of not just the actual owners of the employer but also their family ties to other employees is essential.

2.04 Potential Fiduciaries and Others Associated with Plan Operations

Retirement plan administrators will collaborate with a number of other professionals who perform various services for their joint clients. Generally these professionals are not considered plan fiduciaries solely by reason of performing their normal professional services to a plan. They would be fiduciaries if they exercise control or management over the plan or its assets.

<u>[A] Accountants</u>

A plan administrator may employ an accountant to provide audited or unaudited financial statements and payroll information. As such, accountants may assist in the confirmation of the plan sponsor's taxpayer status, identification of owners and officers of the business, and serve as an additional source of knowledge regarding affiliated companies under common control.

At times, the accountant may be responsible for preparation of the plan's tax filing, the Form 5500. Additionally, plans with more than 100 participants generally must attach an independent accountant's opinion to the Form 5500, a service which might be provided by the plan's regular accountant if so qualified.

<u>[B] Consultants</u>

Any number of consultants is available to assist the plan administrator with the operation of the plan. Retirement plan professionals, insurance agents, financial advisors, brokers, and communication consultants all provide services for fees or commissions.

Predominantly, consultants offer services previously identified as ministerial functions. In practice, the consultant may be considered a fiduciary depending on the authority given to him or her by the plan administrator or may become a fiduciary as a result of the actions taken. An example would be a retirement plan administration firm that provides such a broad range of administrative services to the plan that the participants believe the firm is the plan administrator. Retirement plan administration firms must be wary of unintentionally extending their contracted services into the realm of discretionary authority over the plan and its operation unless they want to be considered plan fiduciaries.

[C] Investment Advisors

The size of the plan, the financial sophistication of the plan sponsor, the nature of the plan's assets, and the complexities of the plan's investment policy, will often dictate the number of investment advisors (financial consultants, brokers, investment managers or insurance agents) a plan administrator may engage. The investment advisors may direct, handle, and oversee the plan's assets or provide investment advice for plan participants.

DEFINED CONTRIBUTION PLANS

There are many types of defined contribution plans. These plans maintain a separate account for each individual participant. Each of these plans defines the contribution amount to be deposited into the participant's account. The participant bears the investment risk because there is no promised benefit to be paid at retirement like in a defined benefit plan.

Profit Sharing and 401(k) Plans;

- SIMPLE Plans;
- Money Purchase;
- Stock Bonus and Employee Stock Ownership Plans; and

The tax-advantaged arrangements which are broadly described in this section are not an exhaustive list. They are merely provided as examples of some of the available types of tax-advantaged arrangements and to enhance an understanding of the spectrum of retirement program options open to consideration by employers.

4.01 Profit Sharing Plans

<u>[A] Profit Sharing Plans</u>

Through a profit sharing plan, employees can be rewarded with a share in the employer's r revenue, which was generated in part due to their efforts. The employer may exercise discretion over the amount contributed to the plan each year and need not base the contribution on actual profits. Accordingly, the plan does not have to state explicitly what amount will be contributed each year, but it must contain a specific formula for allocating any contribution made to participants.

Example 3-1.Profit Sharing Allocation. An employer contributes $40,000 to its profit sharing plan for the current year. The allocation formula states that a participant will share in the contribution in proportion to the participant's compensation. If the sum of compensation for all plan participants eligible to share in the profit sharing contribution is $500,000 and a participant's individual compensation is $50,000, the participant will be allocated 10% ($50,000/$500,000) of the employer contribution, or $4,000.

Thus, an employer often selects a profit sharing plan for its employees because it can determine each year how much to contribute to the plan based on its financial condition. The employer may decide not to make a contribution for a particular year should the business climate be less than fruitful with little or no profits, or when the income is needed for other business expenses.

