RETIREMENT PLAN PERSPECTIVES

Insights for Your Plan and Employees

Q3 2020

If the DOL Comes Knocking, Will You Be Ready?

"Knock, knock." *"Who's there?"* "It's the U.S. Department of Labor!"

If you are a retirement plan sponsor, fiduciary, or trustee and you are greeted with those words, you have a right to be nervous. Why? When the Employee Benefits Security Administration (EBSA)—the Department of Labor (DOL) agency that enforces pension plan regulations—chooses to examine your company's retirement plan, it will look exhaustively for fiduciary and administrative deficiencies that, if uncovered, could result in hefty fines and penalties for your company. Let's take a look at why your company's retirement plan may be targeted for an audit, what happens if your plan is chosen to be audited, the potential consequences you'll face if errors are found, and ways to ensure that you are prepared.

What Information Will the DOL Review During an Audit?

If the DOL selects your plan to audit, it will notify the trustee(s) of your company's plan via an engagement letter. In the engagement letter, the DOL investigator handling the audit will request a comprehensive list of plan- and participant-related documents, including (but not limited to):

- Plan document and related amendments
- IRS Form 5500 for the plan year being audited
- Most recent summary plan description (SPD)
- Most recent summary annual report (SAR)
- Copy of distribution, loan, and other transactional forms for a specified time range
- Census of the plan participants, including highly compensated employees (HCE)
- Trust statements
- Schedule of plan assets for a specified time range
- Sample employee benefit statements
- All pertinent documents related to fees, including mandatory fee disclosures
- Service provider contracts
- Forfeiture account statements and history
- Nondiscrimination testing results for a specified period
- Copy of the plan's fidelity bond
- List of the plan's investments and investment performance
- Plan's investment policy statement (IPS)
- Plan or investment committee notes and minutes, including documentation related to the selection, retention, or removal of plan investments

If the DOL Comes Knocking, Will You Be Ready? *(continued)*

Once DOL investigators receive these documents, they will review them with a fine-toothed comb, focusing on several key areas, including (but not limited to):

- Timeliness of depositing employee contributions
- Demonstration of a clear and prudent process for selecting and removing plan investments
- Applying the correct definition of employee-eligible compensation
- Adhering to the terms of the plan documents
- Reasonableness of fees, and a demonstration that service provider fees have been examined
- Timeliness of transactional processing, such as distribution and loan requests
- Accurate reporting on Form 5500, SPD, and SAR
- Adequate bonding
- Treatment of missing or terminated participants

What Are the Ramifications If the DOL Finds Something Wrong?

If it is determined that there have been missteps, the DOL will likely impose fines or penalties upon your plan. The fines will be payable by your company. Depending on the nature and egregiousness of the violation(s), those penalties could range from a few hundred dollars to several thousands. Last year, EBSA recovered more than $2.5 billion in enforcement actions alone, according to a 2019 fact sheet.

Perhaps you're wondering how likely your plan is to be audited. The DOL audits several thousand employee benefit plans per year. Although some audits are random, in most instances, the DOL engages in an audit if it notices something unusual on an annual filing (such as Form 5500) that raises a red flag, a required filing is late (or not submitted at all), or an employee (or former employee) logs a complaint.

Preparation Is the Key

What if you suddenly found yourself faced with an audit from the DOL? Would you be able to furnish the investigator with the lengthy list of documents and items included here? Could you confidently claim to have a grasp on the terms of your plan's document, have applied a documented investment selection and monitoring process, and have recorded a 100 percent on-time record for remitting employee contributions?

If you're unsure how your company's retirement plan would hold up under DOL scrutiny, or if a visit from a DOL investigator would have you shaking in your shoes, perhaps it's time to "DOL-proof" your retirement plan. Here are a few ideas to get you started:

1. Organize a fiduciary file, which is a hard copy or virtual depository that stores all of your plan's important documentation.

