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## ASPA's Board of Directors Recommends a Name Change and Re-Branding for 2004



by Stephen H. Rosen, MSPA, CPC

### A NEW NAME, A NEW IDENTITY

BASED ON THE RECOMMENDATIONS OF THE 2003 NAME CHANGE TASK FORCE, ASPA'S 2003 BOARD OF DIRECTORS VOTED TO SUBMIT A NAME CHANGE TO ASPA'S MEMBERSHIP. SPECIFICALLY, THE BOARD RECOMMENDS THAT ASPA'S LEGAL NAME, WHICH IS CURRENTLY "THE AMERICAN SOCIETY OF PENSION ACTUARIES," BE CHANGED TO "THE AMERICAN SOCIETY OF PENSION ACTUARIES, ADMINISTRATORS, AND OTHER RETIREMENT PLAN PROFESSIONALS."

This proposed name is much too long and impractical for marketing purposes. If our goal is to successfully compete in the industry by increasing name recognition and public awareness of ASPA's programs and designations, it is essential that the name we use publicly be short, contemporary, and memorable in a world where sound bites are the rule, not the exception. A name change initiative is also an ideal opportunity to launch a re-branding campaign and reinvent ASPA with a new "face." With all of this in mind, the Board has also proposed to re-brand ASPA using a

new tagline, "ASPA—The Retirement Plan Professionals." The full legal name will be used and referred to when an explanation of our acronym is necessary, but the acronym and tagline will be used in most forms of public communication.

The Board also agrees that, in addition to the re-branding campaign, resources should be devoted to increasing the awareness of ASPA and its designations.

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## WASHINGTON UPDATE

### Next Year Is Going to Be a Wild Ride



by Brian H. Graff, Esq.

BY THE TIME YOU RECEIVE THIS, I HOPE THAT YOU ARE NOT TOO SWAMPED WITH END OF THE YEAR PROJECTS AND THAT YOU ARE ABLE TO ENJOY SOME PLEASURES OF THE HOLIDAY SEASON. IN MY CASE, I AM CERTAINLY GOING TO TAKE A MOMENT OR TWO TO ENJOY THE SPIRIT OF THE SEASON BECAUSE I AM AFRAID THAT NEXT YEAR IS GOING TO BE A WILD RIDE. FOLLOWING IS A PREVIEW OF SOME OF THE MAJOR ISSUES ASPA'S GOVERNMENT AFFAIRS COMMITTEE IS EXPECTING TO BE DEALING WITH NEXT YEAR.

#### THE THREE SISTERS OF SAVINGS (LSAs/RSAs/ERSAs)

There is a decent likelihood that the President is going to make these proposals the centerpiece of his economic agenda. This means that when he gets to the domestic economic policy portion of the State of the Union address, these proposals will be the first thing that he talks about. If you can, put aside your concerns about these proposals for a moment. The fact that the President of the United States would make savings/retirement savings the centerpiece of his economic agenda is an extraordinary development. I have been working in retirement policy for 15 years and I never imagined these issues would get this level of attention.

Of course, this fact does not minimize the serious concerns that ASPA has about the proposals, as expressed in previous articles. We are meeting frequently with senior officials at Treasury and the White House to express these concerns and provide suggestions on ways that the proposals can be modified so as not to harm employer-sponsored plans. At the top of this suggestion list are reduced contribution limits for LSAs and RSAs and retaining cross-testing and other nondiscrimination testing techniques for qualified plans. We have been vociferously making the case that unless

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*ASPA Wishes  
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From the Editor

It Takes a Village

by Chris L. Stroud, MSPA

ACCORDING TO HILLARY CLINTON'S BOOK, "IT TAKES A VILLAGE" TO RAISE OUR CHILDREN IN TODAY'S WORLD. SIMILARLY, IT ALSO TAKES A VILLAGE TO KEEP ASPA THRIVING. ASPA NEEDS CONSTANT ATTENTION AND NURTURING, AND HOW WE GROW AS AN ORGANIZATION AND THE DIRECTION WE TAKE IS DETERMINED BY OUR VARIOUS SPHERES OF INFLUENCE.

In this season of Thanksgiving, it is only appropriate to thank the leaders of our Village—those who give the utmost—their knowledge and their time—to help our organization prosper. Special thanks go to the members of the Executive Committee and the Board of Directors, all ASPA committee volunteers, and the ASPA staff, who work tirelessly to keep things running smoothly throughout the year.

ASPA's leadership has spent a considerable amount of time over the past few years changing their methods to become more strategic. Careful consideration has been given to the changes in our industry, and many discussions have involved issues relating to the ways that our profession and our organization are changing. Our Village consists of a diverse group of individuals who share a common interest in furthering education within our industry and promoting retirement security for our country. We are no longer solely a group of pension actuaries looking for a home—we are also consultants, administrators, accountants, advisors, attorneys, and other retirement plan professionals who consider ASPA a home and a resource for our professional needs.

ASPA thrives from the diversity of our membership and the many disciplines that are represented in all that we do as an organization. We have made a name for ourselves in the education arena and we have a strong influence in government affairs. It takes many volunteers and volunteer hours to achieve the recognition we have come to appreciate. It is critically important to have a steady stream of new volunteers participating in various functions and serving on all ASPA committees. New volunteers bring new

perspectives and help our organization remain progressive and influential. It is easy to understand that, for many members, it is hard to find the time to volunteer for ASPA duties. Many of us feel we are already juggling duties between home, work, our families, and other outside interests. Perhaps if you think of it as "composing" instead of juggling—as Hillary Clinton refers to in her book and as Mary Catherine Bateson did before her in the book *Composing a Life*—it might be easier to find some time to volunteer. Both authors refer to the metaphor of composing as "making something beautiful, like a patchwork quilt, of the elements we choose"—and perhaps time spent with ASPA can simply become one of those elements that adds value to your life. I certainly feel that the friendships and business relationships that I have formed through various ASPA functions and duties have added significant value to my life.

ASPA and our industry are experiencing some growing pains. We are growing as an organization, and we are consolidating as an industry. Mutual funds are coming under scrutiny, and the investments in many of the plans we represent and the way we do our business could be affected. Tax proposals, if enacted as currently proposed, could be devastating to the establishment and continuation of small plans. It is important that we stand as a united force and face the challenges and changes that await us in the future. At the same time, we need to look at who we are and determine who we should open our arms to as an organization, and we need to make sure we have something to offer to all those who consider ASPA as a

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The purpose of ASPA is to educate pension actuaries, consultants, administrators, and other benefits professionals, and to preserve and enhance the private pension system as part of the development of a cohesive and coherent national retirement income policy.

ASPA members are retirement plan professionals in a highly diversified, technical, and regulated industry. ASPA is made up of individuals who have chosen to be among the most dedicated practicing in the profession, and who view retirement plan work as a career.

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professional home. We need to look at what our name should be and make sure it represents who we are—and also make sure it lets the public know who we are, as we will all benefit from more recognition. We need to make sure that the education we provide is second to none in our industry, and we need to continue to raise the bar for the level of professionalism in all aspects of the retirement planning industry. We need to get involved in grassroots efforts, when needed, to ensure retirement income security for our future and our children's future. We need to do many other things as

an organization, too numerous to mention in this article. Finally, to succeed in all we do, we need help from the residents of our Village—our members, volunteers, and staff.

In closing, I'd like to leave you with one last thought, a Verna M. Kelly quote appearing in Hillary Clinton's book. "Snowflakes are one of nature's most fragile things, but just look what they can do when they stick together." Together, we too can do great things! **Have a safe and happy holiday season! ▲**



ASPAs 2003 Executive Committee and ASPAs Executive and Managing Directors.



The ASPA staff that helped at the 2003 ASPA Annual Conference.

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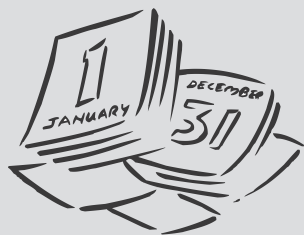
## Washington Update

these two issues are adequately addressed, small business retirement plan coverage will be threatened.

Treasury and the White House will probably not make final decisions on the details of the proposals until late December 2003. In the meantime, we will continue our intensive lobbying efforts. At this point, we are somewhat hopeful that Treasury and the White House have

come to appreciate the concerns we have raised. Although it may be hard to imagine, it is even possible that a restructured LSA/RSA/ERSA proposal may ultimately be viewed favorably by ASPA. Assuming cross-testing is retained, there are simplification provisions in ERSA that would be viewed favorably by plan sponsors.

Regardless, everyone should take these proposals very seriously. Since the proposals will be the centerpiece of the President's economic agenda, they will definitely be marked up in the House Ways and Means and Senate Finance Committees. The proposals will probably be brought to the floor of the House and the Senate for a vote. Even if these proposals are not enacted next year, the President will likely make them a key component of his campaign platform. All of this means that these proposals are certainly going to get a lot of attention next year and possibly in the years to come.



### Don't miss...

...the Pension Conference, sponsored by LIMRA, LOMA, and the Society of Actuaries, to be held at the Flamingo Las Vegas, March 31–April 2, 2004. ASPA's Executive Director, Brian H. Graff, Esq., will be the key-

note speaker addressing legislative proposals. The conference will also cover sales, distribution, and marketing issues facing companies and individuals actively involved in the ever-changing institutional pension business. For more information, visit <http://www.loma.org/pension.asp>.

### DEFINED BENEFIT PLAN FUNDING ISSUES

By the time you read this, Congress will have hopefully enacted a short-term "fix" to the 30-year Treasury bond issue. It will probably be for either two or three years using a corporate bond rate based on

long-term corporate bond indices. However, it will only be for purposes of determining current liability. Lump sums under Section 417(e) will still likely need to be determined using the 30-year rate.

The fact that the legislation is short-term means, of course, that Congress is not done with the issue. However, in addition to finding a long-term solution to the interest rate benchmark for both funding and lump sum benefit purposes, it now appears likely that Congress will be examining much broader funding issues as well. The Administration has been examining these issues for some time. We expect that Congress will announce a set of proposals next year that would, if enacted, significantly change all aspects of the current defined benefit plan funding rules. There may also be proposed changes to PBGC's premium structure. All of these proposed rules will likely go far beyond the yield-curve proposal announced by the Administration this summer, including the proposals to dramatically change funding methods.

#### CASH BALANCE PLANS

The soap opera of cash balance plans more and more resembles reruns of *Dark Shadows*. As of this writing, it appears that Congress, in an appropriations bill, is going to prevent Treasury from finalizing its proposed regulations, which would have clarified many of the legal uncertainties surrounding cash balance plans. Even if Congress does not get to this appropriations bill before recess, Treasury has informally indicated that they have no intention of finalizing the regulations and taking this issue head-on in an election year. Further, Treasury is considering some legislative proposals that would address the cash balance plan legal issues, which will likely be announced early next year.

Meanwhile, this past summer, a 7<sup>th</sup> Circuit District Court in the IBM case declared the basic cash balance design per se in violation of ERISA's age discrimination provisions. This holding would apply to cash balance plans, whether or not they were converted from a preexisting traditional defined benefit plan. Many ASPA members have helped employers adopt new, non-converted cash balance plans, which provide excellent guaranteed benefits for employees. ASPA's Government Affairs Committee believes that it is critical for Treasury and Congress to act quickly to resolve the legal questions surrounding these non-conversion cash balance plans. Otherwise, valuable retirement benefits for employees will be at risk.

#### LATE-DAY TRADING

On December 3, the Securities and Exchange Commission (SEC) is scheduled to issue proposed rules intended to prevent future illegal late-day trading activity like that which has been recently uncovered.

The proposal is expected to require that the mutual fund company receive a mutual fund trade by 4:00 p.m. EST in order to get the same day's price. The proposed regulation will likely have a short comment period, so at this point it seems likely that some rules will take effect early next year.