<u>[B] 401(k) Plan</u>

In order to encourage employees to actively save for their retirement and to bolster utilization of and appreciation for employer plans, today numerous employers are sponsoring the very popular salary deferral plan as described under Internal Revenue Code Section 401(k). Having the perhaps dubious distinction of being more commonly and widely known by its Internal Revenue Code Section number than its descriptive name, this type of profit sharing plan with a qualified cash or deferred salary arrangement (CODA) is referred to by the public and practitioner alike as a 401(k) plan.

4.02 SIMPLE Plans

Savings Incentive Match Plans for Employees (SIMPLEs) are designed to address the needs of small businesses and intended to simplify qualified plan administration for their sponsors, a SIMPLE must be the only plan sponsored by the employer, and only employers with 100 or fewer employees may utilize SIMPLEs.

All SIMPLE plans are exempt from nondiscrimination testing provided the employer makes the required contributions. As a caution created by their similar names, SIMPLE plans should not be confused with Simplified Employee Pensions (SEP).

[A] SIMPLE 401(k) Plans

A SIMPLE 401(k) is a type of 401(k) plan that permits only certain types of contributions and that does not require nondiscrimination or top-heavy testing.

Under SIMPLE 401(k) plans:

Classes of employees can be excluded from participating in a SIMPLE 401(k), provided that the minimum coverage rules are satisfied. Elective deferrals are allowed. After-tax employee contributions are not allowed. Catch-up contributions may be permitted.

The employer must make either a matching contribution of 100% of the first 3% of compensation deferred or an employer non elective contribution of 2% of compensation to all eligible employees. While the matching contribution only goes to those eligible employees who contribute, the non elective contribution must go to all eligible employees. The employer deposits employee and employer contributions in the same manner as traditional 401(k) plans. All contributions must be 100% vested; that is, they must be fully owned by the participant at the time of their contribution to the plan. Withdrawals are subject to the same withdrawal rules as traditional 401(k) plans. Loans to participants from their accounts are allowed. The plan is required to file Form 5500, an annual return/report, with the Department of Labor (DOL).

4.03 Money Purchase Plans

From the participant's perspective, a money purchase plan looks very similar to a profit sharing plan in that both are individual account plans. The differences, however, are substantial. While an employer may decide each year what level of profit sharing contribution it wishes to make, if any, a money purchase plan obligates the employer to contribute a specific amount or percentage of the participants' compensation to the plan each year. The specific contribution formula is written into the plan document, and the contribution is required to be made under the minimum funding requirement of IRC §412. Failure by the employer to meet the contribution or funding requirement will result in a 10% excise tax on the amount not contributed, the minimum funding deficiency, payable by the employer. This amount is in addition to the required money purchase contribution.

Example 3-5. Money Purchase Allocation. Sam earns $30,000 from ABC Company, sponsor of a money purchase plan that contains a contribution formula of 10% of eligible compensation. The plan's allocation formula is the same as the contribution formula. Sam's required allocation for the year would be $30,000 x 10% = $3,000.

The employer contribution formula generally will not exceed 25% of compensation, as that is the maximum deduction limit for the employer.

Now that the profit sharing plan alone can achieve the 25% maximum deduction limit, the usefulness of money purchase plans has diminished, and accordingly many of them have since been terminated or merged into their companion profit sharing plans to generate an additional savings on plan administration for one plan rather than two.

4.04 Stock Plans

It also should be noted that investment of plan assets in company stock does not automatically create a stock bonus plan or ESOP, and other types of plans may invest in employer stock. For example, defined benefit plans may have up to 10% of assets invested in employer stock. A key distinction here is that these plans are not intended to distribute benefits chiefly in the form of company stock, as is the case with stock bonus plans and ESOPs. ESOPs are quite complex and therefore are discussed in more detail in advanced ASPPA courses.

BASIC PLAN DOC LANGUAGE

The plan document functions as the rulebook for the operation of the plan under the qualification in operation doctrine as expressed earlier. Failure to follow the terms of the plan document constitutes an operational flaw that at a minimum would require corrective measures and at its ultimate would constitute a loss of qualified status under the Internal Revenue Code and ERISA. Familiarity with the plan document, therefore, is a necessity. In addition to containing the rules for eligibility and participation under the plan, it outlines the manner in which participants or beneficiaries may be entitled to receive benefits from the plan and the amount of those benefits.

