

2010 EB Compliance Calendar – Significant Effective and Due Dates for Retirement Plans

Item	Due Date		Plans Affected
	Calendar Year Plan	General	

Date Specific Items

<u>EFAST2: Electronic Filing for Form 5500</u>	5500 Filings for plan years beginning in 2009	Same	All plans subject to ERISA reporting must now file electronically under EFAST2. Exception for one participant plans eligible for 5500-EZ filing which may be filed on paper.
<u>Compliance with Updated Special Tax Notice</u> Must comply with new IRS model or an updated version with the same required content.	1/1/2010	1/1/2010	All plans that make eligible rollover distributions (qualified plans, 403(b) plans, and governmental 457(b) plans.
<u>DB Quarterly Contribution</u> Last required quarterly contribution for DB plan for 2009 plan year	1/15/2010	15 days after last plan year quarter	Qualified defined benefit plans
<u>Tax Reporting (to participants)</u> 2009 1099-Rs, other 1099s and W-2s reported to employees	1/31/2010	January 31 each year	Qualified plans, 403(b) plans, and governmental 457(b) plans report distributions on 1099-R. Unfunded nonqualified plans and not-for-profit 457(b) plans report distributions on W-2 for employees, 1099-MISC for independent contractors, and 1099-R for death benefits.
<u>EGTRRA Restatement -IDPs</u> EGTRRA restatement for individually designed plans on Cycle D . Document must be executed and, if applicable, submitted for IRS determination.	2/1/2010 for Cycle D plans.	Individually designed plans must be restated on staggered 5-year cycles generally based on last digit of EIN.	Qualified plans. Cycle D applies to individually designed plan sponsors with an EIN ending in 4 or 9.
<u>DB Notice of Benefit Restrictions</u> Notice must be provided to participants and beneficiaries of any benefit restrictions that apply due to the plan being less than 80% funded.	30 days after valuation/determination of the restriction	30 days after effective date of limitation	Defined benefit plans
<u>2009 Testing “Preparation” and General Compliance</u> <ol style="list-style-type: none"> 1. Collect all compliance questionnaires and review thoroughly. 2. <i>Has the make-up of the “employer” changed (i.e., change in controlled group status)?</i> This can effect the testing requirements and may impact status of the plan document and plan design. 3. Determine HCEs and key employees for 2009. 	As early as possible in testing season and prior to upcoming deadlines.	Same	Qualified plans and 403(b) plans.

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<p>4. If plan compensation excludes bonus, overtime, commission, etc., run compensation ratio test. Must pass this test to use this compensation for ADP/ACP. Also, must pass if nonelective allocation is intended to be a design-based safe harbor (e.g., pro rata).</p> <p>5. Have forfeitures for 2009 been used appropriately as stated in the plan document?</p> <p>6. Check 415 limits. If any deferrals are refunded to cure 415, exclude such deferrals from the ADP test.</p> <p>7. Review for excess deferrals (402(g)) for calendar year 2009 and make corrections prior to April 15, 2010.</p> <p>8. If deemed necessary, remind plan sponsor of any required contributions for 2009 (e.g., top heavy minimums, 401(k) safe harbor contributions).</p> <p>9. Run all necessary tests.</p>			
<p>ERISA Bonding Requirements Fidelity bond should generally provide coverage of at least 10% of plan assets with a minimum of \$1,000 and a maximum requirement of \$500,000 <i>However, if the plan invests in employer stock (whether or not publicly traded), amount should be up to \$1,000,000 or 10% of plan assets, if less.</i></p>	As early as possible in testing season and prior to 5500 preparation.	Same	Qualified plans and 403(b) plans subject to ERISA
<p>Quarterly Benefit/Disclosure Statement for Participant Directed DC Plans: Good Faith Compliance - 4th Quarter 2009 FAB 2006-03 provides that “good-faith” compliance for timing purposes is 45 days after the end of the quarter.</p>	2/15/2010	45 days after quarter end	Participant directed defined contribution plans and ERISA 403(b) plans.
<p>Tax Reporting (to IRS) 2009 1099-Rs and other 1099s reported to IRS</p>	2/28/2010 if not filed electronically; 3/31/2010 if filed electronically.	February 28 if not filing electronically; March 31 if electronically	Qualified plans, 403(b) plans, and governmental 457(b) plans report distributions on 1099-R. Unfunded nonqualified plans and not-for-profit

