



United Benefit Pensions Inc.  
35 Pinelawn Road • Suite 103E  
Melville, New York 11747  
631-622-3170 • Fax: 631-622-3185  
[www.ubpensions.com](http://www.ubpensions.com)

Dear Valued Client:

Re: Plan Year-End December 31, 2011

As part of our servicing of your qualified Plan, United Benefit Pensions Inc. (UB Pensions) provides an annual report to ensure that the Plan is being operated in accordance with Internal Revenue Service Regulations.

*Please be advised that qualified retirement plans must satisfy time deadlines. UB Pensions will not be responsible for the completion of the annual report or the preparation of the required 5500 series IRS forms if this data is not received on a timely basis. It is the employer's responsibility to provide accurate and complete information to our office. **Data not provided to UB Pensions on a timely basis will be subject to a late fee of \$250 as outlined at the end of this letter** as well as possible IRS penalties.*

**Below is a list of the attachments that follow. Each attachment will have specific instructions. Please read and follow the instructions as given.**

- 1) Questionnaire #1 (must be signed)
- 2) Questionnaire #2 (not included – N/A)
- 3) Questionnaire #3 (must be signed)
- 4) Contribution Election Form (must be signed)
- 5) Attachment A – Key/HCE Determination (must be signed)
- 6) Census Information Update (Verification of Census must be completed and signed)

*Please review all forms for accuracy and to make sure that there are no blanks on any forms. If a question or form does not apply to your plan, please indicate that it is not applicable by marking "N/A".*

### **Beneficiary Designation Form**

Each plan participant **must have a current Beneficiary Designation Form**. Please advise all participants to update their Beneficiary Designation if necessary. A copy of this form can be found on our website at [www.ubpensions.com](http://www.ubpensions.com) under the section heading of "Forms".

### **401(k) Plan Enrollment Forms**

**The Department of Labor and the Internal Revenue Service mandates that all eligible employees be notified of their right to participate in your company's retirement plan. They must be given written information about the plan and must complete and sign an enrollment form indicating whether or not they will be participating in the plan. If the Employer fails to properly notify an employee of eligibility for the Plan, the Employer may be required to make both 401(k) contributions and Employer contributions on behalf of that employee.**



**Plan Data Questionnaires (must be completed and signed, where applicable)**

Please read these Questionnaires carefully. Complete all applicable forms in their entirety and sign wherever indicated. We cannot complete your Form 5500 and related schedules unless all applicable questionnaires are completed and signed.

- **Questionnaire #1 (must be completed and signed)**. There are several attachments that explain some questions in greater detail.

*Please note that if you have previously completed Questionnaire #1 for UB Pensions, you can elect to sign a statement that all information for the 2011 plan year is identical to the information provided on the last fully completed Questionnaire #1. The form is located immediately after this page. Please keep in mind that by signing this form you are making a legal statement that the information that we have in our file is accurate. If you are not comfortable signing this blanket form, then you **MUST** complete the entire Questionnaire #1.*

- **Questionnaire #2 (not applicable)**
  
- **Questionnaire #3 (must be completed and signed)**

Plan Name: \_\_\_\_\_

**Statement of Employer in lieu of completing Questionnaire #1**

I have elected to forgo completing Questionnaire #1 and in place of that form I hereby certify that the answer to any question that is found on Questionnaire #1 is identical to the information that UB Pensions has from the most current questionnaire we have on file that provides this information.

I acknowledge that I understand that the information that UB Pensions currently has on file may not be the most current information but I have elected to authorize the use of that information rather than complete Questionnaire #1.

I further acknowledge that I understand if any information that UB Pensions uses based on my authorization that is **not** accurate is my responsibility. **If such authorized inaccurate information requires the amendment of any reports or IRS Forms as prepared by UB Pensions, I understand that an additional fee will be payable by my company to UB Pensions for this amended work.**

**QUESTIONNAIRE #3 MUST BE COMPLETED AND SIGNED**

**In order for UB Pensions to prepare your Summary Annual Report in accordance with the federal requirements, please supply the name of the ERISA Fidelity Bond Company that issued your ERISA Fidelity Bond and the amount of the bond:**

**ERISA Fidelity Bond Company Name** \_\_\_\_\_

**ERISA Fidelity Bond Amount** \_\_\_\_\_

**ALL QUALIFIED RETIRMENT PLANS MUST HAVE A FIDELITY BOND.** The minimum amount is 10% of the value of plan assets on the last day of the prior plan year.