The following sections—representing basic retirement plan fundamentals, important to the administration of any qualified plan—will normally be listed in the table of contents for a plan document, although not necessarily in this order.

- Definitions;
- Eligibility and Participation; Contributions;
- Benefits (if a defined benefit plan);
- Allocations (if a profit sharing, money purchase, or 401(k) plan);
- Vesting;
- Top-heavy provisions;
- Normal, Early, or Late Retirement;
- Death, Disability, and other benefits;
- Loans (additional language may be found in a separate document);
- Plan Amendment and Termination; and
- Trustee duties and administration (may be contained in a separate trust document).

Much of the language in the plan document as represented by these sections is text required either under the Internal Revenue Code or its regulations. With experience one begins to distinguish between the more standard IRS-approved language and the customized language that will vary from plan to plan.

Plan document drafters capitalize the first letter of words or phrases to indicate that the term can be found in the definitions section of the document. These definitions play an important role in the operation and administration of the plan. By incorporating a defined term into a particular provision of the plan, the definition acts to expand or narrow the application of the provision. Inaccurate application of a defined term, or failure to apply the definition as set forth, will affect the cost of the plan to the employer and the plan's qualified status.

<u>[A] Compensation</u>

The definition of compensation is normally referenced in the benefit and contribution or allocation sections of a plan document. Compensation for benefit and contribution purposes often includes the total compensation of a participant. However, plan sponsors are allowed to include or exclude certain components of compensation, such as elective deferrals, and moving expenses, so long as the result is a definition of compensation that does not disproportionately favor higher-paid employees. In this manner, sponsors have a degree of flexibility in limiting the eligible compensation that will be utilized by the plan for calculating benefits.

Example 4-1 Compensation: Mary earns $50,000 annually and elects to defer $5,000 into her employer's 401(k) plan. She also pays for her commuter transit pass with pre-tax dollars in the amount of $1,200 through a qualified transportation fringe benefit program. The 401(k) plan document defines compensation for purposes of the profit sharing contribution allocation as inclusive of elective deferrals and qualified transportation fringe benefits. The profit sharing allocation for the year is 2% of plan compensation. Although Mary's taxable income is $43,800 ($50,000 less $5,000 less $1,200), her profit sharing allocation will be $1,000 (2% x $50,000).

[B] Eligible Employees

The term eligible employee normally states that an employee who meets the definition of employee and who has met the eligibility requirements is an eligible employee. Because of the cross-referencing to eligibility determination, sometimes these definitions are found in the eligibility and participation sections of the plan document instead of the definitions section.

[C] Fiscal and Plan Year

The plan sponsor's fiscal year will be referenced in the definitions section of the plan document, as will the plan year. These periods may not always coincide.

For example a is an S Corporation that may use the calendar year as the fiscal year so that income passes through to the employee shareholders for reporting on individual tax returns but uses a non-calendar year for the plan year. In this case, the definition of fiscal year would be defined as the twelve consecutive month period ending December 31, where the definition of Plan Year might be the twelve consecutive month period commencing July 1 and ending June 30.

[D] Normal Retirement Date and Age

Some drafters of plan documents separate the definitions of normal retirement date and normal retirement age, while others combine the two into one definition. The definition of normal retirement age typically is a specific age, such as age 65, or a specified age and period of service, such as age 65 and the 5 anniversary of the date the participant first entered the plan. (The later of age 65 or the 5 anniversary of the date the participant first entered the plan is the statutory limit under the Internal Revenue Code.)

[E] Hours of Service

The hours of service definition is a fairly standard definition in all qualified plans as it must mirror Internal Revenue Code and DOL requirements. Employees usually earn or accrue hours of service for any hour paid, which may include time for vacation, holidays, jury duty, illness or military leave. Also, the application of the provision indicates the number of hours needed during the plan year, if any, to satisfy eligibility, vesting and contribution allocation requirements.