ASPA's Government Affairs Committee has been very actively involved in this issue. If the SEC ultimately adopts the proposal currently being considered, it will significantly disrupt retirement plan administration, forcing most employees participating in a daily valuation plan into next-day trading status. This situation will occur, frankly, without any real protection against future late-day trading. ASPA believes that the use of existing computer systems and processes involved in retirement plan administration is the most efficient and secure way

## Next Year Is Going to Be a Wild Ride with the Three Sisters of Savings (LSAs/RSAs/ERSAs), DB Plan Funding Issues, Cash Balance Plans, and Late-Day Trading.

to prevent late-day trading, and it can be done without affecting the investment rights of participants. We were successful in getting language instructing the SEC to accommodate these systems and processes added to the mutual fund reform bill, which passed the House of Representatives 418-2. Unfortunately, the Senate did not act and may not do so before the SEC finalizes its rule. We will continue to work hard throughout the rest of this year and into the next to strive toward a solution that does not dramatically affect the retirement plan marketplace. ▲

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*Brian H. Graff, Esq., is the Executive Director of ASPA. Before joining ASPA he was pension and benefits counsel to the US Congress Joint Committee on Taxation. Brian is a nationally recognized leader in retirement policy, frequently speaking at pension conferences throughout the country. He has served as a delegate to the White House/Congressional Summit on Retirement Savings, and he serves on the employee benefits committee of the US Chamber of Commerce and the board of the Small Business Council of America.*



# HIPAA and Health FSAs— After the Dust Settles

by Sheila L. Parker, QPA

THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA) WAS PASSED INTO LAW BY CONGRESS WITH THE OVERALL GOAL TO IMPROVE THE PORTABILITY AND CONTINUITY OF HEALTH INSURANCE COVERAGE. THE TASK OF IMPLEMENTING AND REGULATING HIPAA WAS THEN GIVEN TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES (DHHS).

Most of us cannot help but be aware of the privacy rules that became effective under HIPAA on April 14, 2003. If you have walked into the office of your family doctor or other health care provider during the last few months, you have no doubt been bombarded with HIPAA material to peruse and authorizations to sign.

Those of us in the Section 125 business were hopeful the DHHS would throw us a bone and exclude health FSAs from the privacy portion of the HIPAA rules. (While health FSAs were not specifically mentioned in the general language, their inclusion was implied based on HIPAA's definition of group health plans.) Although there are rumblings of the possibility of a reprieve at a future date, our reality today dictates compliance with HIPAA. Third party administrators (TPAs) must be particularly cautious with health FSA plans since the HIPAA rules apply not only to plan sponsors but to those providing administrative services.

HIPAA included several components, each with its own compliance deadline. Most of the current attention is in Part Two of HIPAA. Before we discuss those issues, let us recap Part One.

## PART ONE OF HIPAA

### *Portability, Enrollment, and Nondiscrimination*

One driving factor behind HIPAA was the perceived need to provide participants with increased portability between health plans. The intent was to make a smoother transition from one employer's health plan to the next employer's health plan (but does not mean the participant gets to keep the same coverage). HIPAA limits the ability of a health plan to exclude the coverage of certain preexisting medical conditions. It also made preexisting condition exclusions inapplicable to adopted children, pregnancy, and certain newborns. In practice, these new preexisting condition rules will have little or no impact on health FSAs because few plans normally impose limits on the reimbursement of preexisting conditions.

Special enrollment periods were also created for individuals who failed to enroll at their initial eligibility

date due to preexisting coverage under another group health plan and individuals who became dependents through marriage, birth, or adoption.

HIPAA also prohibits discrimination against individual participants and beneficiaries based on health status as it applies to both eligibility and premiums. For example, if a group health plan is subject to HIPAA, then coverage cannot be denied to individuals who might otherwise be uninsurable (*e.g.*, because of cancer).

### *Certification Requirements*

In some cases, the limit on covering preexisting health conditions is based on whether an individual had coverage under a prior health plan for the same condition. In order to implement this provision, new certification requirements also became effective for plan years beginning after June 30, 1997. (What would a new law be without the paperwork!) Plan sponsors were required to begin providing "Certificates of Creditable Coverage" to individuals who lose coverage under an employer-provided health plan or who would have lost coverage except for an election to take COBRA continuation coverage. The certificate of coverage can then be given to the new health plan provider in order to determine if the new plan's pre-existing condition limitation applies to that individual.

Thus, while most health FSAs do not impose preexisting conditions, if HIPAA applies, then the administrator may need to provide an individual who loses coverage under the health FSA with a certificate of creditable coverage. There are exceptions (of course) to the various provisions of HIPAA and different exceptions apply to different provisions. There is a special regulatory exception designed solely for health FSAs that meet certain conditions. The plans meeting the specified conditions are considered excepted benefits. These plans are discussed in detail in the *Health FSA Clarification*, issued December 29, 1997, by the IRS together with the Department of Labor and the Health Care Financing Administration. In general, most health FSAs will be exempt from

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# 401(k) Planning Opportunities

by Hollie Brostek, QPA

OVER THE PAST SEVERAL YEARS, THERE HAVE BEEN SWEEPING CHANGES AFFECTING MANY ASPECTS OF QUALIFIED RETIREMENT PLANS, MAKING THEM MORE ATTRACTIVE TO THE SMALL EMPLOYER. SOME OF THESE CHANGES ARE BROAD REACHING TO ALL PLANS AND SOME ARE SPECIFIC TO 401(k) PLANS. THIS ARTICLE WILL EXPLORE HOW BOTH THE BROAD REACHING AND 401(k) SPECIFIC CHANGES CAN BE COMBINED TO INCREASE THE MARKETPLACE FOR 401(k) PLANS. 401(k) PLANS CAN NOW BE BENEFICIAL IN SITUATIONS WHERE, IN THE PAST, THEY WOULD SEEM UNCONVENTIONAL FOR SPECIFIC EMPLOYERS. CAREFUL PLANNING AND A WIDE KNOWLEDGE OF THE NEW LAWS ARE MORE ESSENTIAL THAN EVER IN THIS NEW ENVIRONMENT. PLAN SPONSORS WHO, IN THE PAST, FOUND IT FINANCIALLY BENEFICIAL TO USE "BOILER PLATE" BROKERAGE HOUSE DOCUMENTS MAY NO LONGER HOLD THIS OPINION. THIS ARTICLE WILL ATTEMPT TO EXPLORE VARIOUS SPECIFIC SITUATIONS AND POSSIBLE PLANNING OPPORTUNITIES. FIRST, A BRIEF HISTORY OF THE REGULATORY CHANGES THAT AFFECT THE SCENARIOS COVERED IN THIS ARTICLE:

## SBJPA

- A Safe Harbor alternative to the ADP and ACP tests was introduced that included a design-based method to satisfy the nondiscrimination tests.

## TRA '97

- Matching contributions for self-employed individuals were no longer treated as elective contributions.

## EGTRRA

- Catch-up contributions were added to provide additional elective deferrals for those participants at or over age 50 (\$1,000 in '02, \$2,000 in '03, \$3,000 in '04, \$4,000 in '05, and \$5,000 in '06).
- The elective deferral limit was increased (\$11,000 in '02, \$12,000 in '03, \$13,000 in '04, \$14,000 in '05, and \$15,000 in '06).
- The maximum deduction for a Profit Sharing plan was increased from 15% to 25%.
- Elective deferrals are no longer included in the overall 25% of pay Defined Contribution plan deduction limit.
- Elective deferrals are in addition to the Defined Benefit plan funding requirement even if it exceeds 25% of pay.
- The maximum individual annual addition limit has been increased to the lesser of \$40,000, or 100% of pay.
- The maximum salary that may be used for plan purposes is \$200,000.
- A 401(k)(12) Safe Harbor plan that consists solely of matching and/or non-elective contributions that satisfy the ADP and ACP test safe harbors will not be treated as a top heavy plan even though the account balances of key employees exceed 60% of the total account balances. Thus, if a basic

match is utilized, an additional top heavy contribution need not be made for those non-key participants who receive less than a 3% employer contribution.

The above regulatory changes have had the greatest impact in the 401(k) plan arena for small employers. We are seeing many more employers convert to or establish Safe Harbor 401(k) plans. Further, we have also seen a great deal of growth in the establishment of a 401(k) Plan where only the owner and/or his or her spouse is eligible to participate [the "single (k)"]. Some of these examples may seem a bit unconventional (pre-EGTRRA thinking); however, in certain circumstances they work very well. First, we will explore Single 401(k) planning ideas; second, Safe Harbor 401(k) planning ideas.

## SINGLE 401(k) PLANNING IDEAS

### Single 401(k) Planning Idea 1

This type of plan is most advantageous where the owner is the only eligible employee and the earned income is not sufficient to obtain a \$40,000 contribution with a straight 25% Profit Sharing plan (*i.e.*, salary/earned income less than \$160,000).

### WHY DOES THIS WORK?

- The maximum deduction has been increased to 25% and no longer includes the salary deferrals (up from 15% including salary deferrals).
- The individual annual addition limit is now the lesser of \$40,000 or 100% of pay (up from 25%).

### WHAT IS THE MAJOR BENEFIT?

- Tax savings—since the owner can achieve a \$40,000 contribution on a much lower salary.

Continued on page 20

## ASPAs Board of Directors Recommends a Name Change and Re-Branding for 2004

The Board has heard the members' concerns about the lack of recognition and are whole-heartedly committed to increasing the recognition of our organization, its programs, and the professional designations of our credentialed members. To that end, the Board has also made a financial commitment to add projects that would increase the awareness and value of ASPA's designations. The commitment to re-branding and to increasing public awareness together increase the importance of having an appropriate name in order to ensure that the campaigns are successful.

### Where Do We Go from Here?

While the Board has recommended a name change, a membership vote is necessary before the name can be officially changed. Sometime within the next few months, we will be sending an e-mail survey requesting your feedback and opinion on the new name. When and how we move forward with an official membership vote on a new name (via mailed ballot) will depend on the survey results and feedback that we receive from ASPA's membership.

It is very important to ASPA's Board of Directors that, prior to a final vote, the membership has knowledge and understanding of the thought process behind the final recommendation. The recommendation was driven not only by Board and Executive Committee input, but also involved the creation of the Name Change Task Force, member focus groups with a professional facilitator, consultation with an outside consulting firm, and a name recognition survey.

The remainder of this article outlines the entire name change process and all pertinent discussions that took place prior to the final recommendation and Board vote. We urge you to read this article in its entirety so that you can gain an understanding of the issues involved. We also urge you to complete the e-mail survey when you receive it so that we can consider your valuable input in preparation of our membership vote.

### Why Change ASPA's Name?

#### *A Changing Membership*

The primary reason the Board began to consider a name change is that the name, "The American Society of Pension Actuaries," no longer accurately reflects ASPA's membership composition. While ASPA was founded in 1966 as an actuarial organization, the growing needs of the industry led to the expansion of our membership to include retirement plan professionals of all types: consultants, administrators,

insurance professionals, financial planners, investment professionals, accountants, attorneys, human resource personnel, and others.

As of November 2003, ASPA had 5,149 members, categorized as follows:

- 694 (13.5%) Actuaries (FSPA/MSPA)
- 639 (12.5%) Consultants (CPC)
- 2,062 (40%) Administrators (QPA/QKA)
- 210 (4%) Associated Professionals (APM)—primarily attorneys and accountants; some CLUs, CFPS, enrolled agents, APAs, and FLMLs.
- 1,544 (30%) Other Benefits Professionals (Affiliates)—primarily consultants, administrators, compliance specialists, recordkeepers, sales professionals, investment professionals, and other advisors.

In the early 1990s, as ASPA added more consultants and administrators, the Board of Directors adopted "Actuaries, Consultants, Administrators, and Other Benefits Professionals" as a tagline. Subsequently, in 2000 the Board adopted an Identity Statement to better define ASPA's membership: "ASPA members are retirement plan professionals in a highly diversified, technical, and regulated industry. ASPA is made up of individuals who have chosen to be among the most dedicated practicing in the profession and who view retirement plan work as a career." Note the change in language from "Benefits" to "Retirement Plan" professionals. ASPA had phased out its Health & Welfare (cafeteria plans) program in the mid-1990s and the current exam program offers instruction only in retirement plan benefits. Additionally, the more focused language also reflected an acknowledgement that the one thing our members had in common was work in retirement planning specifically, rather than more general employee benefits.

#### *Confusion in the Marketplace*

The fact that our name does not accurately reflect our membership also raises serious concerns related to professionalism and misrepresentation of our members' expertise. Specifically, when members indicate that they are affiliated with "The American Society of Pension Actuaries," there is an assumption that these individuals are actuaries, which is misleading to the general public.