\_\_\_\_\_  
Signature and Title of Preparer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

**Plan Name:** \_\_\_\_\_

**Questionnaire #1**

Please check the type of Business Entity and enter Business Code:

Corporation    Sub-S    Partnership    P.C.    Sole Proprietorship    LLC  
 Not for Profit    Other – Please specify \_\_\_\_\_

6-Digit Business Code (NAICS) \_\_\_\_\_

Nature of Business \_\_\_\_\_

Employer ID # \_\_\_\_\_      Employer Tax Year \_\_\_\_\_

For the following questions, please indicate a yes or no answer. If yes, please provide details.

	<b>YES</b>	<b>NO</b>	<b>DETAILS</b>
1a)    Were there any loans made from the plan (other than participant loans)? If YES, were any loans considered in default? If YES, provide details.			
1b)    Was there any loan or extension of credit by the plan to the employer, any fiduciary, or any of the five most highly paid employees of the employer, or any owner of a 10% or more interest in the employer?			
2)      Were there any leases or other obligations incurred by the plan?			
3)      Were there any changes in trustee, accountant or administrator during the plan year?			
4)      Is the employer a member of a controlled group or affiliated service group? Please refer to the attached summary entitled " <i>Explanation of Controlled Groups and Affiliated Service Groups</i> " for clarification of this question.			
5)      Were there any losses to the plan due to fraud or dishonesty?			
6)      Was there any sale, exchange, or lease of property between the plan and the employer, any fiduciary, or any of the five most highly paid employees of the employer or any owner of a 10% or more interest in the employer?			

**CONTINUED ON FOLLOWING PAGE**

	<b>YES</b>	<b>NO</b>	<b>DETAILS</b>
<p>7) Does the plan hold any assets that have a fair market value that is not readily determinable on an established market? If YES, please answer the following:</p> <p>(a) Were these assets valued during the plan year by an independent third-party appraiser? Please provide a copy of the appraisal.</p> <p>(b) If 7(a) is YES, enter the value of the assets that were valued by an independent third-party appraiser during any prior plan year. Please provide a copy of the appraisal.</p> <p>(c) Enter the last date the assets in 7(b) were valued by an independent third-party appraiser (if more than one date, enter the earliest date).</p>			
<p>8) Did the plan at any time hold 20% or more of its assets in any single security, debt, mortgage, parcel of real estate, or partnership/joint venture interest? If YES, please indicate the value of such investment.</p>			
<p>9) Are there any employees not listed on the census due to the following classifications? If YES, please indicate the number. (Please note that the number in each group should be calculated as of the last day of the plan year).</p> <p>(a) Leased Employees  (b) Employees covered by a collective bargaining agreement  (c) Non-resident aliens  (d) Other</p>			
<p>10) Participant loan defaults: List all active participants that made no required loan repayments during any 90-day period. Also list terminated participants that did not repay any outstanding balance in full within 90 days of termination and have not received a Form 1099-R showing a loan default.</p>			List names:

**CONTINUED ON FOLLOWING PAGE**

	<b>YES</b>	<b>NO</b>	<b>DETAILS</b>
11) Were there any corporate mergers or business acquisitions during the Plan Year? If YES, please explain.			
12) Do you have more than 100 eligible employees (including terminated participants) in the plan? If YES, please provide the Name and EIN of the Accountant who will complete the Auditors Statement.			

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Signature and Title of Preparer

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Date

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Print Name

## **Explanation of Controlled Groups and Affiliated Service Groups**

For a variety of technical purposes, the employees of certain business must be treated as if they were employed by the Plan Sponsor. This aggregation is required for **Controlled Groups** and **Affiliated Service Groups**. The rules for determining whether a Controlled Group or Affiliate Service Group condition exists is more complicated than can be explained here; you may wish to consult your accountant or UB Pensions to discuss whether IRC 1563(a) (disregarding 1563(a)(4) and 1563(e)(3)(c)) applies to you.

General descriptions of these terms are as follows:

### **Controlled Groups (CG)**

All employees of all corporations that are members of a CG are treated as if employed by a single employer.

CGs may be I. Parent/Subsidiary CGs, II. Brother/Sister CGs, III. Combined CGs

#### **I. Parent Subsidiary CG**

One or more chains of corporations with a common parent corporation, where one or more corporations both: (a) own at least 80% of the stock of each (except the parent) and (b) the parent owns directly at least 80% of at least one of the other corporations.

#### **II. Brother Sister CG**

Two or more corporations where not more than five people own at least 80% of each corporation and these (not more than five) people own more than 50% of each corporation, taking into account ownership only to the extent ownership is identical in each (i.e. smallest common amount).