Because the statutory maximum number of hours an employee can be required to earn to become eligible is 1,000 hours, this provision in most plan documents will typically require 1,000 hours. Determining the number of hours of service for which an employee receives credit can sometimes become complex depending on the method the plan employs for counting or crediting hours worked for year of service calculations.

[F] Year of Service

There are several routinely employed definitions of year of service. The most common is defined as a consecutive 12-month period in which the employee has worked or is entitled to payment for at least 1,000 hours of service. To simplify vesting calculations (explained later in this chapter) and the allocation of contributions (explained in RPF-2) the 12-month period will generally be the same as the plan year, as this assures that all participants' service will be measured over the same twelve months.

Example 4-2. Year of Service. Mark is hired on June 10, 2007, and works 40 hours per week. As of June 9, 2008 Mark is credited with a year of service as he has worked more than 1000 hours in the twelve month period beginning with his date of hire.

Another commonly used method of counting years of service called hours equivalency modifies the elapsed time method by requiring a minimum number of hours or days to be worked during a given period if an employee is to be credited with service for that period. Service periods may be measured by days, weeks, months or semi-monthly.

5.01 Highly Compensated and Key Employees

[A] Highly Compensated Employee

One of the central tenets of qualified plan status is that a plan may not discriminate against the lower-paid employees and disproportionately favor the higher-paid employees in terms of plan coverage (discussed in RPF-2), the level or amount of benefits provided (discussed in RPF-2) or the availability of a benefit, right or feature of the plan (an advanced topic covered under more advanced ASPPA courses).Basic to this tenet is the statutory definition of a highly compensated employee (HCE). Generally, an HCE is any employee who satisfies either the ownership or the compensation test.

1. Ownership Test

An employee satisfies the ownership test if the employee is a 5% owner. As we discussed in Chapter 2, a 5% owner is defined as any employee who owns, directly or indirectly, more than 5 percent of the business regardless of compensation .Ownership status on any single day in either the current plan year or the 12-month period immediately preceding the current plan year (the look back year) is considered.

2. Compensation Test

An employee satisfies the compensation test if the employee earns more than $115,000 (as indexed for 2013) in the look back year. The compensation used is the employee's total compensation including any elective deferrals, such as those to 401(k) plans and cafeteria plans, as well as qualified transportation fringe benefits.

[B] Non-Highly Compensated Employee

Any employee, who is not an HCE, is a non-highly compensated employee (NHCE).

[C] Key Employee

The plan document is also required to contain sections that explain the top-heavy requirements for qualified plans. Top-heavy plans are those plans that are deemed to benefit primarily a group of participants called key employees, and as a consequence, these plans must meet special standards regarding vesting and minimum contributions or benefit accruals.

For purposes of top-heavy testing, a key employee is any employee or former employee who, during the testing period, is a 5% owner, a 1% owner or an Includible officer.

1. 5% Owner

As we discussed in Chapter 2, a 5% owner is defined as any employee who owns, directly or indirectly, more than 5 percent of the business regardless of compensation.

2. 1% Owner

A 1% owner is any employee who owns, directly or indirectly, more than 1 percent of the business and whose annual compensation exceeds $165,000. Note that this compensation limit is not indexed.

3. Compensation

The definition of compensation used for the key employee determination is the same as the definition of compensation used for the HCE determination: the employee's total compensation including any elective deferrals, such as those to 401(k) plans and cafeteria plans, as well as qualified transportation fringe benefits.

Also, note that a 5% owner would be both an HCE and a key employee. However, the differences in compensation limits for the inclusion of 1 percent ownership and officer status within the definition of key employees will usually serve to create more HCEs than key employees.

5.02 Eligibility and Participation

The definitions section of the plan document will typically incorporate a reference as to how a participant fulfills the plan's eligibility requirements. The eligibility and participation section will generally narrow the definition of eligible or participating employees by listing groups of employees who will be excluded from plan coverage, such as:

- Those employees who have not worked a certain minimum number of hours or months; or
- Have not attained a certain age; or
- Who are members of a specific group, such as union employees.