The question of whether we should change our name to be more representative of our membership has been considered periodically throughout ASPA's history. For the reasons noted above, the name change issue was raised again in 2002 and our President decided to appoint a Task Force to tackle the issue once again. The Task Force did not take this job lightly. They were very aware of the political issues and the debates that had taken place in the past and knew they had their work cut out for them.

### Task Force Objectives and Preliminary Steps

The Name Change Task Force was appointed in 2003 to aid the Board in addressing the issues related to a name change and to recommend a new name. Specifically, the Task Force was charged with analyzing the reaction of a proposed name change by the ASPA membership, sister organizations, retirement industry, public, Capitol Hill, and governmental agencies; determining name recognition of both "ASPA" and of the "American Society of Pension Actuaries"; addressing the effect, if any, that a name change would have on ASPA's designations (especially the MSPA and FSPA designations); recommending the basic steps and a timetable for introducing and implementing the name change; determining the impact the name change would have on ASPA's activities, if any; and estimating the cost to implement the name change.

The Task Force began deliberations armed with the knowledge of ASPA's history and of the complexity of the name change issue. They recognized the sensitivities, primarily among actuaries, and acknowledged that many of ASPA's current members joined the organization because of its recognition as an "actuarial" organization. Some of the questions raised during our first few conference calls included:

- How much value and recognition is there in the acronym, ASPA, and in ASPA's full name?
- Do we really want to lose the word "Actuary" altogether?
- How can we come up with a name that will not disenfranchise the actuarial segment of our membership but also acknowledge the diversity of our members?
- How will our members react to a name change?
- How will changing our name impact our standing with other actuarial organizations?
- How would a name change impact our designations (*e.g.*, FSPA and MSPA)?
- What will the name change cost?

They realized that they still had a number of questions about the costs and benefits of a name change and, therefore, decided that rather than treating a new name

as a given, they would first make sure they were satisfied that changing the name was the most appropriate course of action. They began by outlining both the advantages and disadvantages of changing the name. The advantages and disadvantages are presented in the table at the end of this article for your review.

### Outside Perceptions

A few months prior to the initial Name Change Task Force deliberations, ASPA's Marketing Committee conducted a name recognition survey. While the intent of the survey was not specifically to guide the Task Force through a name change, the survey results were pertinent to the name change issue, specifically with regard to addressing the questions about ASPA's name and acronym recognition.

Survey respondents included people with some limited contact with ASPA (not members, but one-time conference attendees and others who have had some limited exposure to ASPA) and those in the industry at large who have had no direct contact with ASPA.

Here is a summary of the results:

56% of respondents from the profession at large said that they have heard of ASPA (32% by acronym and 24% by name). 40% of these had "somewhat of an understanding of the organization's purpose." 45% of those who had heard of ASPA (or the full name) knew that members come from multiple disciplines; 34% thought only actuaries were members; 21% did not know who our members are.

Even among respondents who had a previous encounter with ASPA, fewer than 50% understood the organization's purpose. The majority of respondents who have a reasonable understanding of the organization know it by the acronym. However, there is a gap between name recognition and understanding the organization's purpose. Many people who recognized ASPA and understood its purpose did not necessarily know the exact words the acronym represents.

### Name Equity

It seemed clear that there was some recognition of the acronym ASPA and certainly more recognition of the acronym than the full name. It was also clear to the Task Force that there is confusion not only about what ASPA's purpose is but also who ASPA's members are (*i.e.*, all actuaries). It was at this point that the discussions began to center on the actuary and non-actuary segments of ASPA's membership.

During preliminary discussions, the Task Force seriously considered the possibility of having two separate names and/or brands for actuaries and non-actuaries. At the time, this approach seemed to be the only solution to addressing the concerns and sensitivities of both ASPA's actuary and non-actuary

members. For example, they discussed keeping the acronym ASPA and using two different taglines. Both actuaries and non-actuaries would be members of ASPA, but the tagline for actuaries would be the “American Society of Pension Actuaries.” A new, additional tagline for non-actuaries would be created. Additionally, we considered creating a new name and a new acronym to be used by non-actuaries would be created. Actuaries would use the current name and acronym and could also use the new name and acronym. There would still be only one organization, but it would have two brand names.

With concern about dividing the organization, we decided to brainstorm additional name change options that would be less divisive. For example, they considered keeping the acronym ASPA and modifying the full name slightly so that it matches the acronym as closely as possible. They also considered keeping the acronym ASPA and adding a tagline that better defines our membership. The acronym ASPA and new tagline together would be the name of the organization.

### What the Members Think

At this point, the Task Force decided it was time to begin gathering member feedback on each name change option that had been discussed. We felt that we had considered all possibilities and were ready for additional feedback. There were many unknowns regarding the reaction of the membership to a proposed name change and they did not want to assume that the Task Force or Board’s position accurately reflected the position of all of our members. The decision was made to set up member focus groups at the ASPA 2003 Summer Conference.

The Task Force decided to hire a trained, unbiased professional to moderate the focus groups. The consultant recommended that we hold two focus groups—one with actuaries and another with non-actuaries. The primary research objectives of the focus groups were to gather member reactions to various name change proposals; to get a better idea of how actuaries and non-actuaries would respond to a name change, and to find out exactly what their objections or concerns would be; to determine what members think the long-term impact of a name change would be and how it would impact them professionally; and to propose the best means by which to inform and educate the membership of any name change.

Two key segments of respondents participated in two segregated 90-minute focus groups. The two segments were divided into group one, with eight non-actuaries, and group two, with seven actuaries. Each group discussed and voted on the name change options that appear at the end of this article.

Below is a summary of the focus group results:

- Both actuaries and non-actuaries felt that the purpose of ASPA is to educate members and lobby on behalf of the pension industry.
- Neither actuaries nor non-actuaries want to divide the organization by adopting two separate names or brands. There is some concern that non-actuaries and actuaries are too divided already. Two names would only lead to more segregation within the organization.
- Actuaries and non-actuaries acknowledged that the current name does not accurately represent the composition of ASPA’s membership.
- Both groups were concerned that the acronym “ASPA” has value and recognition and that any name change should maintain the acronym. To change the acronym would possibly short-circuit years of past lobbying efforts.
- The option of keeping the acronym and changing the name slightly ranked highest by both actuaries and non-actuaries. When given the option to do nothing, actuaries were slightly more likely to choose no change.
- Many who voted for no change were worried about a poor or “wrong” name being selected. Word-smithing of the name was a common concern.
- Members, primarily non-actuaries, would like to see more resources devoted to increasing public awareness of ASPA and its designations.

### Other Findings

One unexpected outcome of the focus groups was the concern, particularly within the non-actuary group, that ASPA was not doing enough to market itself or its designations to the public. Non-actuaries stated that the professional designations they earn have no perception of benefit to those they serve. This concern was duly noted and brought to the attention of ASPA’s Marketing Committee. The name change project quickly evolved into a marketing project involving re-positioning and re-branding the organization.

Additionally, the Task Force relied on feedback from ASPA’s marketing consulting firm. The firm recommended that we make a change and reposition ourselves to more accurately define who our members are and what our primary interest is. Either the name or our “brand” must be unique and fresh. There was some discussion of just using “ASPA” with no tagline or descriptor. This option was dismissed almost immediately. Words are powerful communication tools, and unless your acronym is already a household name, you cannot afford to have a name that constantly has to be explained.

## The Change

It was ultimately decided that a combination of changing ASPA's full legal name slightly to more adequately reflect the membership, and adopting a tagline to be used with the ASPA acronym for marketing purposes, would be the best option. The Task Force believes that this recommendation addresses all concerns that have been raised, including actuary/non-actuary sensitivities, cost considerations, recognition of ASPA's acronym, name/word sensitivities, relationships with other organizations, and the impact of a change on ASPA's designations. With such a minor change to ASPA's legal name, there would not be any effect on ASPA's actuarial relationships or on any ASPA designation. The name also retains our acronym as well as the word "actuary"—without excluding our sizeable non-actuary membership.

It should also be noted that at the October 25, 2003, Board meeting, ASPA's Board of Directors had in-depth discussions about ASPA's new legal name. There were discussions about changing some of the words slightly—by adding additional professionals (e.g., "Consultants"), removing all of the specified professionals and making the name more generic, and/or removing the word "Other."

The Board ultimately voted on and approved the resolution to use the "American Society of Pension Actuaries, Administrators, and Other Retirement Plan Professionals" for several reasons. The name

specifically refers to two essential services to the establishment, operation, and termination of retirement plans: pension actuarial services and pension administration services. The phrase "Other Retirement Plan Professionals" provides recognition to all other types of professionals who provide essential services to plans and plan sponsors, including consulting, legal, accounting, and investment services, without making the legal name of the organization any longer than we feel is necessary. It also enables us to brand the acronym (ASPA) in a way that preserves the "A" following "ASP." Consequently, our response to the question "What does ASPA mean?" does not create confusion, since the acronym is still consistent with the full name. Additionally, the tagline, "The Retirement Plan Professionals" is also consistent with the full name.

## Conclusion

I'd like to conclude by emphasizing our commitment to increasing the recognition of our organization, its programs, and the professional designations of our credentialed members. Part of our branding campaign will be to associate in the public's mind the name "ASPA" with being the premier organization of retirement plan professionals—thus, the use of the tagline, "The Retirement Plan Professionals." Our long-term goal is for ASPA to become known as *the* place to find retirement plan education and for ASPA's membership to be *the* place to look for retirement plan professional services.

## Advantages and Disadvantages to Changing ASPA's Name

### Advantages:

- 1) The current name is not representative of who we are now.
- 2) Professionalism issues—when members indicate that they are affiliated with an actuarial organization, there is an assumption that these individuals are actuaries.
- 3) We are more than just an actuarial organization, and our name should reflect this situation.
- 4) We believe that changing our name does not change the essence of who we are and what we do.
- 5) Bringing in new members is a challenge because when prospective members see our full name they think that they have to be an actuary to join.
- 6) Our name does not reflect who we want to become.
- 7) A name change would facilitate relationships with other organizations.

### Disadvantages:

- 1) Many people joined ASPA because they thought they were joining an actuarial organization.
- 2) We will no longer be perceived as an actuarial organization, which may impact our position on COP/COPE and our relationship with the JBEA and other actuarial organizations.
- 3) If the result of changing our name disenfranchises actuaries, we will not be as strong an organization as we are now.
- 4) We should not be focusing on a name change when we have more serious issues to consider (e.g., making sure the country has secure retirement plans).
- 5) There is prestige attached to the name. Some members like being able to say that they are members of the American Society of Pension Actuaries.
- 6) There is a significant expense involved in changing the name.
- 7) Changing the name may have an impact on other ASPA programs (e.g., Education and Examination).

ASPA's leaders believe that the name change and the addition of the new tagline are the best solutions to the challenges presented by our current name. The name change question will be presented to you sometime in the next few months. As I've mentioned, prior to receiving an official mail ballot, you will also receive an e-mail survey on the name change. We hope that you will use that opportunity to provide feedback and your opinion about the name change proposal.

I encourage you to think about the name change question carefully prior to the official vote. I hope this article addressed many of the questions you might have and provided adequate detail on the name change process.

