YMCA RETIREMENT FUND
SAVINGS FOR LIFE

Timing of Remittance: *ERISA Regulations*

This important notice outlines legal requirements for the timely remittance of employee-withheld contributions as well as employer contributions.

The YMCA Retirement Fund sponsors two plans: The YMCA Retirement Fund Retirement Plan and the YMCA Retirement Fund Tax-Deferred Savings Plan. In 2004, the YMCA Retirement Fund was successful in having federal legislation enacted which protects important aspects of our plans:

- *Recognition of our plans as church plans,*
- *The right to continue commingling the assets of the Retirement Plan with those of our Tax-Deferred Savings Plan for investment efficiency purposes and,*
- *Permission to continue to convert participant account balances into life annuities for retiring employees (known as self-annuitization, which only defined contribution church plans can do).*

As a result of the legislation's enactment, effective July 1, 2006, the Retirement Plan elected into certain provisions of the Employee Retirement Income Security Act of 1974, as amended ("ERISA").

What YMCAs Need to Do

YMCAs should remit contributions as soon as reasonably possible after each payroll.

To comply with the Department of Labor (DOL) regulations under ERISA and the terms of the Retirement Plan, YMCAs are required to remit employee-withheld contributions to the Fund as soon as contributions can reasonably be segregated from the YMCA's general assets following the date that amounts are withheld from employee paychecks. For both the Retirement Plan and Savings Plan, in no event may employee-withheld contributions be remitted later than the 15th business day of the month following the month in which amounts would otherwise have been payable to the employee.

For example, if contributions are withheld from employee paychecks on July 15, the YMCA is required to remit such employee contributions to the Fund as soon as reasonably possible but no later than the 15th business day of August. The "as soon as reasonably possible" standard will depend upon the facts and circumstances of a particular YMCA, including whether it has electronic payroll systems and computer capabilities or manual systems to transmit contributions, as well as the number of YMCA branches that need to be coordinated and whether an outside payroll provider is utilized.

Retirement Plan contributions withheld from an employee's pay are considered plan assets by the DOL at the time contributions can reasonably be segregated from the YMCA's general assets and cannot be diverted for any purpose other than to be remitted to the Fund to be credited to the employee's accounts under the Retirement Plan for the exclusive benefit of the employee.

If Employee-Withheld Contributions are not Remitted to the Fund ASAP

If employee-withheld contributions are not remitted to the Retirement Fund on time per DOL regulations, it may be viewed as a "prohibited transaction". The method to correct such a prohibited transaction is by undoing the transaction by contributing the employee amounts and related earnings. In addition, the YMCA may need to report the transaction to the IRS on IRS Form 5330 and 15% excise tax penalty and other penalties may be due. The Fund will be required to report late contributions to the IRS on the annual information return Form 5550 filed for the Retirement Plan.

Failure to correct the prohibited transaction, to file the Form 5330 and to pay the penalty tax by the time it is due, or by the time a deficiency notice is mailed by the IRS, may subject the YMCA to a 100% excise tax penalty. Using plan assets for any other purpose, including the cash flow needs of the employer, could result in criminal liability.

Under DOL regulations, a 10-business day extension may be available if certain specific requirements are met, including notifying all participants, obtaining a performance bond and providing the DOL with a copy of the notice and certification that the bond was obtained.

Employer Contributions are Due on the 15th Business Day

Employer contributions by YMCAs to the Retirement Plan must be sent to the Fund by the 15th business day after the end of the month to which such employer contributions relate. If a YMCA fails to remit employer contributions in a timely manner, the YMCA must pay all contributions plus interest (at the applicable interest rates) to the Fund. In addition, there may be a related filing requirement and fees or penalties.

Failure to Comply May Result in Expulsion

Failure to comply with the timely remittance of either employee-withheld contributions or employer contributions to the Fund could result in appropriate action being taken against a non-complying YMCA, including expulsion from participation in the plans of the Fund.

Where Can I Get More Information?

If you have any questions about this notice or wish to discuss faster methods for sending contributions, please call our Finance Department at 800-RET-YMCA or email info@ymcaret.org.