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			457(b) plan report distributions on W-2 for employees, 1099-MISC for independent contractors, and 1099-R for death benefits.
<p><u>DB – PBGC Premiums</u> Estimated PBGC premium due for 2010 for large plans (500 or more participants) – File Form 1-ES. Flat rate portion only.</p>	2/28/2010	Last day of second month of the applicable plan year	Qualified defined benefit plans subject to Title IV of ERISA with 500 or more participants during prior year.
<p><u>ADP/ACP Refunds Without 10% Excise Tax on Employer</u> ADP/ACP refunds to HCEs to avoid 10% excise tax on Employer</p> <p><i>EACA plans have a 6-month deadline for penalty-free refunds if certain conditions are satisfied. See later item.</i></p>	3/15/2010	2-1/2 months following plan year end	Plans with 401(k) and/or 401(m) arrangements.
<p><u>Contribution Deadline/Deductions – Without Extension</u> Due date for deductible 2009 employer contributions (same as due date for 2009 company tax return without extension).</p> <p><i>Related items: discretionary contributions, stated contributions, top heavy minimum contributions, required employer contribution to 401(k) safe harbor plans.</i></p>	For corporation with calendar fiscal year - 3/15/2010 <i>For partnership or LLC with calendar fiscal year - 4/15/2010</i>	75 days after corporate tax year ends <i>For partnership or LLC – 3-1/2 months after tax year end. Note: this is also the deadline for elective deferral contributions for the partner.</i>	Qualified plans sponsored by taxable employers.
<p><u>Funding Waiver Request Deadline (Pension Plans) for 2009 Funding Requirements</u> The waiver does not excuse the funding obligation, but rather gives the employer a period of time to make the contribution. The cost is generally amortized over a 5-year period. The limit to the number of waivers is 3 in any 15 consecutive year period. To be granted the waiver, the employer must illustrate: 1) <u>temporary</u> business (financial) hardship and 2) the waiver is in the best interest of the participants (continued employment).</p>	3/15/2010	2-1/2 months following plan year end	Defined benefit, money purchase, and target benefit plans

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<u>RMDs for 2009 (if not waived by the plan)</u> Initial required minimum distribution (RMD) due for those reaching later of 70-1/2 or retirement (as applicable) in 2009.	4/1/2010	April 1 st of calendar year following attainment of age 70-1/2, or if later (for non-5% owners) actual retirement	Qualified plans, 403(b) plans, 457(b) plans. <i>Note: most plans waived the 2009 RMD as allowed by WRERA '08.</i>
<u>DB Quarterly Contribution</u> First required quarterly contribution due for DB plans for 2010 plan year	4/15/2010	15 days after first plan year quarter	Qualified defined benefit plans
<u>402(g) Refunds</u> 402(g) excess deferral refunds. If refund is late, the individual will be taxed twice on the excess deferral.	4/15/2010	April 15 th after end of calendar year (the individual's tax year)	401(k) and 403(b) plans. Similar rule applies for 457(b) excesses.
<u>DC EGTRRA Restatement Deadline for Pre-Approved Plans (Prototype and Volume Submitter)</u>	4/30/2010	4/30/2010 is the deadline set by the IRS regardless of plan year.	All defined contribution qualified plans using prototype or volume submitter plan documents.
<u>Annual Funding Notice</u> PBGC covered defined benefit plans must provide notice of funded status each year to the PBGC, participants, and beneficiaries. This PPA rules replaces the SAR for these DB plans. <i>However, DB plans that are not covered by PBGC, must still provide the SAR each year (e.g. professional service employer plans with less than 26 participants).</i>	4/30/2010 However, if plan has 100 or fewer participants during prior plan year, due date matches 5500 due date.	120 days after plan year end Smaller plans (100 or fewer participants) – due date of 5500.	Defined benefit plans covered by the PBGC.
<u>DB – PBGC Premiums</u> PBGC premium due for 2009 for small plans (fewer than 100 participants).	4/30/2010	Last day of 16 th month following the first day of the premium payment year.	Qualified defined benefit plans subject to Title IV of ERISA with fewer than 100 participants (small plans)
<u>Quarterly Benefit/Disclosure Statement for Participant Directed DC Plans: Good Faith Compliance – 1ST Quarter 2010</u> FAB 2006-03 provides that “good-faith” compliance for timing purposes is 45 days after the end of the quarter.	5/15/2010	45 days after quarter end	Participant directed defined contribution plans and ERISA 403(b) plans.
<u>EACA Plans: ADP/ACP Refunds Without 10% Excise Tax on Employer</u>	6/30/2010	6 months following plan year end	401(k) plans with EACA IF 1) the arrangement applies to <u>all</u> eligible employees (at least those who have no