#### **III. Combined CG**

Three or more corporations, each of which is in I. or II, and one corporation is a common parent and that one corporation is also in II.

### **Affiliated Service Groups (ASG)**

All employees of all members of an ASG are treated as if employed by a single employer.

An ASG is a service organization (A) and one (1) or more of:

1. another service organization that is a shareholder or partner of (A) and performs services with or for (A).
2. another organization which performs significant services for (A) and is 10% or more owned by Highly Compensated Employees in (A). This includes performing management functions for (A).

Plan Name: \_\_\_\_\_

**QUESTIONNAIRE #3**

**IMPORTANT INFORMATION REGARDING CONTRIBUTION/LOAN REPAYMENT TIMEFRAME**

**Please read this information and complete the question indicated below.**

UB Pensions would like to remind you of the timeframe in which employee 401(k) contributions must be deposited.

It is extremely important to keep in mind that the Department of Labor (DOL) is taking a very firm position that employee 401(k) salary deferrals and employee loan repayments must be transferred from the Employer to the Plan's Investment Trust as soon as administratively feasible (ASAAF). **For plans with more than 100 people eligible, the DOL states their definition of "as soon as administratively feasible" as the same day the Employer makes payment of an employee's payroll. For plans with fewer than 100 people eligible, the DOL requires that payments are deposited within 7 business days of the payroll date.**

A DOL audit could examine plan records to review the timing of deposits for compliance with the ASAAF standard. The DOL could, and likely would, impose a penalty for failure to meet this **standard** requirement. Some plans might be able to argue that meeting this standard is not administratively feasible for them, due to factors such as multiple locations, loan processing, etc. There is no guarantee that the DOL would accept these arguments.

**Please complete the following question and sign where indicated:**

**Were any participant contributions transmitted to the Plan later than the DOL prescribed guidelines?**

Yes  No

**If YES, please indicate the amount and dates?**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**In order for UB Pensions to prepare your Summary Annual Report in accordance with the federal requirements, please supply the name of the ERISA Fidelity Bond Company that issued your ERISA Fidelity Bond and the amount of the bond:**

ERISA Fidelity Bond Company Name \_\_\_\_\_  
ERISA Fidelity Bond Amount \_\_\_\_\_

**ALL QUALIFIED RETIRMENT PLANS MUST HAVE A FIDELITY BOND.** The minimum amount is 10% of the value of plan assets on the last day of the prior plan year.

\_\_\_\_\_  
Signature and Title of Preparer

\_\_\_\_\_  
Date

**Contribution Election Form (must be signed)**

If your plan is a Profit Sharing and/or 401(k) Plan, you **must** complete this form.

*The IRS requires that a formal Resolution should be included in the books of your business to indicate the contribution made to the plan. By completing and executing the Contribution Election Form, you have adopted the Resolution for this Plan Year.*

CONTINUED ON THE FOLLOWING PAGE

Plan Name: \_\_\_\_\_  
Plan Year End: \_\_\_\_\_

**CONTRIBUTION ELECTION FORM**

Contributions to a Profit Sharing Plan (which includes 401(k) Plans) are usually keyed to the existence of profits and made on a discretionary basis. As a rule, contributions should be "substantial and recurring" though generally discretionary.

**PLEASE COMPLETE ALL SECTIONS THAT ARE APPLICABLE TO YOUR PLAN**

**Please choose one of the following:**

I would like to make an Employer Discretionary Profit Sharing contribution of:

\_\_\_\_\_ % of Eligible Compensation, OR \$ \_\_\_\_\_

OR for a New Comp allocation, using the following formula: Class A \_\_\_\_\_ ;  
Class B \_\_\_\_\_ ; Class C \_\_\_\_\_ ; Class D \_\_\_\_\_ .

I will make the Employer Safe Harbor Profit Sharing contribution

I would NOT like to make any Employer Discretionary Profit Sharing contribution

**Please choose one of the following if you have 401(k) deferrals:**

I would like to make an Employer Matching contribution of:

\_\_\_\_\_ % of Employee Deferrals up to \_\_\_\_\_ % of Compensation

I would like to cap the matching contribution at \$ \_\_\_\_\_

I will make the Employer Safe Harbor Matching contribution

I would NOT like to make an Employer Matching contribution

**Do you plan to file your business tax return without extension  or with extension ?**

***If the information we are requesting for your plan is not provided within one month from the end of the plan year, then we cannot guarantee that the necessary calculations and testing will be completed by the business tax return filing deadline.***

**The Employer certifies that by signing and dating this form, we have elected to use this form to represent a formal Resolution concerning the Employer contribution that will or will not be made to our Plan.**

