

**As the New Year charges ahead,** our calendars are already jammed with new projects, educational seminars and conferences. Yet two milestones celebrated at the close of 2004 make us pause a moment and reflect upon the strength of the relationships we have built together. In December, PENSICO Trust simultaneously celebrated its 15th anniversary and marked more than \$1 Billion of customer assets under administration. Because most of our growth has been through word-of-mouth referrals, we cannot overstate our appreciation to you for the confidence you place in us.

## **PENSICO Trust Renovations and Transformations for 2005**

It's becoming clear that we're no longer a small company in many ways and accordingly, we plan to provide you with many more 'big company' benefits and service enhancements in the coming year. However, we promise to maintain our 'small' company focus on the personal attention, quality education, and integrity for which we're known.

### **New Site: [www.pensicotrust.com](http://www.pensicotrust.com)**

In the early spring, PENSICO Trust plans to complete an aggressive overhaul of our current website. A new streamlined three-tier design should make the site's navigation intuitive and simple. From the new home page at [www.pensicotrust.com](http://www.pensicotrust.com), visitors will be directed into one of three main portals: a private site dedicated to the service and account needs of clients, a comprehensive resource center for professionals working with PENSICO clients, and an educational site for the general public. Each 'sub-site' will function as an efficient one-stop shop that accommodates the specific needs of each intended audience.

Some of the new client site features to look for are:

- **Interactive Account Maintenance Capabilities**
  - Change of address
  - On-line password setup
  - Change of beneficiaries
- **Billing Help and Informational pages**
  - Conveniently bundled PDF forms – all the paperwork necessary for a single transaction will print out together in a single package
  - Completed sample forms – templates for filling out paperwork correctly
  - Extensive question & answer section that builds upon our current E-Book
  - Interactive calendar of educational opportunities and events of note
  - News and expert columns on topics of interest

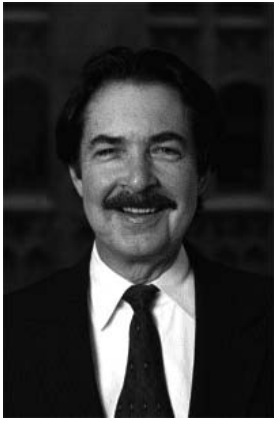
## **Better Service**

Another major accomplishment for PENSICO Trust in late 2004 was the creation and development of a dedicated customer service team. The formal separation of customer service from actual operations represented a significant structural change. Over the years, many clients have voiced their desire to have a single point of contact with PENSICO Trust, we have looked hard at finding a way to ensure that live customer service is readily available for you when needed. To that end, Denise Broussard, VP of the original PENSICO Trust operations staff has taken the reins of a five person Customer Service team. They may be reached via email at [clients@pensico.com](mailto:clients@pensico.com). When calling us at 800-969-4IRA (472) please identify yourself as a current customer and ask to speak to one of your customer service representatives. By mid-2005, we plan to have a direct phone line for customer service that will immediately put you in touch with a team member ready to answer your questions or resolve your concern. As a reminder, we promise to respond to all inquiries within 24 business hours.

## **Good Looks**

Please take a good look at the new design for our company. The clean strong image will become more familiar to you in the coming months as we re-design all of our application and transaction forms to embrace the themes of simplicity and ease. We are balancing client feedback from over the years with regulatory requirements during the re-design process so that the new forms have the user first and foremost in mind. If you have specific suggestions or changes that you'd like to see, please email the marketing team at [takecontrol@pensico.com](mailto:takecontrol@pensico.com).

**December 2004**  
PENSICO Trust simultaneously celebrated its **15th anniversary** and marked more than **\$1 Billion of customer assets** under administration.



## Tom's Column

**Q.** I would like to form a company (an LLC) with my two son-in-laws. Each of us will be investing a mix of both personal and IRA dollars through which we will each own approximately the same percentage of the enterprise. The LLC will then buy a commercial building which will be partially occupied by another company (Company B) that we (the same trio) also co-own. Is this scenario permitted under the law? P.S. My son-in-laws would also like to work for the LLC and be paid salaries.