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ADP/ACP refunds to HCEs to avoid 10% excise tax on Employer			election on file <u>or</u> those who have a deferral rate less than the default) and 2) annual notice will continue to be provided to all eligible employees eligible to defer
<u>Summary of Material Modifications</u> SMM due to participants for amendments made in 2009 (Note: EBLS generally provides the SMM when a plan amendment is prepared)	7/29/2010	210 days following end of the plan year in which the amendment is made effective	Plans subject to SPD requirement
<u>Annual Benefit Statement for Non-Participant Directed DC Plans: Good Faith Compliance – 2009 Annual Statement</u> FAB 2007-03 provides that “good-faith” compliance for timing purposes is the due date of the Form 5500 for the applicable plan year. The FAB also provides that this timeline is extended by any extension of the Form 5500.	8/2/2010	Due date, including extensions, for filing the Form 5500 for the applicable plan year.	Non-participant directed defined contribution plans and ERISA 403(b) plans.
<u>Form 5558 to Request 5500 Extension</u> Must be filed by normal 5500 deadline	8/2/2010	Last day of 7 th month following plan year end	Qualified plans and 403(b) plans subject to ERISA reporting requirements under ERISA Title I
<u>5500 Deadline (No Extension)</u> Form 5500 due to EBSA (No Extension) / Due date to file Form 5558 to extend due date by 2-1/2 months <i>Note: <u>SSA</u> must be filed separately with the IRS on paper.</i>	8/2/2010	Last day of 7 th month following plan year end	Qualified plans and 403(b) plans subject to ERISA reporting requirements under ERISA Title I
<u>Quarterly Benefit/Disclosure Statement for Participant Directed DC Plans: Good Faith Compliance – 2nd Quarter 2010</u> FAB 2006-03 provides that “good-faith” compliance for timing purposes is 45 days after the end of the quarter.	8/15/2010	45 days after quarter end	Participant directed defined contribution plans and ERISA 403(b) plans.
<u>Minimum Funding Deadline (Pension Plans Only)</u> Minimum funding deadline for pension plans – IRC §412	9/15/2010	8-1/2 months after plan year end	Qualified pension plans subject to minimum funding requirements (defined benefit, money purchase, and target benefit plans)

