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NOBLE DAVIS CONSULTING, INC

PEACE of MIND

PLAN SPONSOR RETIREMENT PLAN UPDATE

Quarter 2, 2016

Did you know?

We have once again been honored to win the When Work Works Award for our use of effective workplace strategies to increase business and employee success.

Inside this issue:

What You Need to Know About the Fiduciary Rule

A new rule announced by the Department of Labor (DOL) will change the way plan sponsors and participants get advice on how to invest their money. The new rule holds investment professionals to a new standard called the "Fiduciary Standard."

Anyone who has discretion in making decisions about the plan is considered a fiduciary. The duty of a fiduciary has been defined for a long time. Basically, a retirement plan fiduciary must act solely in the best interests of the plan participants.

In the past, only financial professionals registered as investment advisors with the Securities and Exchange Commission (SEC) were considered to be a fiduciary. Other financial professionals were able to make recommendations for their clients that weren't necessarily the best option. Now, taking effect in April 10, 2017, financial professionals advising people on their retirement accounts (401(k) and IRAs) must have their clients' best interests in mind when giving them advice on how to invest their money.

The DOL rules covering investment advice in retirement plans were first created in 1975 at a time when 401(k) plans and IRAs didn't even exist. The DOL has spent the past seven years looking into the problems with conflict of interest in the investment advice field. While most investment advisors do act in the best interests of their clients, the DOL was concerned that no laws existed to enforce this good behavior. Investment professionals are often compensated in a way that does not align with their customers' best interest. Now, with the new regulations, those that provide investment advice to plans, plan sponsors, fiduciaries, plan participants, beneficiaries or IRA holders must avoid compensation that creates a conflict of interest and make prudent investment recommendations without regard to their own interests or any interests other than those of their customer. The new rule imposes basic standards of professional conduct and will eliminate conflicted advice.

Stop Plan Leaks

Knowing that they can dip into their plan accounts before retirement if necessary — either through a plan loan or a hardship withdrawal — can be the reassurance some employees need to join and contribute to your 401(k) plan. But you don't want your plan participants to view your plan as a household emergency fund to be used for any unexpected expense. Here are some ways you can slow the leakage of retirement assets from your plan.

Reduce Excessive Plan Loans

When they take a plan loan, many participants reduce contributions to the plan or stop them altogether. You may be able to decrease requests for plan loans by limiting the number of loans a participant can have outstanding at one time and/or the amount a participant can borrow. Educating participants on the pitfalls of taking a plan loan can also be helpful.

Restart Contributions After a Hardship Withdrawal

The problem with hardship withdrawals often isn't the effect of the distribution but, rather, participant inertia about restarting contributions. Plans generally must suspend employee contributions for six months after the withdrawal. As a matter of plan design, you can address this problem by automatically restarting the employee's elective deferrals when the suspension period ends. You might also send messages to employees who made hardship withdrawals that encourage them to restart contributions.

Encourage Rollovers

The most harm to future retirement security may come from the failure to roll over cash distributions. Use your employee education program to encourage new employees to transfer balances directly from their former employers' plans to your plan (if it accepts rollovers). And encourage retiring employees and other employees leaving your company to directly transfer or roll over their account balances to an IRA or another employer's plan.

The Default Investment Decision

SITUATION: Our 401(k) plan has had the same default investment for several years. We want to make sure it is still a suitable choice for our plan.

QUESTION: What should we consider when choosing a default investment?

ANSWER: First, you should decide if you want a default investment that meets the pension law's requirements for a "qualified default investment alternative," or QDIA. Using a QDIA in conjunction with automatic enrollment can help you secure liability protection for the investment of employees' account assets when they have been given the opportunity to direct their investments but have failed to do so.

Under U.S. Department of Labor regulations, a QDIA must be a mutual fund or managed by an investment manager, plan trustee, or plan sponsor who is a named fiduciary and generally cannot invest employee contributions in employer securities. Options include:

- Lifecycle funds, targeted retirement date funds, and similar products that take into account the individual's age or retirement date
- Balanced funds and similar products with a mix of investments that take into account the characteristics of the group of employees as a whole, rather than each individual
- Professionally managed accounts and similar investment services that allocate contributions among existing plan options to provide an asset mix that takes into account the individual's age or retirement date
- Capital preservations products, but only for the first 120 days of plan participation

Many plan sponsors have selected target date funds as their plan's QDIA. Recently, the U.S. Government Accountability Office (GAO) solicited feedback regarding why sponsors select target date funds over other QDIAs. Sponsors completing the GAO's questionnaire said that they generally looked for asset diversification, ease of participant understanding, limited fiduciary liability, and fit with participant characteristics when selecting a default investment.

In its report, the GAO notes that some plan sponsors forgo the fiduciary relief associated with using QDIAs and instead select a non-QDIA default investment, such as a money market fund or a stable value fund. The GAO notes that sponsors may do this for a variety of reasons. For example, a sponsor may have few employees and decide to require participants to make an investment election.

Clearly, there are many factors to consider in choosing a suitable default investment. If you would like assistance, please contact your investment advisor.

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Mark Your Calendar

Stay on top of your retirement plan's mandatory deadlines! Here are some important dates in the upcoming months. (Please note that filing dates are for calendar year plans. Non-calendar year plans must adjust these dates.)

Each Payroll: Remit deferral and loan repayments within 7 business days (small plans) or as soon as possible (large plans).

June 30: Corrective distributions due for failed ADP/ACP Testing from a plan with an eligible automatic contribution arrangement (EACA) (without employer 10% excise tax)

July 31: Form 5330 and excise tax due on prohibited transactions (i.e.: late 401(k) deposits)

July 31: Annual Form 5500 report and schedules due to be filed electronically with DOL (without extension)

August 14: Second Quarter PPA Statements due for participant directed plans

September 15: Extended deadline for filing of corporate tax returns and contribution deadline for deductibility.

September 30: Summary Annual Report due to participants (if Form 5500 not extended).

October 15: Extended deadline for filing Plan's annual Form 5500 filing.

November 14: Third quarter PPA Statements due for participant directed plans. Quarterly fee disclosure documentation also due to plan participants.

December 2: Last date to send out annual notices for safe harbor, QDIA and automatic enrollment plans.