I'd like to personally thank all of the members of the Name Change Task Force and others who participated in this fruitful process: Bruce Ashton, APM; Larry Deutsch, MSPA; Craig Hoffman, APM; Scott Miller, FSPA, CPC; Bill O'Malley, CPC; Sarah Simoneaux, CPC; Brian Graff, Esq.; Jane Grimm; Amy Iliffe; and all of the members of ASPA's Board of Directors and Executive Committee. A special

thanks goes to the ASPA members who gave their valuable time to participate in our July focus groups. Your willingness to assist us in this important process is greatly appreciated. I'd also like to thank ASPA's 2003 President, Scott Miller, FSPA, CPC, for trusting me with chairing such a challenging and extraordinary task. ▲

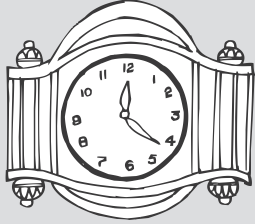
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*Stephen H. Rosen, MSPA, CPC, EA, MAAA, is an independent consulting actuary specializing in the design and implementation of employee benefit plans. He is president of Stephen H. Rosen & Associates, an employee benefits consulting firm in Haddonfield, NJ. Steve is a Member of the American Academy of Actuaries and is the President-Elect of ASPA. Steve served as the chair of ASPA's Name Change Task Force. He also served as President and Chairman of the Board of the ASPA Benefits Council of the Delaware Valley and is the current chair of ASPA's ABC Committee. Steve has lectured at several actuarial conferences, including the Enrolled Actuaries Meeting and ASPA's Annual Conference.*

## Name Change Options Presented to ASPA Member Focus Groups

- 1) Change the name (and acronym) completely.** No longer use the American Society of Pension Actuaries or ASPA. Adopt a new name—which would also have a new acronym. [e.g., The Association of Retirement Plan Professionals (ARPP); Retirement Plan Professionals of America (RPPA)].
- 2) Keep the acronym ASPA and modify the full name slightly so that it matches the acronym as closely as possible.** For example, the new name would be ASPA—The American Society of Pension Actuaries, Administrators, and Advisors.
- 3) Keep the acronym ASPA and add a tagline for everyone to use.** (e.g., ASPA—The Association of Retirement Plan Professionals; or, ASPA—Retirement Plan Professionals of America). We would no longer use the “American Society of Pension Actuaries” at all. ASPA would no longer stand for anything. The acronym ASPA and new tagline together would be the name of the organization.
- 4) Keep the acronym ASPA and use two different taglines.** Both actuaries and non-actuaries would be members of ASPA, but the tagline for actuaries would be the American Society of Pension Actuaries. Create a new, additional tagline for non-actuaries. Official name to the public would just be ASPA. Actuaries would be members of ASPA—American Society of Pension Actuaries. Non-actuaries would be members of ASPA—“New Tagline” (e.g., ASPA—Association of Retirement Plan Professionals or ASPA—Retirement Plan Professionals of America).
- 5) Create a new name and a new acronym to be used by non-actuaries.** Actuaries would use the current name and acronym and could also use the new name and acronym. There would still be only one organization, but it would have two brand names. These two brands would be displayed/treated equally (co-brands). Actuaries would continue to identify themselves as members of the American Society of Pension Actuaries (ASPA) and could also identify themselves as members of the new organization [e.g., Association of Retirement Plan Professionals (ARPP) or Retirement Plan Professionals of America (RPPA)]. Non-actuaries could identify themselves only as members of the new organization [e.g., Association of Retirement Plan Professionals (ARPP) or Retirement Plan Professionals of America (RPPA)].
- 6) Do not change the current name in any way.**



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During the past year, ASPA has continued to implement new programs and services to enhance the value of your membership. ASPA's government affairs initiative in the legislative and regulatory arenas make your investment a great value. New conference programs, webcasts, additional interactive Web site enhancements, and a new user preference program are just a few of the member services that have been added. We hope that you have taken advantage of these new benefits; if not, we encourage you to do so in the year to come.

It is a good business decision to continue to support the efforts of your national organization and to renew your membership today!

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# Bob Levenson, MSPA, 2003 Harry T. Eidson Founder's Award Recipient, Reflects on His Long History with ASPA

by Amy E. Iliffe

ROBERT D. LEBENSON, MSPA, WAS CHOSEN AS THE 2003 RECIPIENT OF THE HARRY T. EIDSON FOUNDER'S AWARD. BOB, AS MOST OF US KNOW HIM, JOINED ASPA IN 1976 AND HAS MADE SIGNIFICANT CONTRIBUTIONS TO ASPA AND TO THE PRIVATE PENSION SYSTEM SINCE THAT TIME. BOB WAS PRESENTED WITH THE AWARD AND WAS RECOGNIZED FOR HIS ACCOMPLISHMENTS AT THE 2003 ASPA ANNUAL CONFERENCE IN WASHINGTON, DC.

The Eidson Founder's Award was established in 1995 to honor the memory of ASPA's founder, Harry T. Eidson, FSPA, CPC. Eidson was the initial inspiration behind the formation of ASPA in 1966 and served as its first President from 1966 to 1970. Eidson firmly believed in the importance of a private pension system for the United States and was committed to building an organization dedicated to preserving and enhancing such a system. The award is presented to the individual who makes the greatest contribution to ASPA, the private pension system, or both.

I had the pleasure of speaking to Bob during the Conference to discuss the highlights of his many years of involvement with ASPA. Bob was pleasantly surprised and extremely honored to have been chosen by his peers as the 2003 recipient of ASPA's highest honor.

One of Bob's many contributions was his involvement in establishing the Long Range Planning Committee (LRPC). I asked Bob to provide some history behind the establishment of the LRPC.

Bob explained that in 1985, ASPA had hit a plateau in terms of membership numbers and did not have the wealth of volunteers that ASPA has today. The leadership recognized that ASPA needed to start looking to the future and develop a strategic plan. The first LRPC meeting took place in a small hotel room in Las Vegas and included Curt Hamilton, MSPA, CPC, Bud Johnson, MSPA (both former Eidson Award recipients), and Bob. Over the next couple of years, the LRPC directed ASPA's leadership toward the establishment of the administrator designations (*i.e.*, QPA and later QKA) and created what later became a separate committee—the National Retirement Income Policy Task Force.

According to Bob, "We felt that if part of our mission statement was to talk about the private pension system within a coherent national retirement income policy, then as a professional society, we should figure out what such a policy would look like." This committee marked the beginning of the National Retirement Income Project, with which Bob was intimately involved.

Bob explained that the purpose of the project was to put together a series of papers that collectively would offer a framework for the entire retirement income system in the United States. In the early days of ERISA, John Erlenborn (the recipient of the 1996 Eidson Award) frequently referred to retirement income as the three-legged stool—the three legs being personal savings, social security, and private retirement plans. By the time the Task Force completed the project, they had added a fourth leg. This additional leg was the concept of working after retirement, or "phasing out." As Bob explained, "The old idea of what you might call 'cliff retirement' (*i.e.*, when people work and then suddenly stop working) was something many Americans would find difficult to do both economically and psychologically. It seemed that people would be more likely to 'phase out' of the workforce rather than just abruptly stop working altogether and permanently retire." The Task Force focused on how the phasing-out concept should be treated and how it would affect an individual's economic circumstances.

The ultimate aim of the project was to decide what the goals for retirement income should be, and then to fit all of the components into a coherent approach for meeting these goals as part of a national policy. Bob stated that "The project took at least three or four years, which was much longer than had been anticipated. When the Task Force finally presented the papers at an ASPA Annual Conference, I said that when we started the project we didn't think it would survive as long as the Soviet Union—but it did, since the Soviet Union had fallen before we were done."

In addition to his role in establishing ASPA's strategic plan and in influencing the retirement policy, Bob also played an integral role in increasing ASPA's influence and recognition on Capitol Hill. He has a long history of involvement in ASPA's government affairs efforts that includes frequent testimony before both Congressional committees and regulatory agencies. In particular, he worked closely with Thomas Terry of the Treasury Department in formulating the



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*Andrew J. Fair, APM, 1998 Eidson Award recipient, presents Robert D. Levenson, MSPA, with the 2003 Harry T. Eidson Founder's Award at the 2003 ASPA Annual Conference.*

401(a)(4) regulations that are the basis for many of the elements of modern plan design. He also facilitated what resulted in long-term relationships with many government agencies and officials, the most important of which was our relationship with John Erlenborn.

The relationship Bob established with John came at a time when ASPA needed more recognition on the Hill. According to Bob, "We were a small organization at the time, and frankly, we still are small compared to other organizations that have an impact on the legislative process. We have done amazing things considering our small size, but we had never had someone give us the kind of influence that John was able to provide." John was a highly respected member of Congress for 20 years and was one of the House sponsors of ERISA. His assistance was invaluable to ASPA's ability to influence the legislative process.

Thinking back to ASPA's early legislative history, Bob explained that a very crucial point in that history was the Tax Reform Act of 1986 (TRA '86). While TRA '86 is not looked on favorably as far as retirement plan legislation is concerned, what many people do not realize is that in 1984 and 1985, when Reagan announced that he was going to overhaul the tax code, the initial model that was presented

would have completely removed any tax-favored treatment for qualified retirement plans. "This was our first target. With John Erlenborn's help, we worked to make sure this did not happen. The first draft would have completely eliminated 401(k) plans and the end result was certainly not as bad as it could have been."

From that point on, ASPA's Government Affairs Committee was able to start making substantial progress. After John Erlenborn started working with ASPA's leadership, the Government Affairs Committee became a significant part of ASPA. In 1982, it was a one-person Committee. Its member list now occupies a few pages in the *ASPA Yearbook*.

Bob was also appointed to the ERISA Advisory Council. The Council consists of 15 people that serve three-year terms and advise the Secretary of Labor on the administration of ERISA. Bob chaired the work group on small business retirement plans that was established by the Council. The work group made significant contributions that included the development of a report that became a part of official DOL background information. Additionally, during the past decade, many of the group's ideas were turned into legislation favorable to the private pension system.

Continued on page 28

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# Scenes from the 2003 ASPA Annual Conference



*Brian Graff, Esq., ASPA's Executive Director, and Scott Miller, FSPA, CPC, 2003 ASPA President, congratulate Robert Lebenson, MSPA, 1986 ASPA Past President, and recipient of the 2003 Harry T. Eidson Founders Award.*



*Michael Bain, MSPA, 2003 General Chair of the E&E Committee, presents Gwen O'Connell, CPC, QPA, with the 2003 Educators Award.*



*2003 President-Elect Bruce Ashton, APM, looks ahead to his term as 2004 ASPA President.*



*Jeffrey Chang, APM, ASPA Board Member, presents The Ins and Outs of Plan Administration during his workshop session.*



*Brad Huss, APM, is honored for his four years of service as Co-Chair of ASPA's Government Affairs Committee with a photograph of Washington, DC.*



*Attendees enjoyed having their questions answered by our team of experts during the IRS Q&A session, one of the most popular Conference sessions.*



*The Monday morning Governmental Update featured speakers from government agencies including Carol Gold, IRS; Vince Snowbarger, PBGC; William Sweetnam, US Department of Treasury; and Brian Graff, Esq., ASPA's Executive Director.*

All images on pages 18 & 19 © 2003 Bill Petros



*The panel for the IRS Q&A session included George Taylor, MSPA, Lawrence Starr, CPC, Craig Hoffman, APM, Roger Kuehne, James Holland, Jr., and Paul Shultz.*



*Numerous ASPA members participated in Tuesday's Visits to Capitol Hill to speak with their congressional representatives.*



*Congressman Rob Portman (R-2nd OH) spoke about LSAs/RSAs/ERSAs while Brian Graff, Esq., ASPA's Executive Director, stood by.*



*Jane Grimm, ASPA's Managing Director, shares a moment with Martella Joseph, MSPA. Jane arrived with Halloween spirit as attendees flocked toward her for a quick sugary treat to help get them through their long day at the Conference.*



*Sal Tripodi, APM, gave an update on legislative, regulatory, and judicial developments in the pension arena at his ever-popular Keeping Current session that closed the Conference Wednesday afternoon.*

See You Next Year at the 2004  
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## 401(k) Planning Opportunities

2003 Owner's Salary	Owner's 401(k) Deferral*	Maximum Profit Sharing Contrib.	Post EGTRRA Single (k) Total Allocation*	Pre EGTRRA Single (k) Total Allocation	Post EGTRRA Single (k) Allocation Increase
\$12,912	\$9,684	\$3,228	\$12,912	\$1,937	\$10,975
\$25,000	\$12,000	\$6,250	\$18,250	\$3,750	\$14,500
\$50,000	\$12,000	\$12,500	\$24,500	\$7,500	\$17,000
\$75,000	\$12,000	\$18,750	\$30,750	\$11,250	\$19,500
\$100,000	\$12,000	\$25,000	\$37,000	\$15,000	\$22,000
\$112,000	\$12,000	\$28,000	\$40,000	\$16,800	\$23,200
\$120,000	\$10,000	\$30,000	\$40,000	\$18,000	\$22,000
\$150,000	\$2,500	\$37,500	\$40,000	\$22,500	\$17,500
\$170,000	\$0	\$40,000	\$40,000	\$25,500	\$14,500

\* If the participant is age 50 or over in the plan year, an additional catch-up deferral may be made (\$2,000 for 2003).