This section varies considerably from plan to plan because each plan sponsor will select permissible eligibility and participation requirements that best suit its goals and reflect the composition of its workforce.

[A] Eligibility Date

The Internal Revenue Code permits an employer to require an employee to reach age 21 and complete a year of service before the employee becomes eligible to participate in a plan. For plans that provide full and immediate vesting (immediate 100% ownership of benefits upon entry into the plan) an employer may condition participation on the completion of more than one year of service.

In such cases, the maximum service period that can be required is two years. There is an important exception to this rule for the 401(k) feature of profit sharing plans, under which the maximum eligibility period for elective deferrals may never exceed one year, regardless of vesting provisions.

Example 6-4. Eligibility. Sue is age 20 when she begins working for XYZ Company on June 15, 2007. Her date of birth is October 23,1987. The XYZ retirement plan uses a calendar plan year and requires one year of service and attainment of age 21 for plan eligibility. Sue will have meet the one year of service requirement on June 15, 2008 and will be age 21 on October 23, 2008. Therefore, she will have met the eligibility requirements on October 23, 2008

[B] Entry Date

Note that there is a distinction between the dates an employee becomes eligible to participate in the plan by completing all requirements for eligibility and the date that the employee actually becomes a participant under the plan. The effective date of an employee's participation is the plan entry date, or simply the entry date.

Eligibility and participation are not the same thing, and the distinction between them is a very important one. Deductibility of contributions, required contributions, minimum benefits or contributions, coverage and nondiscrimination requirements all directly relate to these definitions. Therefore the plan document should be carefully studied to determine when an employee becomes eligible to participate in the plan, and when that employee actually begins to participate or enters the plan.

The Internal Revenue Code states that for any employee who meets the eligibility requirements of one year of service and attainment of age 21, must be eligible to participate in the plan no later than the earlier of two dates:

- The first day of the plan year beginning after the date the employee met the eligibility requirements, or
- The date six months after the age and service requirements is met.

Example 4-5. Latest Permissible Entry Date. Amy is age 25 when she begins working for QRS Company on August 4, 2007. The QRS retirement plan uses a calendar plan year and requires one year of service and attainment of age 21 for plan eligibility. Amy completes the eligibility requirements as of August 3, 2008 and must be eligible to become a participant in the plan no later than January 1, 2009.

In order to meet the minimum entry date many plans offer semiannual or quarterly entry dates to make sure that an employee does not exceed the statutory entry date.

Example 4-6. Quarterly Entry Date. Using the same facts above except that the plan offers quarterly entry dates on the first day of each calendar quarter. Amy meet the age requirement on the date she was hired then met the one year service requirement on August 3, 2008. The next quarterly entry date after she completed the eligibility requirement would be October 1, 2008.

4.03 Vesting

[A] Vesting Rules

The vested portion of the participant's account is the portion owned by the participant and is the amount that will be paid to him or her upon a distributable event, such as retirement or other occurrence when the Internal Revenue Code or ERISA would allow the plan to distribute benefits. Employees usually earn full ownership of their accounts in increments based on the number of years of service completed with the employer. In this manner, continued service with the plan sponsor is rewarded by steadily increasing ownership of the retirement benefits provided by that plan sponsor.

The schedule of increasing ownership, or vesting schedule, generally appears as a table with one column listing years of service and the second column showing the corresponding vested percentage. For example, a commonly used vesting schedule is the six-year graded (or 2/20) vesting schedule:

Years of Service	**Vested %**
Less than 2	0%
2	20%
3	40%
4	60%
5	80%
6 or more	100%

[B] How to Apply a Vesting Schedule

A participant's vested portion is calculated by multiplying the participant's account balance for defined contribution plans, or benefit amount (accrued benefit) for defined benefit plans, by the vesting percentage that corresponds to the participant's credited years of service.