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<p><u>Contribution Deadline/Deductions with Extension</u> Extended due date for deductible 2009 employer contribution (same as due date for 2009 company tax return with extension).</p> <p><i>Related items: discretionary contributions, stated contributions, top heavy minimum contributions, required employer contribution to 401(k) safe harbor plans.</i></p>	<p>For corporation with calendar fiscal year - 9/15/2010</p> <p><i>For partnership or LLC with calendar fiscal year - 9/15/2010.</i></p>	<p>Corporations: 6 months following normal tax filing due date</p> <p><i>For partnership or LLC, 5 months following normal deadline.</i></p>	<p>Qualified plans sponsored by taxable employers</p>
<p><u>5500 (Extended Due to Extension of Corporate Return Deadline)</u> Form 5500 due to EBSA if eligible for automatic extension linked to extension for filing corporation's tax return</p> <p><i>Note: SSA must be filed separately with the IRS on paper.</i></p>	<p>9/15/2010</p>	<p>If plan year and company fiscal year are identical and company is granted extension for filing tax return, 5500 may be extended to this later date. Copy of extension must be attached to 5500.</p>	<p>Qualified plans and 403(b) plans subject to ERISA reporting requirements under ERISA Title I</p>
<p><u>SAR</u> Summary Annual Report (SAR) provided to participants (no extension on 5500)</p>	<p>9/30/2010</p>	<p>9 months after plan year end (2 months after 5500 due date)</p>	<p>Qualified defined contribution plans and 403(b) plans subject to ERISA reporting requirements under ERISA Title I. Also, defined benefit plans not covered by Title IV of ERISA (PBGC)</p>
<p><u>Annual Notice Season Begins</u> Make preparations for annual notices including: 401(k) safe harbor, ACAs, QACA safe harbor, QDIA</p>	<p>10/1/2010</p>	<p>30-90 days prior to next plan year</p>	<p>Plans with referenced design/features.</p>
<p><u>Retroactive Amendments to Correct Failed Coverage; General Nondiscrimination</u> Regulatory correction period ends (retroactive amendments) for failed 2009 coverage, general nondiscrimination, or participation testing.</p>	<p>10/15/2010</p>	<p>9-1/2 months after plan year end</p>	<p>Qualified plans and 403(b) plans</p>
<p><u>DB Quarterly Contribution</u> Third required quarterly contribution for DB plans for 2010 plan year</p>	<p>10/15/2010</p>	<p>15 days after third plan year quarter</p>	<p>Qualified defined benefit plans</p>

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<p>5500 (Extended Due to Form 5558) Form 5500 final due date to EBSA (after filing Form 5558)</p> <p><i>Note: SSA must be filed separately with the IRS on paper.</i></p>	10/15/2010	Extra 2-1/2 months following normal 5500 due date if Form 5558 was filed timely	Qualified plans and 403(b) plans subject to ERISA reporting requirements under ERISA Title I
<p>DB - PBGC Premiums Final PBGC premium due for 2010 (Form 1) for mid-size (100-499 participants) and large plans (500+). May have longer to finalize variable rate portion.</p>	10/15/2010	15 th day of 10 th month of the plan year	Qualified defined benefit plans subject to Title IV of ERISA that have 100 or more participants
<p>SAR (Extended) SAR due to participants if 5500 extended due to corporate tax filing extension.</p>	11/15/2010	2 months after the extended due date	Qualified defined contribution plans and 403(b) plans subject to ERISA reporting requirements under ERISA Title I. Also, defined benefit plans not covered by Title IV of ERISA (PBGC)
<p>Quarterly Benefit/Disclosure Statement for Participant Directed DC Plans: Good Faith Compliance – 3rd Quarter 2010 FAB 2006-03 provides that “good-faith” compliance for timing purposes is 45 days after the end of the quarter.</p>	11/15/2010	45 days after quarter end	Participant directed defined contribution plans and ERISA 403(b) plans.
<p>401(k) Safe Harbor - Annual Notice Deadline 401(k) safe harbor annual notice to employees - final date</p>	12/1/2010	Must be provided within 30-90 days prior to beginning of next plan year	401(k) plans designed to rely on safe harbors for ADP and ACP testing
<p>ACA and EACA “Annual” Notice Deadline Automatic enrollment (or automatic contribution arrangement) annual notice of right to elect out of the automatic deferral rate and the qualified default investment</p>	12/1/2010	30-90 days prior to beginning of next plan year	401(k), 403(b), and governmental 457(b) plans that include an ACA or EACA.
<p>QACA Safe Harbor “Annual” Notice Deadline Qualified automatic contribution arrangement (QACA) notice.</p>	12/1/2010	30-90 days prior to beginning of next plan year	The automatic enrollment safe harbor design - 401(k) plans designed with a special automatic contribution arrangement and relying on a safe harbor for ADP and ACP testing.
<p>QDIA “Annual” Notice Deadline Default investment notice required if intended to satisfy qualified default investment alternative (QDIA) rules</p>	12/1/2010	30-90 days prior to beginning of next plan year	Qualified defined contribution plans allowing participant direction and providing a default fund for those participants who fail to make an