### Single 401(k) Planning Idea 2

This type of plan is most advantageous where the owner and his/her spouse are the only eligible employees and they want to maximize their contribution and minimize their salaries/earned income. Also, their salaries/earned incomes are not sufficient to obtain a \$40,000 contribution each with a straight 25% Profit Sharing plan.


#### WHY DOES THIS WORK?

- The maximum deduction has been increased to 25% and no longer includes the salary deferrals (up from 15% including salary deferrals).

- The individual annual addition limit is now the lesser of \$40,000 or 100% of pay (up from 25%).

#### WHAT IS THE MAJOR BENEFIT?

- Income and payroll tax savings because the owner can achieve a much larger contribution on a much lower salary/earned income.
- The spouse can achieve a large contribution on a low salary, which reduces payroll taxes and *may minimize* a "reasonable compensation issue" at the lower levels of salary. Even at the lower levels, the contribution with both spouses' contribution is larger than if the spouse was not on payroll.



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Net Sched. C Before Spouse Salary	Spouse's Salary	Spouse's Deferral*	Spouse Profit Sharing Contrib.	Net Sched. C After Spouse	Less SE Tax Deduction	Owner's 401(k) Deferral*	Maximum Profit Sharing Contrib.	Total Contrib. for Spouse	Total Contrib. for Owner	Total Contrib.	Contribution w/ No Salary to the Spouse
\$12,912	n/a	n/a	n/a	\$12,912	(\$912)	\$9,600	\$2,400	\$0	\$12,000	\$12,000	\$12,912
\$25,000	\$7,088	\$5,316	\$1,772	\$16,140	(\$1,140)	\$12,000	\$3,000	\$7,088	\$15,000	\$22,088	\$18,250
\$50,000	\$16,000	\$12,000	\$4,000	\$30,000	(\$2,119)	\$12,000	\$5,576	\$16,000	\$17,576	\$33,576	\$24,500
\$75,000	\$16,000	\$12,000	\$4,000	\$55,000	(\$3,886)	\$12,000	\$10,223	\$16,000	\$22,223	\$38,223	\$30,750
\$100,000	\$16,000	\$12,000	\$4,000	\$80,000	(\$5,652)	\$12,000	\$14,870	\$16,000	\$26,870	\$42,870	\$37,000
\$125,000	\$16,000	\$12,000	\$4,000	\$105,000	(\$6,764)	\$12,000	\$19,647	\$16,000	\$31,647	\$47,647	\$40,000
\$150,000	\$16,000	\$12,000	\$4,000	\$130,000	(\$7,099)	\$12,000	\$24,580	\$16,000	\$36,580	\$52,580	\$40,000
\$171,000	\$18,935	\$12,000	\$4,734	\$147,331	(\$7,331)	\$12,000	\$28,000	\$16,734	\$40,000	\$56,734	\$40,000
\$180,000	\$26,135	\$12,000	\$6,534	\$147,331	(\$7,331)	\$12,000	\$28,000	\$18,534	\$40,000	\$58,534	\$40,000
\$200,000	\$42,135	\$12,000	\$10,534	\$147,331	(\$7,331)	\$12,000	\$28,000	\$22,534	\$40,000	\$62,534	\$40,000
\$225,000	\$62,135	\$12,000	\$15,534	\$147,331	(\$7,331)	\$12,000	\$28,000	\$27,534	\$40,000	\$67,534	\$40,000
\$280,000	\$106,135	\$12,000	\$26,534	\$147,331	(\$7,331)	\$12,000	\$28,000	\$38,534	\$40,000	\$78,534	\$40,000
\$287,331	\$112,000	\$12,000	\$28,000	\$147,331	(\$7,331)	\$12,000	\$28,000	\$40,000	\$40,000	\$80,000	\$40,000

\* If the participants are age 50 or over in the plan year, additional catch-up deferrals may be made (\$2,000 for 2003).

### Single 401(k) Planning Idea 3

This type of plan is most advantageous where the owner and their spouse are the only eligible employees, they want to maximize their contribution, and they are already contributing over 25% of pay to a Defined Benefit plan. They also would like to maximize their contribution and at the same time pay the spouse a minimal salary of \$15,000.

Solution: Establish a 401(k) plan in addition to the Defined Benefit plan and both the owner and the spouse can defer \$12,000 for 2003, plus an additional catch-up contribution of \$2,000 each if they have attained age 50 by 2003.

#### WHY DOES THIS WORK?

- The maximum deduction limit no longer includes salary deferrals.
- The individual annual addition limit is now the lesser of \$40,000 or 100% of pay (up from 25%).

#### WHAT IS THE MAJOR BENEFIT?

- Tax savings—because they can achieve a much larger contribution on a much lower salary/earned income.
- The spouse can achieve a relatively large contribution on a low salary, which reduces payroll taxes and may not create a “reasonable compensation issue.”

### Safe Harbor 401(k) Planning Ideas

Safe Harbor 401(k) Plan Characteristic Summary:

- In existence since SBJPA in 1999. However, the plans are much more attractive due to the increased annual addition, contribution, and deduction limits promulgated by EGTRRA.
- Allows the employer a “free pass” on ADP and/or ACP testing in return for a prescribed minimum

100% vested contribution. Thus, the HCEs can defer the maximum amount (plus an additional catch-up contribution for those over age 50 beginning in 2002).

- Contributions above the Safe Harbor minimum could be subject to a vesting schedule and an “end of the plan year” employment requirement.
- More attractive than a SIMPLE 401(k) because the deferral limit is higher and there is no “exclusive plan” requirement.
- Most attractive to employers with top heavy plans with low participation by NHCEs.

### Safe Harbor 401(k) Planning Idea 1

This type of plan is most advantageous to an employer with the following characteristics:

- They already have (or will establish) a Profit Sharing plan that is (or will be) top heavy.
- There is low “salary deferral” participation by NHCEs.
- They would like to maximize the contributions for the HCEs and minimize the cost for the NHCEs.
- There is not much disparity in ages between the HCEs and the NHCEs, thus there is no advantage to an age-based/cross-tested plan.
- There is a disparity in salary between the HCEs and the NHCEs, thus we can take advantage of permitted disparity.

#### WHAT ARE WE COMPARING?

Existing/Pre Safe Harbor Plan: A traditional integrated top heavy Profit Sharing plan.

Revised/Post Safe Harbor Plan: Safe Harbor 401(k) using a 3% non-elective Safe Harbor contribution plus an additional integrated employer discretionary

contribution (additional contribution is subject to a vesting schedule and a last day of the plan year/1,000 hour requirement).

### WHY DOES THIS WORK?

- In return for a trade off of a 100% vested 3% of pay employer contribution, the HCEs receive a “free pass” on the ADP test. Thus, they can defer the maximum dollar amount into a 401(k) plan (plus a catch-up contribution for those over age 50). This design allows the HCEs to personally

fund a portion of their contribution instead of the Plan Sponsor. Thus, the employer’s contribution for the HCEs is lower and, in turn, the contribution for the NHCEs is lower.

### WHAT IS THE MAJOR BENEFIT?

- A lower contribution by the Plan Sponsor for the NHCEs.
- The NHCEs are also allowed to make salary deferrals (an added employee benefit perk).

## New Plan Contribution

Name	Projected 2003 Salary	3% Safe Harbor Contrib.*	Projected 2003 Deferral**	Additional Discretionary Integrated Employer Contribution	Total Re-designed Plan Allocation	Existing Integrated PS Ctb w/o Safe Harbor	Savings
HCE 1	\$200,000**	\$6,000	\$14,000	\$22,000	\$42,000	\$40,000	\$0
HCE 2	\$200,000**	\$6,000	\$12,000	\$22,000	\$40,000	\$40,000	\$0
NHCE 1	\$59,529	\$1,786	\$0	\$4,631	\$6,417	\$9,989	(\$3,572)
NHCE 2	\$43,100	\$1,293	\$0	\$3,353	\$4,646	\$7,232	(\$2,586)
NHCE 3	\$37,653	\$1,130	\$0	\$2,929	\$4,059	\$6,318	(\$2,259)
NHCE 4	\$26,770	\$803	\$0	\$2,083	\$2,886	\$4,492	(\$1,606)
NHCE 5	\$30,750	\$923	\$0	\$2,392	\$3,315	\$5,160	(\$1,845)
<b>Totals</b>	<b>\$597,802</b>	<b>\$17,935</b>	<b>\$26,000</b>	<b>\$59,387</b>	<b>\$103,322</b>	<b>\$113,190</b>	<b>(\$11,868)</b>

\* This contribution is 100% vested and must be made for all eligible employees (regardless of whether they are employed on the last day of the plan year). The additional discretionary contribution can be subject to a vesting schedule and an “end of the plan year” employment requirement.

\*\*Maximum salary and deferral/catch-up contribution for 2003.

### Safe Harbor 401(k) Planning Idea 2

This type of plan is most advantageous to an employer with the following characteristics:

- They already have (or will establish) a Profit Sharing plan that is (or will be) top heavy.
- There is low “salary deferral” participation by NHCEs.
- They would like to maximize the contributions for the HCEs and minimize the cost for the NHCEs.
- There is a disparity in ages between the HCEs and the NHCEs, thus, there is an advantage to an age-based/cross-tested plan.

### WHAT ARE WE COMPARING?

Existing/Pre Safe Harbor Plan: A traditional integrated top heavy Profit Sharing plan.

Revised/Post Safe Harbor Plan: Safe Harbor 401(k) using a 3% non-elective Safe Harbor contribution

plus an additional employer discretionary cross-tested comparability contribution (additional contribution is subject to a vesting schedule and a last day of the plan year/1,000 hour requirement).

### WHY DOES THIS WORK?

In return for a trade-off of a 100% vested 3% of pay employer contribution, the HCEs receive a “free pass” on the ADP tests. Thus, they can defer the maximum dollar amount to a 401(k) plan (plus a catch-up contribution for those over age 50). This scenario allows the HCEs to personally fund a portion of their, which lowers the employer’s contribution for the HCEs and, in turn, lowers the contribution for the NHCEs.

### WHAT IS THE MAJOR BENEFIT?

- A lower contribution for the NHCEs.
- The NHCEs are also allowed to make salary deferrals (an added employee benefit perk).

## New Plan Contribution Breakdown

Name	Projected 2003 Salary	Age	Cross Tested Group	3% Safe Harbor Contrib.*	Discretionary Employer Comparability Contrib.	Employee Salary Deferral	Total 401(k)(12) Employee Allocation	Existing Integrated PS Contribution w/o 401(k) Safe Harbor	Savings
HCE 1	\$200,000**	54	1	\$6,000	\$22,000	\$14,000	\$42,000	\$40,000	
HCE 2	\$200,000**	42	1	\$6,000	\$22,000	\$12,000	\$40,000	\$40,000	
NHCE 1	\$59,529	38	2	\$1,786	\$1,190	\$75	\$3,051	\$10,019	(\$6,968)
NHCE 2	\$43,100	33	2	\$1,293	\$862	\$75	\$2,230	\$7,254	(\$5,024)
NHCE 3	\$37,653	26	3	\$1,130	\$753	\$0	\$1,883	\$6,337	(\$4,454)
NHCE 4	\$26,770	25	3	\$803	\$803	\$0	\$1,606	\$4,506	(\$2,900)
NHCE 5	\$30,750	22	3	\$923	\$922	\$0	\$1,845	\$5,175	(\$3,330)
<b>TOTALS</b>	<b>\$597,802</b>			<b>\$17,935</b>	<b>\$48,530</b>	<b>\$26,150</b>	<b>\$92,615</b>	<b>\$113,291</b>	<b>(\$22,676)</b>

\* This contribution is 100% vested and must be made for all eligible employees (regardless of whether they are employed on the last day of the plan year). The additional discretionary contribution can be subject to a vesting schedule and an “end of the plan year” employment requirement. However, even though the discretionary contribution may have an end of the plan year requirement, we may not be able to employ that requirement until/unless each NHCE has received at least an additional allocation sufficient to satisfy the gateway requirements for cross-testing.