Not all years of service are required to be counted in the computation of the vesting percentage. These excluded years generally are either noted in the vesting section or in the definitions section where year of service is explained.

Example 4-7. Vesting. Eric participates in a profit sharing plan with a six-year graded vesting schedule, has been employed full time for the last three years, and has a profit sharing account balance of $10,000. His three years of service makes him 40% vested. Thus, his vested profit sharing account balance is $4,000 ($10,000 x 40%).

CHAPTER: 06

MAJOR FINDINGS

The reporting rules and regulations in the American retirement benefit plan are very organized. The retirement plan industry is operated following the IRS (Internal revenue service) and DOL (Department of labor) guidelines. The reporting is mainly done by following the ERISA code (Employee Retirement Income Security Act). The smooth operation and functioning of retirement industry depends upon the oversight function performed by the IRS and DOL. The important characteristics of American retirement industry are that the employer always tries to reduce the discrimination between the highly compensated employee and non-highly compensated employee. The ERISA code specifically defined the highly compensated employee and non- highly compensated employee. This retirement benefit plan is also perform coverage test to ensure whether all employees are included in the plan or not. To ensure equal benefit among the highly compensated employee and non-highly compensated employee the employer perform some nondiscrimination testing such as ADP/ACP test, top heavy test etc. if the plan is top heavy (the key employee holds more than 60% of the plan assets) then to equalize the benefit of non-highly compensated employee the employer make 3% qualified non-elective contribution (QNEC) to the all non-key employee. To narrow up the discrimination between the highly compensated employee and non-highly compensated employee the employer performs all types of test.

CHAPTER: 07 REASONS FOR OUTSOURCING

By Outsourcing to third world developing nations such as Bangladesh, India, Vietnam etc. companies can exploit the cheap labor and infrastructure facilities available in those lands and in turn cut down on man power costs, reduce operational costs and capital expenditure. Data-Path is not exception in this case. I found some major reasons for outsourcing those are mentioned below:

Skilled manpower at lower rates

Outsourcing gives an organization the chance to get access to skilled and trained man power at extremely lower rates that will lead to an increase in productivity and save costs in a major way. We heard that, the salary of a person in USA of our position is $10,000 so it is equal to TK. 700,000, but we are working at a very lower rate.

Alleviate Worker Shortages

Data-Path overcame the scarce IT skills, reduced issues of available qualified and right IT resources as well as the difficulties and challenges in recruiting, retaining and managing knowledgeable IT staff to keep pace with business growth.

More Profitable Use of Valuable In-House Resources

There is compelling benefit for management and support staff to concentrate on developing and implementing its core business and IT strategies. In short, Data-Path is free to concentrate on its core business and the outsource provider can concentrate on its core roles and objectives which is staying current with evolving technology.

Stay-Focused on Core Business

Data-Path is able to stay focus in its core areas to drive business growth and operational efficiencies: -

- Increase innovation on new projects, product designs etc.
- Improve end-to-end product development life cycle, including product line, scheduling and fast track ordering cycle time.
- Needs process changes.

- Develop a more efficient onshore product development process with their higher value-added experts.
- Improve speed of market acceptance.
- Increase customer needs and improve customer satisfaction.
- Streamline operating cycle without interferences.
- Reduce the management burden while retaining decision-making control.
- Respond quickly to competitive threats (new product features, new innovations).

Access to World-Class Capabilities:

Organizations that lack strategic relationships with world-class technology vendors would eye for outsourcing to gain access in the emerging technologies and to strengthen their competitive market position. IT extends into the realm of economies of skill and the ability it provides a client to engage an entirely new skill set demand. Because business strategy so often turns with technology, this early access to new IT capabilities can be a distinct advantage in a competitive market.

Accelerate Business Transformation

Outsourcing is used to accelerate time to market through enabling business transformation, providing access to new skill sets, improving the quality of service and allowing organizations to focus on their core business.