2. Stress-test your plan by conducting a mock audit of your retirement plan, uncovering potential blind spots. Your plan's service providers, such as a third-party administrator or retirement plan consultant, can help you line up the needed documents (they may even electronically store some key documents on your company's behalf).

3. For those who need a refresher on the role of a fiduciary, the DOL has published Meeting Your Fiduciary Responsibilities to educate retirement plan sponsors, fiduciaries, and administrators on the critical functions they need to perform when offering a workplace retirement plan.

Going through these exercises and enhancing your retirement plan organization framework will put your company's plan in a good state of health. That way, if the DOL knocks on your door, you'll be prepared.

4 Retirement Saving Challenges Women Face—and How to Transcend Them

The role of a workplace defined contribution plan, such as a 401(k) or 403(b), is pivotal in helping working Americans save for retirement. When it comes to retirement planning, however, women are on uneven savings ground. To better position your female employees for retirement readiness, it's important to understand the unique challenges women face. Let's examine some key factors and strategies for helping female investors stay on track toward their retirement goals.

1. **Women Generally Live Longer Than Men but Earn Less**

   According to a 2019 study by the National Center for Health Statistics, the average life expectancy is 76.1 years for men and 81.1 years for women. How does that affect retirement planning? The longer a person lives, the longer their retirement nest egg needs to last. Add in the uncertainty of social security benefits and health care, and it's clear women need to plan differently than men.

   When someone first enters the workforce, saving for retirement often seems like the lowest priority; instead, more immediate goals and concerns, such as paying down debt or saving for a house or family, take precedent. This is a mind-set worth changing.

   According to recent data from the U.S. Census Bureau, women earn an average of 80.7 cents for each dollar men earn, which can cause them to save less for retirement over time and can even affect their social security and pension benefits.

   Help women overcome these hurdles by encouraging them to start saving as early as possible. Focus a campaign toward female employees, explaining the critical advantages of saving in a 401(k) plan. Make it easier to save by incorporating plan design features, such as automatic enrollment and automatic deferral increases, to help supercharge their participation rates.

2. **More Women Tend to Work Part-Time**

   According to the Bureau of Labor Statistics, almost 25 percent of employed women hold a part-time position (compared with 12 percent of men), and working women are more likely than men to interrupt their careers to take care of their family. When workplace retirement plans exclude part-time workers (female or male) from participating, it denies them access to a critical retirement savings vehicle.

   Review your company's retirement plan and revisit eligibility rules; consider easing eligibility standards to allow part-time employees to join. The SECURE Act, a sweeping legislation passed in December 2019, included provisions that mandate the expansion of retirement plan eligibility for part-time workers.

3. **Women Tend to Look at Investing Differently**

   According to recent research, women tend to make more conservative investment decisions than men. Although this may be explained by the relative inequity in wages, conservative investing (which may be entirely appropriate based on an investor's unique goals and risk tolerance) can hinder the ability to realize maximum growth in an account.

   Provide educational resources to help communicate the benefits of long-term investing. Target-date funds (a preset blend of investments that automatically shifts from aggressive to conservative over time as an investor nears retirement) may be a useful tool for helping female investors realize the true potential of their investments.

4. Difficulty in Talking About Money

Retirement planning and finances can be uncomfortable topics of conversation. Some may consider them too personal; others may be intimidated by the subject matter. It can be especially difficult for women if they aren't the family's primary earner or don't handle the household finances. One survey found 61 percent of women would rather discuss the details of their own death than their money.

To help female employees feel confident discussing retirement savings, it may help to remind them that retirement planning professionals, such as your plan's retirement advisor, are experienced in helping people create financial road maps.

Retirement planning can be daunting—especially for women with the factors outlined here working against them. Workplace savings plans play a critical role in providing women the tools they need to set retirement goals and chart a path to achieve them. And an employer that has its employees' best interests top of mind can make all the difference.

We Can Help

Contact us to learn more about strategies for helping your employees save for retirement and the fiduciary service options available to you. We're ready and willing to help.