\*\*Maximum salary and deferral/catch-up contribution for 2003.

### Safe Harbor 401(k) Planning Idea 3

This type of plan is most advantageous to an employer with the following characteristics:

- They already have/or will establish a Profit Sharing plan that is (or will be) top heavy.
- They do not want to maximize the contributions for the HCE/key employees.
- They would like to minimize the cost for the NHCE/non-key employees.
- The NHCE/non-key employees will either not make salary deferral or make minimum salary deferrals.

### WHAT ARE WE COMPARING?

Existing/Pre Safe Harbor Plan: A traditional integrated top heavy Profit Sharing plan

Revised/Post Safe Harbor Plan: Safe Harbor 401(k) using a safe harbor matching contribution (100% match on salary deferrals up to 3% of pay and a 50% match on deferrals from 3% of pay to 5% of pay).

### WHY DOES THIS WORK?

- In return for a trade-off of a 100% vested safe harbor matching contribution, the HCEs receive a “free pass” on the ADP test. Thus, they can defer the maximum dollar amount to a 401(k) plan (plus a catch-up contribution for those over age 50). This design allows the HCEs to personally fund a portion of their contribution, which lowers the employer’s contribution for the HCEs and, in turn, lowers the contribution for the NHCEs.

- If the employer only contributes the safe harbor match, they also receive a “free pass” on the top heavy minimum contribution requirement. Thus, only those non-key employees who defer will receive a contribution.

### WHAT IS THE MAJOR BENEFIT?

A lower contribution for the NHCE and the non-key employees should they decide not to defer. However, should the NHCE/key employees elect to defer, a matching contribution of up to 4% of pay may be required.

## Instructors Needed



ASPA is looking for instructors who have taught ASPA courses and actively use PowerPoint in their presentations. The E&E Committee is developing recorded Web courses as an educational training tool. It is anticipated that there will be five to eight 100-minute recorded sessions for each exam that will be available at any time on the Internet. The instructor will use an E&E PowerPoint template and work with the exam committee to ensure that course follows the exam topics.

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For more information, visit the Web site at [www.aspa.org/edu](http://www.aspa.org/edu) or contact [jpilot@aspa.org](mailto:jpilot@aspa.org).

Name	Projected 2003 Salary	Employee Salary Deferral**	Safe Harbor Matching Contrib.*	Total 401(k)(12) Employee Allocation	Existing Integrated PS w/o Safe Harbor	Savings
HCE 1	\$200,000**	\$14,000	\$8,000	\$22,000	\$22,000	\$0
HCE 2	\$200,000**	\$12,000	\$8,000	\$20,000	\$22,000	\$0
NHCE 1	\$59,529	\$0	\$0	\$0	\$4,631	(\$4,631)
NHCE 2	\$43,100	\$0	\$0	\$0	\$3,353	(\$3,353)
NHCE 3	\$37,653	\$0	\$0	\$0	\$2,929	(\$2,929)
NHCE 4	\$26,770	\$0	\$0	\$0	\$2,083	(\$2,083)
NHCE 5	\$30,750	\$0	\$0	\$0	\$2,392	(\$2,392)
Totals	\$597,802	\$26,000	\$16,000	\$42,000	\$59,388	(\$15,388)

\* A 100% match on salary deferrals up to 3% of pay and a 50% match on deferrals from 3% of pay to 5% of pay). The match is 100% vested and must be made even if the employee terminates during the year.

\*\* Maximum salary and deferral/catch-up contribution for 2003.

### SUMMARY

As illustrated in the examples, there are a myriad of new planning ideas for employers. Some planning ideas are non-traditional by old standards/law. However, as always, each employer's needs and situations differ. Thus, each plan must be tailored to each employer. That is where the retirement plan professional comes in. Have fun! ▲

*Hollie Brostek, QPA, is president of WIA Consultants, Inc. and holds a BS degree in Finance from CW Post University. WIA Consultants, Inc., established in 1982, is a retirement plan administration firm located in Woodbury, NY. The firm specializes in small plans for high net worth individuals, many of whom are in the entertainment field.*

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# Welcome New Members

Welcome and congratulations to ASPA's new members and recent designees.

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## HIPAA and Health FSAs—After the Dust Settles

the requirement to provide certificates of coverage provided the employer has other health plans (such as group health insurance).

### PART TWO OF HIPAA ("ADMINISTRATIVE SIMPLIFICATION")

The "Administrative Simplification" aspect of HIPAA requires the DHHS to develop standards and procedures for maintaining and transmitting health information that identifies individual patients.

These standards were to:

- Improve the efficiency and effectiveness of the healthcare system by standardizing the interchange of electronic data for specified administrative and financial transactions; and
- Protect the security and confidentiality of electronic health information.

### *Covered Entities and Exceptions*

HIPAA's administrative simplification (AS) provisions apply to "covered entities." Covered entities are defined as:

- Health plans (including health FSAs in cafeteria plans and other welfare benefit plans);
- Healthcare providers that conduct certain transactions electronically; and
- Healthcare clearinghouses.

Note that even if a health FSA is considered an "excepted benefit" for purposes of portability, enrollment, and nondiscrimination, there is no exception from the administrative simplification requirements. Self-funded health plans with fewer than 50 participants administered by the employer are, however, exempt from the administrative simplification rules. "Administered by the employer" does not have the same meaning it does in the pensions industry. Unless *all* work is actually done by the employer, with no help from an outside TPA, it is not exempt.

### *Electronic Data Information (EDI) Requirements*

Because there had been no common standard for the electronic transfer of information between healthcare providers and payers, a new standardized interchange was greatly needed to improve the efficiency and effectiveness of the healthcare system. The EDI rules apply to any covered entity or business associate that conducts **covered transactions**. A business associate is defined by HIPAA as a person, business, or agency that assists a covered entity in performing a covered transaction. A covered transaction is defined

as one of a specified list of electronic transactions listed in the HIPAA regulations. They include the obvious day-to-day plan functions such as electronic payments to healthcare providers (including debit card arrangements) and the transmission of enrollment and claims information. To further increase efficiency and accuracy, a new uniform code set identifying medical conditions and procedures must be used for administrative and financial transactions.

Health plans should have complied with the EDI requirements by October 16, 2002. Extensions were granted to plan sponsors that submitted a projected plan of how compliance will be met by October 16, 2003. Small plans with less than \$5 million in annual receipts (*i.e.*, claims paid in the prior fiscal year for self-funded plans) will automatically have until October 16, 2003 to comply with the EDI requirements.

Health FSAs paying reimbursement claims directly to plan participants either by check or ACH transfer would seldom engage in an EDI-covered transaction. The EDI standards apply only to transactions occurring between two covered entities (such as a health FSA and a health care provider). Many electronic payment mechanisms would, however, be subject to EDI standards. Plan sponsors choosing to provide debit cards for FSA reimbursements should confirm through their electronic payment card vendor that proper EDI processes are in place.

### *Privacy*

The privacy regulations grant healthcare consumers a greater level of control over the use and disclosure of personally identifiable health information. These regulations prohibit health plans, including health FSAs, from using or disclosing protected health information (PHI) for purposes other than treatment, payment, and health care operations (TPO). Healthcare providers, health plans, and clearinghouses are prohibited from using PHI except as authorized by the patient or specifically permitted by the regulations. Although the privacy requirements do not apply directly to employers and plan sponsors, PHI may not be disclosed to that employer and plan sponsor unless certain privacy requirements are made part of the plan document. Thus, health plans must be amended to specifically permit the plan to disclose health related information to the employer.

HIPAA does not apply directly to third parties (TPAs) that contract with health plans, but those entities (considered business associates) may not have access to PHI unless certain HIPAA require-

ments are included in a Business Associate Agreement. This written agreement is between the vendor (business associate) and the plan (not the employer) and spells out the requirement of the business associate to comply with HIPAA.

There has been a great deal of discussion over the last several months regarding the new privacy rules. Some of the general guidelines are:

- PHI may not be disclosed to employers other than for certain plan administrative functions.
- Disclosures are limited to the minimum amount necessary to achieve the purpose of the disclosure and procedures must be established to require the “minimum-necessary.”
- Health plans must provide a notice to individuals of the entity’s privacy practices (privacy notice).
- Covered entities must implement written privacy procedures and appropriate safeguards.

The deadline to comply with HIPAA’s privacy standards was April 14, 2003. Small plans with \$5 million or less in annual receipts (*i.e.*, claims paid in the prior fiscal year for self-funded plans) have until April 14, 2004. Self-administered health plans with less than 50 participants are exempt from privacy compliance. Again, keep in mind that “administered by the employer” does not have the same meaning as it does in the pensions industry and that unless *all* work is actually done by the employer, with no help from an outside TPA, it is not exempt.

### **Security**

The security regulations only apply to electronic health information. At a minimum, all health plans, clearinghouses, and healthcare providers who transmit or maintain electronic health information must conduct a risk assessment and develop a security plan to protect this information. The security plan must be documented and periodically reviewed. Employees should be educated on all security procedures and have taken steps to control access to protected information.

The compliance deadline with the Final Security Regulation is April 21, 2005 (or April 21, 2006 for small plans). Again, there is an exception for self-administered plans with fewer than 50 participants.

### **Penalties for HIPAA Violations**

The DHHS issued an Interim Final Rule for Imposition of Civil Money Penalties for HIPAA Violations on April 17, 2003. The civil money penalties (CMPs) can be substantial. A fine of \$100 per violation (up to a \$25,000 maximum per calendar year for identical violations) may be imposed on a covered entity for violating HIPAA’s administrative simplification provisions.

DHHS has delegated to the Office of Civil Rights (OCR) and the Centers for Medicare and Medicaid Services (CMS) the authority for administering and enforcing compliance. The statute of limitations for the imposition of CMPs is six years. Both OCR and CMS have indicated that their enforcement activities will be largely complaint-driven with a focus on voluntary compliance through technical assistance.

### **CONCLUSION**

At this point, it appears that health FSAs must comply with HIPAA. Unlike insured health plans where the insurance company has dealt with HIPAA, if an employer offers a health FSA, the burden is now on the employer (and ultimately the employer’s advisors) to ensure compliance. The real work for plan sponsors will be the privacy portion of this article. Training, privacy notices, business associate agreements, and firewalls to protect data are now the very real challenges of sponsoring health FSA plans. ▲

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*Sheila Parker, QPA, serves in a compliance role for the FlexWin division of Transamerica Worksite Marketing in Little Rock, AR, providing Section 125 administrative support and consultation. She has more than 20 years of experience in the pension administration field and is a member of The ASPA Journal Committee.*

Visit Us on the Web at [www.aspa.org](http://www.aspa.org)

## Bob Levenson, MSPA, 2003 Harry T. Eidson Founder's Award Recipient, Reflects on His Long History with ASPA

I asked Bob to name some highlights of his 1985 Presidency. The first thing Bob mentioned was that in the year he was President, ASPA established its Continuing Education (CE) program. Although the other actuarial societies had been founded well before ASPA, none of these other societies had a CE program. "We were the pioneers in continuing education and, a few years later, the other societies followed suit."

In addition to bringing John Erlenborn on board to assist with our government affairs efforts, another highlight of Bob's Presidency was that he appointed the first non-actuary, Stuart Raffel, to serve on ASPA's Executive Committee. This was a significant step in the movement toward involving non-actuaries in the governance of the society.

Bob reflected on changes that have taken place since his early involvement in ASPA. He stated that, first and foremost, ASPA is an educational organization, but that because of the success of government affairs, the

education part of our mission seems to be less publicized these days. He explained that to some extent, ASPA has taken on some of the characteristics of a trade association—at least, it has moved in that direction. Additionally, our membership has become much more diverse. "Everything that has happened over the past 15-20 years has been things that have moved the society forward in every regard." Bob used ASPA's conference program as an example of this positive change. We were experimenting with conferences in the 1970s and 1980s. In the late 1970s, we tried to have the ASPA Annual Conference in a different city each year, but this was an experiment that did not work. Attendance decreased every year, and, by not having the Conference in Washington, DC, we were unable to have high quality government speakers. We have also added regional conferences and have made additional changes that Bob feels have improved our conference program immeasurably.

