INSIDE retirement

Second Quarter 2012

RETIREMENT PLAN NEWS

LEGISLATIVE NEWS

Although retirement savings continues to be a topic of discussion on Capitol Hill, there has not been any significant movement on the retirement plan proposals that have been introduced over the past several months. These proposals include the automatic mandatory IRA, reporting an individual's retirement savings as an annuity, and expanding the options for electronic delivery of disclosures.

However, on April 17, 2012, the House Committee on Ways and Means held a hearing to consider the current menu of options for retirement savings, employer-based defined contribution plans, and IRAs. Several retirement industry representatives testified in favor of the current voluntary employer-sponsored retirement system and the tax incentives that employers receive for making retirement plan contributions. During the hearing, committee members expressed continued support for the current tax incentives used to encourage retirement savings. However, we can expect further conversations and legislative proposals aimed at increasing retirement savings and exploring the tax costs of retirement savings.

DEPARTMENT OF LABOR ACTIVITY

Much of the Department of Labor's second quarter activity was focused on the impending fee transparency requirements. The service provider fee disclosure rules under ERISA Section 408(b)(2) are designed to ensure that you, as a plan fiduciary, receive the information you need to assess service provider fees and identify potential conflicts of interest before entering into a service relationship. Your existing service providers must provide the required fee information to you by July 1, 2012. Any new service provider you wish to engage must provide the required disclosures to you in advance of the services to enable you to evaluate the information they provide. Under

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these rules, you are responsible for collecting information from covered service providers and analyzing the benefits provided to the plan relative to the fees. If a service provider does not provide the required disclosures, accepting services from that provider is generally prohibited by ERISA.

The participant fee disclosure rules will become effective soon. The participant disclosures are designed to ensure that participants (and beneficiaries) have the information they need to make informed decisions about the administration and investment of their accounts. Participants must receive the disclosures on or before the date they can first direct their investments, and then at least once every 12 months thereafter. For calendar year plans, the initial participant disclosure is due by August 30, 2012. Participants must also receive a quarterly statement listing the fees actually charged to the participant's plan account for administrative services and a description of the services. For calendar year plans, the first quarterly notice is due by November 14, 2012. Under ERISA, you are responsible for providing the participant disclosures. However, in most cases the plan recordkeeper will assume responsibility for creating and delivering these participant notices.

IRS ACTIVITY

The IRS recently publicized the results of a Learn, Educate, Self-Correct, and Enforce (LESE) project. A LESE examination is a focused IRS examination based on a sampling of plans with similar characteristics. The IRS uses the focused exams to assess compliance levels for selected groups of retirement plans. LESE examinations can be very helpful to plan sponsors because they can identify common compliance issues. During the project, the IRS examined 50 owner-only defined contribution plans that appeared to have contributions greater than the annual dollar limit allowed under Internal Revenue Code Section 415(c). This limit, sometimes referred to as the "annual additions limit," restricts total annual contributions on behalf of any participant to the smaller of the annual dollar limit ($50,000 for 2012) or 100% of the participant's compensation. Twelve percent of the plans had excess annual additions, primarily because of a lack of procedures to verify when a participant exceeded the limit or because the plan failed to include designated Roth contributions in the annual additions calculation[1].

1. www.irs.gov

INDUSTRY STUDIES

The Employee Benefit Research Institute (EBRI) recently released a report on the *Retirement Income Adequacy for Boomers and Gen Xers*. EBRI is a private, nonprofit research institute that focuses on health, saving and retirement issues. Their mission is to enhance the development of sound employee benefit programs and public policy through objective research and education. They conduct numerous studies each year on the retirement and savings plan industry.

EBRI's research found that 44% of individuals ages 38–64 are currently "at risk" of not having sufficient retirement income for basic retirement expenses plus uninsured health costs. This outlook has actually improved by 5–8% since 2003. EBRI credits this improvement to automatic enrollment provisions implemented in recent years. The study also found that eligibility to participate in a workplace defined contribution plan has a positive impact on retirement preparedness.