\_\_\_\_\_  
Signature of Employer Representative

\_\_\_\_\_  
Date

**Attachment A - Key/ HCE Determination (must be signed)**

This information is required for testing purposes and determination of top heavy/key status. We need a listing of all employees who are company officers, board members and all stockholders. An officer means an administrative executive who is in regular and continued service or an officer of any member of a controlled group of companies or of an affiliated service group should be listed (please see the definition of a Controlled Group and Affiliated Service Group under the Plan Data Questionnaire section of this package). An employee who does not have the title of an officer but has the authority of an officer is an officer for purposes of the key employee test. Be sure to include titles and percent ownership. Please list any lineal family members of any company officers and all stockholders. Lineal members include spouses, children, parents, grandparents, and grandchildren.

**ATTACHMENT A**

Plan Name: \_\_\_\_\_  
Plan Year End: \_\_\_\_\_

**KEY/HCE DETERMINATION**

**1) LIST ALL EMPLOYEES WHO ARE STOCK HOLDERS, BOARD MEMBERS AND/OR OFFICERS**

EMPLOYEE NAME	POSITION HELD	% OF OWNERSHIP

**2) LIST ALL EMPLOYEES WHO ARE PART OF THE SAME FAMILY GROUP LISTED ABOVE**

EMPLOYEE NAME	RELATIONSHIP

I verify that the information provided on this form is accurate and complete. If this page has not been completed, I give UB Pensions authorization to use the information previously provided.

\_\_\_\_\_  
Signature of Employer or Employer’s Representative

\_\_\_\_\_  
Date

**Census Information Update – Verification of Census form must be signed**

Enclosed is the census request. Please provide the correct social security number, date of birth, date of hire, and date of termination, retirement, disability or death (if applicable) for each employee. The census should include EVERY employee who worked for the company in the plan year. Remember to include all terminated and/or part-time employees and employees who are eligible but do not contribute to the plan. It is our assumption that all employees have worked over 1,000 hours during the plan year unless you indicate a lower number of hours worked. **This completed census must be electronically provided to us in the same excel spreadsheet format that was provided to you. If you have less than 15 employees, the excel spreadsheet can be handwritten and returned to us. If you have over 15 employees and we do not receive this information on the provided spreadsheet electronically, UB Pensions can charge an additional fee of up to \$750 for inputting the information.**

If your company has leased employees, union employees, or non-resident aliens, they may need to be considered for participation in your plan. Refer to Item 9 of the Plan Data Questionnaire to identify these employees.

In addition, the plan year compensation must be entered on the census where indicated. It is very important that you report plan compensation exactly as described in your plan document. The definition may have changed if you have amended or restated your plan. If the correct plan compensation is not provided, this could result in non-compliance issues. Please contact your Account Executive with any questions on your definition of compensation.

If your plan has a 401(k) feature, you must include the dollar amount of the employee deferral for the plan year and indicate the employer matching contribution (if applicable). *Matching Corrections from the prior year should not be recorded in this plan year.* We will verify your matching contribution calculations in our year-end report. Remember that after-tax loan repayments should not be included when providing information on employee salary deferrals.

**A plan representative must complete and sign the enclosed "Verification of Census Information" form and return it with your census. As stated above, the completed census must be electronically provided to us in the same excel spreadsheet format that was provided to you. If you have less than 15 employees, the excel spreadsheet can be handwritten and returned to us. If you have over 15 employees and we do not receive this information on the provided spreadsheet electronically, UB Pensions can charge an additional fee of up to \$750 for inputting the information. There will be delays in processing our report if data is not signed. We cannot accept data without signatures.**

Please refer to the next page for your Account Executive's email address and phone extension. If you email your census file, please call your Account Executive to verify receipt of the census file.

CONTINUED ON FOLLOWING PAGE

**Account Executive's Email Address**

Barbara Cavataio, extension 301, [bcavataio@ubpensions.com](mailto:bcavataio@ubpensions.com)

Claudia Burnett, extension 302, [cburnett@ubpensions.com](mailto:cburnett@ubpensions.com)

Jason Evert, extension 305, [jevert@ubpensions.com](mailto:jevert@ubpensions.com)

Jeff Ruyle, extension 313, [jruyle@ubpensions.com](mailto:jruyle@ubpensions.com)

Joseph Cibirka, extension 306, [jcibirka@ubpensions.com](mailto:jcibirka@ubpensions.com)

Matthew Phillips, extension 307, [mphillips@ubpensions.com](mailto:mphillips@ubpensions.com)

Patrick Deegan, extension 308, [pdeegan@ubpensions.com](mailto:pdeegan@ubpensions.com)