Outsource providers can rapidly and easily scale up and down to provide an agile infrastructure in response to changing business needs. This enables an organization to rapidly assimilate or eliminate specific skills or resources needs as they change within a given architectural environment. For instance, database developers can be deployed to help the organization migrate to a new data management system. The talent and best-of-breed capabilities of these specialists would be put to heavy use during development and implementation phases, and then reduced to a maintenance level for ongoing operation. In short, the organizations can access different skills and technology as needed to accelerate their business transformation.

Smoother, Less Costly Technology Migration

Outsourcing can radically reduce the cost and risk of upgrading technology by allowing a company to rework selected features and functions rather than entire applications. Because outsourcing providers offer access to many different platforms.

Share Risks, Risk Management

Outsourcing provides guaranteed access to relevant skills and knowledge. At least, outsourcing can reduce risk of unscheduled downtime - Another key benefit is the elimination of unplanned downtime. In the advent of a disaster, a provider can leverage its expertise and establish procedures to rapidly return a client company's IT infrastructure to full operational capability.

Beat Competition

In a fast paced economy a company needs to provide the best service to its customers in order to retain them and do all this by keeping the rates low. Outsourcing in this case can help the company maintain lower rates with better service thereby helping them to stay abreast of the competition. These outsourcing advantages are well an indication that the outsourcing market has a great future.

CHAPTER: 08 PROBLEMS IDENTIFIED

- Most of the employer is not concerned for providing the employee related information to the TPA (Third party Administrator).
- There are some employer who does not prepare allocation Report many years it creates problems for comparison and determination of highly compensated employee and key employee.
- Most of the time the employer does not clearly indicates the nature of matching contribution whether it will be enhanced match or basic match.
- The employer does not indicate the time when they want to do the match whether at the end of the year or each payroll period.
- Some time we faced that our fiber optic line is cut down or the BTCL link is down then we have to stop our job until the fiber optic connection gets ok.

RECOMMENDATIONS

- The employee as well as the employer should have the literacy about the retirement benefit plan so that they understand the difficult issues.
- The plan sponsor has to attend the ASPPA courses so that he/she can easily understand the retirement plan terms and conditions.
- The third party administrator allocation members should attend the advanced ASPPA courses and must be ASPPA graduate.
- They should have to prepare the allocation report regularly and file the Form-5500 every year to avoid the IRS penalties.
- The client relationship manager should be expert in the retirement industry so that he/she can give the accurate information to the plan participants.

CHAPTER: 10 CONCLUSION

After exploring the IRS rules and regulations it may be conclude that the American retirement benefit plan is encouraging the American citizen to save money for their old age. The smooth functioning of a, industry depends upon the activities of the institution which over sighted the function of the industry. For all types of retirement benefit plan reporting the IRS and DOL has the separate dead line to submit the report which must be maintained by the plan sponsor. The IRS not only impose penalty for non-compliance with the regulations but also give incentives to those plan sponsor who are always complied with the IRS and DOL guidelines. The employer who has retirement benefit plan can get the tax benefit from the federal government. The employer profit sharing and matching contribution which is contributed by the employer is fully tax exempted. So set up the retirement benefit plan has twofold benefit. One is the employee satisfaction to work because they have the financial security at their old age and another one is tax benefit from the central government. The American retirement benefit plan is making contribution to their stock market and makes people interested about the stock market and contributing the overall economy. This report may help to improve the retirement benefit system of Bangladesh.

APPENDIX

Acronyms:

ACP	—	Average Contribution Percentage
ADP	—	Average Deferral Percentage
ASPPA	—	American Society of Pension Professionals & Actuaries
DOL	—	Department of Labor
ERISA	—	Employee Retirement Income Security Act
IRS	—	Internal Revenue Services
IRC	—	Internal Revenue Code
LLC	—	Limited Liability Company
LLP	—	Limited Liability Partnership
RPF	—	Retirement Provident Fund
SIMPLE	—	Savings Incentive Match Plans for Employees
TPA	—	Third Party Administrator

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