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(may be combined with the automatic enrollment notices where applicable)			election, with such default fund intended to be a qualified default investment alternative (QDIA)
<u>SAR Extended</u> SAR due to participants if 5500 extended due to filing Form 5558	12/15/2010	2 months after the extended due date	Qualified defined contribution plans and 403(b) plans subject to ERISA reporting requirements under ERISA Title I. Also, defined benefit plans not covered by Title IV of ERISA (PBGC)
<u>RMDs for 2010</u> Lifetime RMDs due by 12/31/2010 except for those whose first distribution calendar year is 2010 (may delay to 4/1/11). Also, identify any post-death RMDs that may be due to a beneficiary under either the annual life expectancy rule or the 5 year rule.	Normally would be due 12/31/2010, or for initial RMD 4/1/2011.	Lifetime RMDs are normally due by the end of each distribution calendar year (except for the initial RMD which may be extended to the following April 1st). Post-death RMDs may also apply.	Qualified plans, 403(b) plans, 457(b) plans
<u>HEART Act Good-Faith Amendment Deadline</u> Plans must adopt interim amendment for provisions of the HEART Act. <i>Note: these provisions were included in the PPA amendment prepared by EB Legal Services. If BB&T did not provide the PPA amendment, be sure the HEART Act provisions are adopted by the end of the 2010 plan year.</i>	12/31/2010	Last day of plan year beginning in 2010 (2012 for governmental plans)	Qualified plans, 403(b) plans, and 457(b) plans
<u>PPA Extended Amendment Due Date for Certain Provisions</u> 1) Funding-Based Limits for Defined Benefit Plans.- 401(a)(29) and 436 2) Vesting and Other Special Rules for Cash Balance and other Hybrid Plans 3) Diversification Requirements for Defined Contribution Plans invested in publicly traded employer securities	12/31/2010	Last day of plan year beginning in 2010	Defined benefit plans and defined contribution plans invested in publicly traded employer securities.
<u>ADP/ACP Refund Deadline</u> ADP/ACP refund (for <u>previous</u> plan year) due date to maintain qualified status.	12/31/2010	12 months after plan year end. If not corrected by this date, must use EPCRS	Plans with 401(k) and/or 401(m) arrangements

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Note: also last day to make a QNEC to cure a failed ADP/ACP test using the <u>current year</u> testing method.		methods to cure	
<u>401(k) Deferral “Election” Deadline for Partners</u> Self employed owner (e.g., sole proprietor, partner, or LLC member) 401(k) salary deferral “election” deadline	12/31/2010	Last day of partnership (or LLC) tax year	401(k) plans sponsored by partnerships, LLCs, sole proprietors
<u>NQ Plans – 2010 Deferral Election Deadline</u> Nonqualified plan deferral elections for 2010	12/31/2010	Prior to beginning of applicable tax year	Nonqualified deferred compensation plans subject to 409A
<u>Testing Methods/Elections - Deadline to Amend Plan</u> Discretionary amendment deadline for 2010 testing methods/elections (current year, prior year, top paid group, etc.)	12/31/2010	Last day of applicable plan year	Qualified plans and 403(b) plans