Bob concluded by saying that what he has enjoyed most during his tenure at ASPA has been the people. "The people become among your closest friends. People like Bud Johnson, MSPA, and Curt Hamilton, MSPA, CPC, have been extremely helpful and generous. The membership in ASPA has always been generous in helping one another."

One thing that Bob emphasized during his acceptance speech at the award presentation is that while ASPA is an organization that does a lot for its new members (*i.e.*, those who have been members for five years or less), the primary reason it has been successful is because the members have done a great deal for ASPA. Bob strongly encourages all members to become actively involved and serve on ASPA's committees. He cannot emphasize enough the fact that member involvement has been the cornerstone of ASPA's success.

It is ASPA's privilege to honor Bob by presenting him with the prestigious Harry T. Eidson Founder's Award. ASPA extends its appreciation to Bob and is pleased to present him with this well-deserved award. ▲

*Amy E. Iliffe, ASPA's Director of Marketing and Development, has been working at ASPA for seven years. She lives in Ashburn, VA with her husband, Eric, and son, Ben.*

### Call For Papers

The Society of Actuaries (SOA) is organizing a follow-up to its successful **2002 Living to 100 and Beyond: Survival At Advanced Ages Symposium** (<http://www.soa.org/research/living.html>) scheduled for January 12-14, 2005 at the Hilton Hotel in the Walt Disney World Resort, Orlando, Florida.

This international symposium will focus on survival rates around, and above, age 100 and the consequences of lengthening lifetimes, bringing together actuaries, demographers, gerontologists, and others to share their knowledge and ideas. To assure the success of this symposium, participants are encouraged to produce and present papers at the symposium. For more information and the Call for Papers document, e-mail [livingto100@soa.org](mailto:livingto100@soa.org).

# Notice from the IRS



The Internal Revenue Service (IRS) has released an array of information and educational materials to help small businesses, employee retirement plan sponsors and administrators, and tax professionals understand how to keep employee retirement plans operating so they maintain their favorable tax status. These materials explain the various IRS programs that allow business and plan administrators to ensure that the plans conform with the complex and ever-changing tax laws governing plans. They also explain how to correct errors in the plans, often without even having to notify or correspond with the IRS.

The new materials provide information on programs available to businesses and plan experts under the Employee Plans Compliance Resolution System, or EPCRS. These materials are available in a variety of formats: hard copy, CD-ROM, and online. All are free.

First, the pamphlet, *Retirement Plan Correction Programs* (IRS Publication 4224), provides a synopsis of the various correction programs operated by the IRS, the Department of Labor (DOL), and the Pension Benefit Guaranty Corporation (PBGC). This tool, which is especially helpful to plan sponsors and practitioners, explains the help available for a variety of plan problems.

Second, a CD-ROM, *Retirement Plan Correction Programs* (IRS Publication 4050), is a more in-depth guide to the correction programs sponsored by the IRS, DOL, and PBGC. Highlights of the CD-ROM include:

- IRS Revenue Procedure 2003-44, which sets forth the procedures relating to the IRS's correction programs, and a linked in-depth topical index;
- A plain-language explanation of the IRS's retirement plan correction programs and procedures, with links to definitions and relevant sections of Revenue Procedure 2003-44;
- Video clips explaining the need for ongoing retirement plan self-audit programs and available correction programs;
- A "Guide to Common Qualification Requirements" to help employers understand their responsibilities under the law;
- Examination guidelines;
- Links to the IRS, DOL, and PBGC Web sites;
- Frequently asked questions (FAQs) on IRS and DOL correction programs; and
- FAQs on IRA-based plans (SEP, SARSEP, and SIMPLE).

The CD-ROM is an excellent reference tool for tax practitioners and plan sponsors, as well as for businesses that maintain plans for their employees.

An online version of the CD-ROM materials (minus video clips) is available on the IRS Web site. Go to the Retirement Plans Web page at [www.irs.gov/ep](http://www.irs.gov/ep), select "More Topics" and go to "Correction." This online information will allow plan sponsors and practitioners to keep up with the latest information or any changes to the correction programs that would not be reflected on the CD-ROM.

Employers or plan sponsors in need of more information should visit the Retirement Plans Web page at [www.irs.gov/ep](http://www.irs.gov/ep), or they can call customer account services toll-free at (877) 829-5500.



# Safe Harbor 401(k) Chart



by Bill Grossman, QPA

SAFE HARBOR 401(k) PLANS ARE POPULAR AND CAN BE VERY EFFECTIVE. EACH EMPLOYER'S GOALS, PLAN DESIGN, CONTRIBUTION SOURCES, AND DEMOGRAPHICS FORM A UNIQUE SCENARIO THAT THE EMPLOYER WILL WISH TO DISCUSS WITH HIS OR HER PLAN PROVIDER BEFORE FINALIZING THE DECISION TO MAKE THE PLAN A 401(k) SAFE HARBOR PLAN.

*The chart below outlines some of the basics that the plan provider and the employer need to know before considering a 401(k) safe harbor plan.*

## ADP SAFE HARBOR CONTRIBUTIONS

(NO ADP TEST REQUIRED)

### 3% NONELECTIVE CONTRIBUTION...

1. No allocation requirements may be imposed, such as a 1,000 hour or last-day requirement.
2. 100% vested.
3. Not available for in-service withdrawal before age 59½, even for hardship.
4. Can be used to satisfy top heavy minimum contribution.
5. Can be used towards satisfying cross-testing gateway.
6. Cannot be used to satisfy permitted disparity.
7. Available in guaranteed or flexible formula:
  - a. Guaranteed—provides required 3% each year.
  - b. Flexible—allows employer to decide each year.



### ...OR MATCHING CONTRIBUTION A. OR B. BELOW

**A. BASIC MATCH:** 100% of first 3% deferred, plus 50% of next 2% deferred.

1. No allocation requirements may be imposed, such as a 1,000 hour or last-day requirement.
2. 100% vested.
3. Not available for in-service withdrawal before age 59½, even for hardship.
4. Can be used to satisfy top heavy minimum contribution.

**B. ENHANCED MATCH:** Matching formula must be at least as generous as the basic formula.

1. No allocation requirements may be imposed, such as a 1,000 hour or last-day requirement.
2. 100% vested.
3. Not available for in-service withdrawal before age 59½, even for hardship.
4. Can be used to satisfy top heavy minimum contribution.
5. Rate of match may not increase as deferral percentage increases.

*NOTE: The top heavy minimum contribution is waived for plans using either the safe harbor basic or enhanced matching formula, provided there is no allocation of any other employer contributions including reallocation of forfeitures. Such a plan would actually be exempt from the top heavy rules.*

# ACP SAFE HARBOR CONTRIBUTIONS

(NO ACP TEST REQUIRED)

**A. One of the Safe Harbor contributions above must be provided.**

**B. Once the safe harbor contribution is provided, any non-safe harbor matching formula will satisfy the ACP Safe Harbor test if it meets these requirements:**

1. Allocation of any discretionary matching contribution cannot exceed 4% of compensation.
2. Deferrals in excess of 6% of compensation may not be matched.
3. Rate of match does not increase as deferral percentage increases.
4. Non-safe harbor additional match does not need to be 100% vested.
5. May permit in-service withdrawals.
6. Under the recently proposed regulations, a plan cannot have a 1,000 hour or last-day allocation requirement for any discretionary match. It is not clear whether this is the case prior to the regulations.

## SOME IMPLEMENTATION ISSUES

1. New Safe Harbor 401(k) Plan Issues:

- a. A safe harbor 401(k) feature may not be added to an existing profit sharing plan with less than three months remaining in plan year.
  - b. A brand new 401(k) plan must have at least three months remaining in the short plan year to immediately start a safe harbor. For example, by October 1 for a calendar year plan.
  - c. An exception to the 3 month rule exists for a new business, which may establish a safe harbor plan with one month each in the plan year.
2. A safe harbor feature may not be added to an existing 401(k) plan during the plan year. The plan may be amended to add the safe harbor as of the beginning of the next plan year.
  3. A safe harbor notice must be provided each year between 30 and 90 days before the next plan year begins. If the flexible nonelective safe harbor contribution will be made, a second notice must be provided 30 days before the end of the plan year.
  4. A safe harbor match may be discontinued during the year upon 30 days advance notice to employees. However, ADP and ACP testing will apply for the entire year.

## TOP HEAVY PLAN ISSUES

If the safe harbor 401(k) plan is top heavy, the employer can get twice the mileage out of its safe harbor contribution. There are three ways this can happen:

1. When a NEC of 3% or more is made to a top heavy plan, the NEC of 3% or more generally satisfies the top heavy contribution requirement.
2. If the plan is making a safe harbor match and the plan is top heavy, the match counts towards satisfying the top heavy minimum contribution for those employees who receive it. For example, if a participant defers 2% and receives a 2% match, when the employer makes the top heavy contribution, that participant would only have to receive 1% more to satisfy the 3% top heavy contribution.
3. A plan that only permits elective deferrals and contributions that satisfy the ADP and ACP safe harbor provisions is exempt from the top heavy rules. To be exempt, there cannot be any other employer contribution (*i.e.*, profit sharing contribution) and forfeitures cannot be allocated on a basis other than as a match that satisfies the ACP safe harbor. To further clarify, discretionary matching contributions that do not trigger the ACP test (as described above) may also be made.

*Bill Grossman works for McKay Hochman Company, Inc. where he is an instructor. Bill is the editor of the E-mail Alert and of three client newsletters: Prototype Plan News, Retirement Plan News, and 403(b) Perspectives. Bill is also editor of the company Web site [www.mhco.com](http://www.mhco.com). Bill has over 20 years in the retirement field and has just completed the work for his QPA designation.*

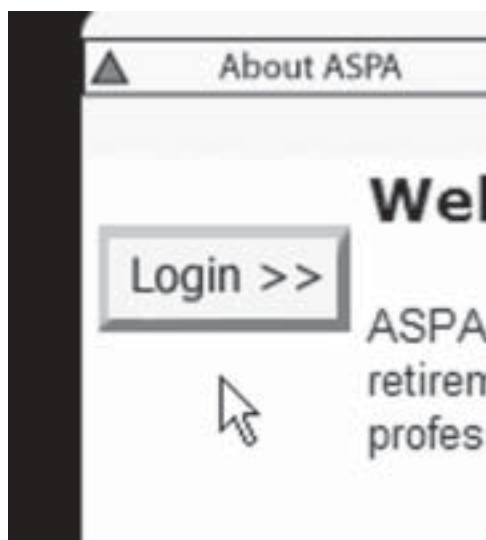
# Take Control! ASPA Implements User Preferences Online

by Chip Chabot

ONE OF THE GOALS ENVISIONED WHEN ASPA ADOPTED ITS NEW DATABASE A FEW YEARS AGO WAS TO ALLOW ONLINE USERS TO BE ABLE TO UPDATE THEIR PERSONAL AND BUSINESS INFORMATION AND TO GIVE USERS OPTIONS ON HOW THE NATIONAL OFFICE COMMUNICATES WITH THEM. WHILE THE INFORMATION UPDATE FUNCTION HAS BEEN LIVE SINCE THE INITIAL ROLLOUT, WE HAVE JUST PUT THE FINISHING TOUCHES ON WHAT WILL BECOME A COMPREHENSIVE LIST OF USER PREFERENCES THAT VISITORS CAN UPDATE AT THEIR LEISURE.

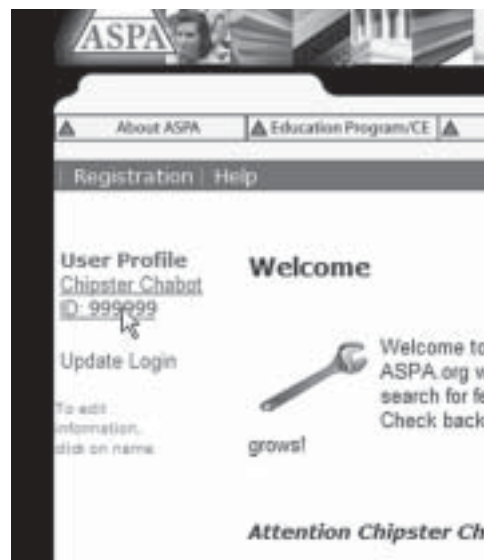
While starting off relatively small, the functionality will continue to grow as more pieces and options are offered. Make sure to check back periodically to ensure that the settings reflect your personal needs.