**A.** The proposed formation of the LLC alone is not problematic. However (ignoring the salary question for now), the inclusion of dollars from the father-in-law's IRA in the LLC creates the potential for a prohibited transaction when Company B tries to rent part of the LLC's building. That's because, with respect to the LLC's owners, Company B becomes a disqualified person. Three things must exist to trigger a prohibited transaction - a plan (an IRA) or plan asset, a disqualified person, and a transaction between them. It only takes applying two simple rules to determine whether or not we've got these ingredients in this scenario. It might be simpler if we look at a more straightforward prohibited transaction first: if the father-in-law's IRA (the plan) owned the building directly, then the son-in-laws (disqualified persons) could not rent or occupy (transaction) any part of it. So we just need to determine if the introduction of either the LLC or Company B makes a difference. When looking for a prohibited transaction, it is easiest to begin with the IRA(s) in question and then assess whether any other parties would be considered disqualified persons by how they relate to the IRA. So let's begin with the father-in-law's IRA. It owns some of the LLC, and the rest is owned by the son-in-laws, who we know are on the list of disqualified persons. There is a rule that if a company is owned 100% by an IRA, or by an IRA and other disqualified persons, then it is viewed as a 'plan asset' and must remain just as 'hands off' as the IRA itself - i.e., no disqualified 'persons' can transact with it. Now that we have our first 'ingredient' and know that no disqualified person can transact with it (rent from it, occupy property it owns, contract business with it, etc.), we just need to ask ourselves if Company B would be considered a disqualified person with respect to the father-in-law's IRA (part of the LLC which is a plan asset). Time to use rule # 2: Company B will be considered a disqualified person if disqualified 'people' own or control 50% or more of it.

Well, there are only three owners: the two son-in-laws - and son-in-laws are indeed disqualified parties, and the father-in-law himself - the IRA owner who is also a disqualified person. So Company B has 100% prohibited party ownership with respect to the original LLC, and only 50% would be enough to 'disqualify' it. Can it rent from the LLC? No. And now the second question: Could the LLC transact with the son-in-laws individually (i.e., pay them salaries)? No, because they are each individually just as much a disqualified person as Company B.

### One possible solution:

If the father-in-law did not invest his IRA in the LLC - but only his personal funds, it would be permissible for the son-in-laws to work for the LLC and be paid, and to have Company B occupy a building owned by the LLC. Why? Because in this scenario, the only IRAs involved in the LLC belong to the son-in-laws. And in relation to those IRAs, a father-in-law, ironically, is not a disqualified person. Assuming that the father-in-law owns the same original third of the LLC, and that the father-in-law was the one making the decisions to hire the son-in-laws and lease the building to Company B, this should be enough non-disqualified party ownership and control for the LLC to not be viewed as a plan asset. Simply put: there's no more prohibited transaction. If the non-disqualified father-in-law wasn't in the picture, the IRS or the tax court could take the position that the IRA owners (son-in-laws) were using their IRAs to gain a personal benefit, which, in most cases (e.g., new November, 2004 Rollins case), would likely be considered a prohibited transaction.

## Rich Dad Investor Workshop

March 12th, 2005

San Jose, CA

Hold the date to join Tom Anderson on March 12th at the San Jose Convention Center when he appears with Robert Kiyosaki, well-known investor, entrepreneur, educator, and author of the celebrated Rich Dad, Poor Dad for a special Rich Dad's Investor Workshop.

Watch for details on our website.