Event Related or Periodic Items

<u>Distribution Notices for Terminated Participants</u> <u>If vested account is \$5,000 or less:</u> ➤ Special tax notice (402(f)) <u>If vested account is greater than \$5,000</u> ➤ Special tax notice (402(f)) ➤ Distribution notice including form of distribution, right to defer, consequences of not deferring ➤ If J&S, include QJSA explanation and spousal waiver/consent form	30-180 days before distribution date	Same	Qualified plans and 403(b) plans. Governmental 457(b) plans must provide special tax notice.
<u>Summary Plan Description (SPD)</u> Must be provided to eligible employees in ERISA plans.	Within 90 days of entry date (120 days for initial SPD for new plan)	Same	Qualified plans and 403(b) plans subject to ERISA
<u>“Initial” ACA/EACA/QACA Notice</u> <i>Annual notice requirements apply as well.</i>	Within 90 day period ending on the employee’s entry date.	Same	Plans that include these ACA provisions.

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	Note that QDIA protection requires 30 days' notice unless the 90 day withdrawal option is available.		
<u>“Initial” Safe Harbor 401(k) Notice</u> <i>Annual notice requirements apply as well.</i>	Within 90 day period ending on the employee's entry date.	Same	Plans designed to satisfy the ADP/ACP safe harbor requirements
<u>“Initial” QDIA Notice</u> To obtain fiduciary protection under ERISA §404(c)(5), the fiduciary must provide initial notice that describes: the participant's rights to direct investments, the circumstances in which assets would be invested in the QDIA, a description of the QDIA, etc. <i>Annual notice requirements apply as well.</i>	Generally, 30 days in advance of the first deposit. Protection “clock” starts after 30 days notice is provided. Exception: protection is available if notice provided by entry date for auto-enrollees under an EACA if 90 day withdrawal provision is available.	Same	Qualified defined contribution plans and 403(b) plans that provide for participant investment direction.
<u>Blackout Notice</u> Required if participants' ability to direct investment, obtain distributions or loans are suspended for more than 3 business days.	30-60 days prior to black-out	Same	Qualified plans and 403(b) plans that are subject to ERISA. Typically involving conversions, mergers, spin-offs.
<u>ERISA 204(h) Notice of Reduction of Future Benefit Accrual</u> Must be provided if a pension plan's accrual or contribution formula is reduced or frozen.	45 days prior to effective date of amendment. 15 days will generally suffice for small plans (fewer than 100 participants)	Same	Pension plans only (money purchase, target benefit, defined benefit). Does not apply to 401(k) and profit sharing plans.
<u>Notice of Safe Harbor Match/Nonelective Elimination</u> Employer must provide at least 30 days advance notice, fund the match or nonelective through this 30 day period or if later the amendment effective date, amend the plan properly, and test for ADP and ACP for the entire plan year. Note: the safe harbor nonelective may be eliminated during the plan year only if the employer has a severe business hardship.	At least 30 days prior to the effective date of the elimination amendment.	Same	401(k) plans with safe harbor match.
<u>Stock Divestiture Notice</u> Must inform participants of their right to diversify out of <u>publicly traded</u>	30 days prior to first becoming eligible to divest	Same	Qualified defined contribution plans that hold <u>publicly</u> traded “employer” stock. May also apply if an Employer

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“employer” securities. Plan must provide at least 3 diversified options with different risk/return characteristics.			is part of a controlled group with a publicly traded corporation. Stand-alone ESOPs are exempt. Plan may require 3 years of service for divestiture rights to employer accounts.
<u>DB Plan Termination Forms and Notice Requirements under PBGC</u>	See plan termination procedures for required notices and filings.	Same	Defined benefit plans subject to PBGC coverage.
<u>DB Notice Failure to Meet Minimum Funding Payment</u> If employer fails to make a required payment to satisfy minimum funding standards within 60 days of due date, must provide notice to participants and beneficiaries.	Following 60 day ‘grace period”	Same	Defined benefit plans