

Recent 401(k) Changes Affect Plan Sponsors

If your practice sponsors a qualified retirement plan, such as a 401(k) plan, you should know that there have been several recent changes in the rules governing certain aspects of administering these plans that may have an impact on your plan's operations. As fiduciary of the plan, you want to reduce your fiduciary risk exposure. That's why you should take note of these changes and review your plan for compliance. This also may be an opportune time to examine other aspects of your plan's operations.

Fee Disclosure Rules

Federal pension law (ERISA) requires fiduciaries to act prudently and solely in the interests of the plan's participants and beneficiaries when selecting and monitoring plan investments and service providers. As a fiduciary of your practice's plan, you must act with the sole and exclusive purpose of providing benefits and defraying reasonable expenses involved in administering the retirement plan. That means you must ensure that any arrangements your plan enters into with its service providers are "reasonable" and that only "reasonable" compensation is paid for services.

Your ability to make these decisions depends on the availability of clear, accurate information from plan service providers. The U.S. Department of Labor (DOL) recently issued regulations that mandate comprehensive fee disclosure by recordkeepers, brokers, and investment advisors -- information designed to help sponsors like you evaluate your plan's fee structure. The regulations take effect July 16, 2011.

Timing and Order of QDROs

A qualified domestic relations order (QDRO) is a judgment, decree, or order that's issued under a state domestic relations law in regard to child support, alimony payments, or marital property rights of a retirement plan participant's spouse, ex-spouse, child, or other dependent. A QDRO generally creates or recognizes the existence of an "alternate payee's" rights to all or part of an employee's retirement plan benefits.

A domestic relations order must include specific information and must meet various requirements to be considered qualified. Plan administrators are responsible for determining whether an order received by a plan is a QDRO.

The DOL recently finalized regulations on the timing and order of QDROs. The final regulations contain guidance and examples that can help plan administrators determine whether an order is qualified. The examples show that timing or order of issuance alone won't disqualify a domestic relations order from being considered qualified.

Investment Policy Statements

An Investment Policy Statement (IPS) provides well-defined investment guidelines for a plan's fiduciaries. In addition, it can systematize how the plan sponsor is to set investment goals and make broad plan investment decisions. Your IPS should be specific to your plan. You'll want to confirm that the investment choices offered by your retirement plan are still appropriate. If your plan provides target date funds, you should review each fund's "glide path" (the schedule by which a target date fund's asset allocation is adjusted) to ensure that it is reasonable and appropriate. The DOL and the Securities and Exchange Commission (SEC) have released an investor bulletin that discusses target date funds (www.dol.gov/ebsa/pdf/TDFinvestorbulletin.pdf). You may find it useful when reviewing your plan's funds.

In-plan Roth Conversions

401(k) and 403(b) plans that have Roth contribution programs are now permitted to allow rollovers (or "conversions") of eligible distributions from participants' regular plan accounts into designated Roth accounts within the plan. The taxable portion of amounts rolled over must be reported as income by the participant. Only certain plan balances may be converted. Plans are not required to offer in-plan Roth conversions.