## ACCESSING THE USER PREFERENCES



The easiest way to access the user preferences is to start at the main ASPA Web page, [www.aspa.org](http://www.aspa.org). Near the upper left, you will see a login button in the left column. This access button is available only on the main index page; however, on all of the main section pages at the top of the right column you will see another login link.

Once you click the button, you are taken to the login page. Enter your login and password in the respective fields. If you are unsure of your login or password, you can use the 'Reset my password' utility available there, or you can contact the Membership Department at the National Office. Please note—the password reset utility has a time limit set for security purposes—follow the directions in a timely manner to complete.



Upon successfully logging into the Web site, you will see a new welcome page, along with your name at the top of the left column. Click on your name to access your personal information and preferences, which brings up the information display page. Click on the last button in the button set above your name, "User Preferences."





## SETTING YOUR PREFERENCES

You should now be at the User Preferences Web page. Here you will see, initially, two options—one asking whether you want to receive notification when *The ASPA Journal* is posted online, and the second asking whether you want to receive e-mail notification of new ASPA events. A check in the box next to each means that you want the selected option. For example, if there is a check in the box next to “I want to receive e-mail notification of ASPA events and activities,” you will receive these types of e-mails. Unchecking the box removes you from the list.

## START SMALL, GROW BIG

As you can see, the initial rollout has started small. As the National Office moves ahead with implementing additional functions of the database and the online database interface, more preference settings will become available.

Initially, everyone will be configured so that they can opt in to the preferences as they are set up. If you find that you would like to change the automatic setting, it is your responsibility to log into your account and make the change. As information is sent out, either by fax, e-mail, or other means, there will be a reminder that if you wish to not participate in that particular option, you can log in and change your preferences.

Coming soon will be a faxing preference, in accordance with the upcoming fax restrictions act recently

User Preferences

Login | Logout | Contact ASPA

Instructions

You will see a list of preferences below, along with a check box next to each. Make any changes necessary to the preferences as you see them, then click on 'Submit Answers'. This will save the preferences to your record in the database.

Publications

I want to receive e-mail notification when each issue of The ASPA Journal is available online.

Communications

I want to receive e-mail notification of ASPA events and activities.

Submit Answers

Contact Webmaster | Contact ASPA

passed by the FCC that goes into effect at the beginning of 2005.

Take control of your e-mail inbox or fax tray—set your user preferences to reflect your needs! ▲

*Chip Chabot has been employed by ASPA since 1997. Starting out as ASPA's Graphic Designer, he is now ASPA's Webmaster and Multimedia Manager and designs the Web site, produces webcasts, and develops CD-ROMs, among other tasks. Chip, his wife, and daughter live in Leesburg, VA.*

## Available Webcast Recordings

Missed a recent ASPA webcast? Need two extra ASPA CE credits? Check out the list of webcast recordings that are available on ASPA's Web site at <http://www.aspa.org/webcast/>. These archives are available for access at your convenience, any day, any time. Each webcast runs approximately 100 minutes in length. Visit the Web site to find out more!

The following webcast recordings are currently available:

### QDRO Administration

**Linda R. Morra**

Available until November 30, 2004

### IRS/ASPA 401(k) Update

**Lisa Mojiri-Azad**

**Janice M. Wegesin, CPC, QPA**

Available until October 31, 2004

### Deemed IRAs

**Charles J. Klose, FSPA, CPC**

Available until August 30, 2004

### IRS Voluntary Correction—Easier, More Flexible, AND Lower Fees

**James C. Paul, APM**

**Joyce Kahn**

Available until July 30, 2004

### How Much is That Required Minimum This Year?

**Richard Hochman, APM**

Available until July 30, 2004

### 401(k) Fiduciary Issues and Opportunities for Financial Consultants

**Fred Reish, APM**

Available until June 30, 2004

### 2002 Form 5500 and Related Compliance Issues

**Valeri L. Stevens, APM**

Available until April 30, 2004

### IRS/ASPA Washington Update

**Brian H. Graff, Esq., et al.**

Available until March 31, 2004

### Participant Loans

**Jane E. Armstrong**

Available until March 31, 2004

Cost: \$125 for Members, \$225 for Non-members

## ASPA Welcomes a New ABC! The ASPA Benefits Council of the Great Northwest

by Denise Calvert

ASPA IS EXCITED TO INTRODUCE ITS NEWEST ABC, LOCATED IN SEATTLE, WASHINGTON: THE ASPA BENEFITS COUNCIL OF THE GREAT NORTHWEST. THE ABC WAS OFFICIALLY WELCOMED ON SEPTEMBER 2, 2003. BEING ASPA'S FIRST ABC IN THIS PART OF THE COUNTRY, THE COUNCIL HOPES TO PROVIDE EDUCATION AND NETWORKING OPPORTUNITIES TO PROFESSIONALS IN WASHINGTON, SEATTLE, AND SURROUNDING AREAS.

The Great Northwest's first meeting on September 26, 2003, was a great success. The meeting featured Sal Tripodi, APM, as the guest speaker. The council is 60 members strong and growing! Way to go Great Northwest! For information about future meetings, please contact:

Gregory Rund, Chairman  
2003 Western Avenue, Suite 700  
Seattle, WA 98121  
(206) 622-4011 ext. 228  
aspa@knobel.com

For more information on becoming a member of the Great Northwest Benefits Council, please contact:

Jeff Roberts, CPC  
Membership Chair  
600 University, Suite 2812  
Seattle, WA 98101-1184  
(206) 654-8011  
jeffrey\_roberts@adp.com

Currently there are 14 ASPA Benefits Councils providing continuing education and networking opportunities to pension professionals on a local level. For information on ASPA Benefits Councils or starting an ABC, visit the Local Council section of ASPA's Web site at [www.aspa.org](http://www.aspa.org), or contact the ABC Coordinator at [abc\\_coordinator@aspa.org](mailto:abc_coordinator@aspa.org). ▲

*Denise Calvert joined ASPA in 2002 as the director of membership. She lives in Annandale, VA, with her husband and son.*

### Do you have questions about...

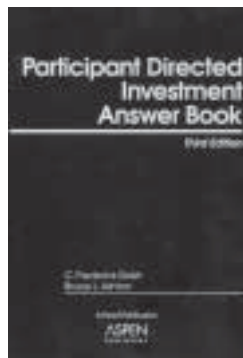
- 401(k) Investments?
- Fiduciary Issues?

Get the answers in the **Participant Directed Investment Answer Book** (third edition) by ASPA members **Fred Reish** and **Bruce Ashton** of Reish Luftman McDaniel & Reicher.

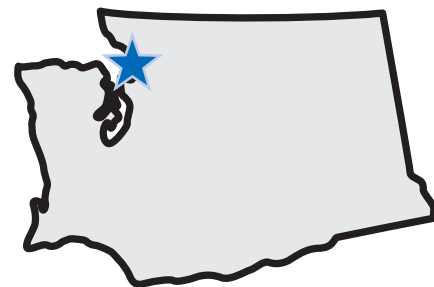
You'll find an in-depth look at issues unique to participant directed plans, including:

- **404(c) compliance**
- **401(k) fiduciary responsibility** for plan sponsors
- **Investment issues** arising out of **Enron** and other recent cases
- **Revenue sharing** and **fiduciary issues** for investment providers, brokers, TPAs and others

To purchase, go to our firm's web site at [www.reish.com](http://www.reish.com) and click on the link under Spotlight or contact Aspen Publishers at (800) 638-8437.



## ABC of the Great Northwest



# FUN-da-MENTALS

## Did You Know?

After winning his Nobel Prize, Albert Einstein reportedly said that the eighth Wonder of the World was **compound interest!**

SIDE FUN



"I'd like a solid retirement portfolio."

## Contest!

Each year, *The Washington Post's* Style Invitational asks readers to take any word from the dictionary, alter it by adding, subtracting, or changing only one letter, and supply a new definition. Here are some of the 2002 winners:

**Intoxication:** *Euphoria at getting a tax refund, which lasts until you realize it was your money to start with.*

**Giraffiti:** *Vandalism painted very, very high.*

**Inoculatte:** *To take coffee intravenously when you are running late.*

Okay—now you understand how it works. We'd like to challenge you to come up with your own words and definitions. Send your entries to [tcornett@aspa.org](mailto:tcornett@aspa.org) by January 31, 2004. The winner will receive a pass for a free ASPA webcast and various ASPA souvenirs. (By the way, extra credit will be given if the original word was a pension-related term!) Here's one of our own suggestions, just to get your juices flowing:

**Sinterest:** *Profits made illegally from innocent investors' money.*

## WORD SCRAMBLE

Unscramble these five puzzles—one letter to each space—to reveal five pension-related words. Answers will be posted on ASPA's Web site at <https://router.aspa.org>. Once you have logged in, place your cursor over the Membership tab in the navigation dropdown menu. Move to Membership Benefits, then click on *The ASPA Journal*. The answers are located near the bottom of the page.

- O NO TIP     ○ \_ ○ ○ \_ ○  
 TRUE RN     ○ \_ ○ ○ ○ \_  
 CASE NEVER     ○ ○ ○ \_ ○ \_ \_ ○ ○  
 TIRE CD     ○ ○ \_ ○ ○ ○  
 HIP ROB IT     \_ \_ ○ \_ ○ ○ ○ \_

BONUS: Arrange the circled letters to form the Mystery Answer as suggested by the cartoon.

### Mystery Answer

A " \_\_\_\_\_  
 \_\_\_\_\_ "




What the pension consultant had to make when he realized his son's allowance was not enough.

## 2003

- Dec 3 C-3, C-4, and A-4 Examinations
- Dec 15 Deadline for 2003 Edition Paper Examinations for PA-1 (Parts A and B) and Daily Valuation (\$100 grading fee)
- Dec 31 Deadline for 2003 PA-1A Online Course and Online Examination Submission for PA-1 and Daily Valuation

## 2004

- Jan 29-30 Los Angeles Benefits Conference Universal City, CA 16
- Feb 22-24 401(k) Sales Summit Orlando, FL 15
- Mar 31 Early Registration Deadline for Spring Examinations
- Apr 29-30 IRS/ASPA Great Lakes Employee Benefits Conference Chicago, IL 15
- Apr 30 Final Registration Deadline for Spring Examinations
- May 1-31 DC-1, DC-2, and DB Spring Examination Window
- May 19 C-3 Examinations
- May 20 C-4 Examinations
- Jul 18-21 Summer Conference San Francisco, CA 20



**Bulletin Board**

**Education**


*November 1–December 15  
C-1, C-2(DB)  
and C-2(DC)  
Fall Examination  
Window*

*December 31  
Deadline for 2003 PA-1A  
Online Course and Online  
Examination Submission for  
PA-1 and Daily Valuation*

**Conferences**

*Jan 29–30, 2004  
Los Angeles Benefits  
Conference  
Universal City, CA*


*February 22-24, 2004  
401(k) Sales Summit  
Orlando, FL*



**2004  
401(k)  
sales summit**

FEBRUARY 22-24,  
2004

ORLANDO WORLD  
CENTER MARRIOTT  
ORLANDO, FLORIDA



Early Registration  
Rates End  
January 30, 2004!

Visit [www.aspa.org/salessummit.htm](http://www.aspa.org/salessummit.htm) to register online!



## Did You Know?

ASPA co-sponsors conferences, seminars, and symposiums with other organizations. On March 24 and 25, 2004, ASPA is pleased to be a co-sponsor of the Defined Benefit Symposium that will be held immediately following the Enrolled Actuaries (EA) Meeting in Washington, DC. Being held at the Marriott Wardman Park Hotel, which is the same site as the EA Meeting, the symposium promises to be a critically important event.

Defined benefit plans play an important role in the US, yet DB plans are suffocating under the current economic, political, regulatory, demographic, and professional environment.

What can actuaries and retirement plan professionals do to turn the tide? To begin with, we can articulate a coherent value proposition for DB plans. We can also recognize our responsibility as professionals to take a leadership role, working responsibly with our stakeholders, in the revitalization of DB plans.

Mark your calendars now and plan to attend!