# National Symposium on Self-Directed IRAs

October 20th and 21st, 2005

St. Francis Hotel, San Francisco, CA

Please see back of newsletter for more information

## PENSCO Trust Hosts First National Symposium on Self-Directed IRAs

This coming October, PENSCO Trust will host the inaugural symposium on self-directed IRAs for professionals and their sponsored guests. If you believe your CPA, attorney, financial advisor or real estate professional could benefit from being immersed in an intense two-day exploration of the self-directed IRA industry, let them know about this first ever event. (As important, consider how you might benefit from having your chosen professional learn the 'ins and outs' of self-directed IRA investing.) The event will be held from October 20-21st at the legendary St. Francis Hotel on Union Square in San Francisco, CA, and will feature educational sessions with leading national experts, such as Ed Slott, on various self-directed IRA concepts as well as ample networking opportunities. The symposium is planned as an intimate gathering of professionals and their invited guests that will maximize the opportunity to learn and connect with other industry leaders and resources. Space is limited, so please let us know of your interest as soon as possible by emailing [professionals@penco.com](mailto:professionals@penco.com). Look for further information about the symposium to be posted on our website.

## PENSCO Trust Preferred Professionals Program

Along these lines, some of you may have already discovered the directory of PENSCO Trust Preferred Professionals. If not, please visit [www.pencotrust.com/map](http://www.pencotrust.com/map) next time you're on-line. The map-shaped directory of professionals has already proven to be a powerful investor resource, and we are planning to expand this comprehensive educational support program for professionals. The most exciting development will coincide with our new web site launch and is the creation of a unique address where our Preferred Professionals may log in for specialized educational and sales support materials, networking, marketing opportunities and other features. We understand your need for objective guidance from your trusted professionals and we want to help provide them with the necessary tools to meet your financial objectives.

## Upcoming changes for clients with fees invoices

Many of our clients already enjoy the ease and convenience of paying account fees through standing credit card authorizations. The ability to use a credit card for automatic bill payment will become even more attractive this spring when we increase the invoice usage fee to \$3 per printed invoice. This increase will take effect with the quarterly account administration fee assessed March 31, 2005. The costs associated with the producing, processing and mailing of paper invoices continue to rise independent of our Company's actions. As a matter of fairness, we wish to limit the impact of these additional expenses to those who require the service.

If you currently receive print invoices and do not wish to continue this special service and pay the \$3 invoice print fee, simply choose one of two other complimentary and convenient billing options.

1. You may opt to have fees either deducted from the available cash reserve account in your PENSCO Trust IRA.
2. You may arrange for account fees to be charged to a VISA, MasterCard, or American Express account.

A PENSCO Trust customer service representative can assist you in changing your payment option or you can select the credit card option by completing and returning the credit card authorization portion of an invoice payment coupon.

Also effective March 31, 2005 fees, the PENSCO Trust Company's invoice payment terms will be revised so that fees will be due and payable upon receipt. If payment is not received within the first thirty day billing cycle, the second thirty day billing cycle invoice will include a notice that PENSCO Trust will exercise its right to resign as custodian for the non-payment of account administration fees. If payment is not received within 75 days of the original fee date, PENSCO Trust will distribute the IRA assets. This could result in a taxable distribution to you; additionally, you will still be liable for all past due fees plus account termination charges per the account fee schedule. Like all businesses, we rely on prompt payment for our services, and while this is a change, we feel that a 75-day grace period is a reasonable deadline.

## Questions about our newsletter?

Please contact Heather Anderson, Editor at 415-274-5600, ext. 5617 or email her at [heather@penco.com](mailto:heather@penco.com).

Sharing expertise to expand opportunities



## National Symposium on Self-Directed IRAs

October 20th and 21st, 2005

St. Francis Hotel, San Francisco, CA

This inaugural event is specially designed to ensure that a select group of professionals are provided a unique opportunity to deepen their knowledge of alternative retirement investments as this market experiences explosive growth.

Since 1989 PENSICO Trust has been the only firm to exclusively focus on the administration and custody of self-directed IRA investments in real estate and private placements.

For more information on the Symposium or the Company, please call Laura Castellanos, VP/Marketing Director at 415-395-5753 or visit our website at [www.PENSICO.com](http://www.PENSICO.com).

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