Paul Carmichael, extension 309, [pcarmichael@ubpensions.com](mailto:pcarmichael@ubpensions.com)

Trish Battaglia, extension 311, [tbattaglia@ubpensions.com](mailto:tbattaglia@ubpensions.com)

Rose Arbucci, extension 310, [rarbucci@ubpensions.com](mailto:rarbucci@ubpensions.com)

Maria Almonte, extension 316, [malmonte@ubpensions.com](mailto:malmonte@ubpensions.com)

Plan Name: \_\_\_\_\_

## VERIFICATION OF CENSUS INFORMATION

We are providing our annual census information to UB Pensions. We have provided compensation as defined in the Plan document. This confidential employee information has been compiled from our records and is complete and accurate to the best of our knowledge. Please answer the questions below.

**Are any of the employees listed on the census a rehire? If so, please provide their names and original dates of hire.**  No  Yes – provide information (if you need additional space, please submit additional sheets).

**Were any of the employees listed on the census terminated in a prior year and received compensation in 2011?**  No  Yes – please provide information (if you need additional space, please submit additional sheets).

**Is there any severance pay included in reported compensation?**

No  Yes – provide the name and amount of severance below (if you need additional space, please submit additional sheets).

**Are there any participants who have account balances in the Plan who are over the age of 70½.**

No  Yes – please provide name and date of birth (if you need additional space, please submit additional sheets.)

\_\_\_\_\_  
Signature of Employer or Employer's Representative

\_\_\_\_\_  
Date



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Dear Valued Client:

The Internal Revenue Service has issued the **2012 limitations** for qualified retirement plans. We have summarized the most significant limitations as follows:

Annual Limitations

401(k) and 403(b) limit (if applicable to your Plan) for 2012: **\$ 17,000**

401(k) and 403(b) **Catch-Up** Contributions  
for individuals age 50 and over (for 2012): **\$ 5,500**

Percent of salary limitation (subject to Annual Contribution  
limit listed above): **100%**

**Maximum Defined Contribution Plan Limit** (for 2012): **\$ 50,000**

**Annual Compensation Limit** (for 2012): **\$250,000**

*Defined Benefit Plan Annual Benefit* (for 2012): **\$200,000**

Definition of Highly Compensated Employees for 2012:

5% Owner or any lineal ascendant or descendent of a 5% Owner (no compensated limit allowed)

Any Employee **\$115,000**

**These new limits take effect in the plan-year that begins in 2012.**

Employers who are interested in providing Profit Sharing contributions to their employees could possibly benefit from a higher overall individual contribution limit of \$50,000 (appropriate contributions would be required for eligible employees). Please contact us for further details.

Remember that individuals with IRA assets outside of an Employer's 401(k) Plan can transfer those assets to their 401(k) account.

**The Social Security Administration has announced the 2012 Taxable Wage Base to be \$110,100.**

If you have any questions regarding the above limitations, please contact your Account Executive.

Barbara Cavataio, extension 301

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Claudia Burnett, extension 302

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Jason Evert, extension 305

email: [jevart@ubpensions.com](mailto:jevart@ubpensions.com)

Jeff Ruyle, extension 313

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To our valued clients:

It has recently come to our attention that there are employers and employees alike that are not following the terms of the Loan Procedure portion of their Plan Documents. Specifically, there are employers who are allowing employees to stop payments on their loans from their retirement plans.

A loan is an agreement between the plan, the participant and the employer. The participant does not have the authority to stop the loan repayments, since loan repayments are based on an agreement with the employer. If a participant with a loan requests that loan repayments be stopped, and the employer complies with the request, the employer has committed a breach of fiduciary responsibility. There is no authority to allow a loan to default. If this were to happen, the employer would be subjecting the company to potential IRS or DOL fines and penalties. Also, the defaulted loan will more than likely become an in-service distribution, which is likely impermissible, depending on the circumstances.

Also, the defaulted loan will count in our calculations if the participant wants to take a future loan, and will count against any loan maximum that your Loan Procedure may have.

The correction method is to have the participant repay the loan, *even after the 1099R is issued*. It is highly recommended that the loan be repaid within the five year period following the loan origination date.

There are exceptions to these rules, under USERRA, for those that are called into military service.

If you have any questions, please contact your Account Executive.

Barbara Cavataio, extension 301  
Claudia Burnett, extension 302  
Jason Evert, extension 305  
Jeff Ruyle, extension 313  
Joseph Cibirka, extension 306  
Matthew Phillips, extension 307  
Paul Carmichael, extension 309  
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