INSIDE RETIREMENT

Quarterly Recap | First Quarter 2021

DOL UPDATE: GUIDANCE ON MISSING PARTICIPANTS

In situations where a plan participant cannot be found or is not responding to communications, plan sponsors risk breaching their fiduciary responsibilities to ensure that plan participants receive their benefits from the plan when due or making operational errors that must be corrected. Early this year, the DOL provided new guidance that plan sponsors can use to build policies and procedures for handling assets of missing participants. Based on the DOL's experience in working with well-run plans that have a culture of fiduciary compliance, the following "best practices" are effective at minimizing and mitigating the problem of missing or nonresponsive participants.

#1 – Maintain accurate census information

Plan fiduciaries are responsible for maintaining accurate census information for the plan's participants. Steps to accomplish this could include contacting participants, both current and retired, and their beneficiaries on a periodic basis to confirm or update contact information. Relevant contact information could include home addresses, cell phone numbers, social media contact information, and emergency contact information. Plan sponsors may also want to include update requests in plan communications along with a reminder to advise the plan of any changes in contact information. The DOL also recommends maintaining and monitoring an online platform that participants can use to update contact information and a system for incorporating any updates into the plan's census information. One way to ensure participants do this is to provide prompts for participants and beneficiaries to confirm their contact information when they log in to the platform. The DOL also recommends that plan sponsors conduct regular audits of census information, so they can identify and correct data errors timely.

#2 – Implement effective communication strategies

Implementing effective communication strategies is another important step in minimizing missing participant problems. The DOL recommends using plain language when communicating with participants about the plan and offering non-English language assistance, as necessary. Communications should state prominently what the communication is about, and plan sponsors should encourage participants to use the plan website. To ensure good census data, plan sponsors can build steps into their onboarding and enrollment processes for new employees to provide contact information. Exit processes should also include steps for separating or retiring employees to confirm or update their contact information. Plan sponsors can also educate participants about how the plan can help them consolidate accounts from prior employer plans or rollover IRAs to make them aware of the issue of leaving retirement savings behind.

#3 – Conduct missing participant searches

Plan sponsors should have procedures in place defining next steps for when they discover they don't have up-to-date contact information for a terminated participant. Plan sponsors should try all available means of contact such as email addresses, telephone and text numbers, and social media, and should

Continued on page 2

GREAT VALLEY ADVISORS
401K CONSULTING

DOL UPDATE: GUIDANCE ON MISSING PARTICIPANTS

Continued from page 1

attempt contact via certified mail, or private delivery service with similar tracking features, to the last known mailing address. The DOL also recommends checking related plan and employer records for participant, beneficiary and next of kin/emergency contact information. It's possible that payroll or health insurance records may have more up-to date information. Plan sponsors could also contact plan beneficiaries such as a spouse or children, or the employee's emergency contact for updated contact information. The DOL recommends using free online search engines, public record databases, commercial locator services, and proprietary internet search tools to locate individuals. If participants are nonresponsive over an extended time period, a death search tool such as the Social Security Death Index may help determining if a participant is deceased. Plan sponsors could reach out to employees who worked in the same office as the missing participant or publish a list of "missing" participants on the company's intranet or in communications to find out if other employees have any knowledge of the missing participant. Missing participants could also be registered on public and private pension registries like the National Registry of Unclaimed Retirement Benefits.

The DOL acknowledges that all these practices may not be appropriate for every plan or situation. Plan sponsors should consider which practices will yield the best results, considering the size of the participant's account balance and the cost of search efforts.

#4 – Create Written Policies and Procedures

One of the most important practices identified by the DOL is to have written policies and procedures that a plan sponsor and their team will follow to 1) prevent missing participant situations and 2) address situations as they arise. Having a plan for dealing with these situations and documenting that the procedures have been followed will help prove to the DOL that appropriate measures have been taken to meet fiduciary responsibilities.

Identify Problem Areas

The DOL identified certain "red flags" that may be useful in conducting a self-audit to find problems.

- Having more than a small number of missing or nonresponsive participants
- Having missing, inaccurate, or incomplete contact information or census data
- No adequate procedures for handling returned mail or undeliverable emails
- No adequate procedures for handling uncashed distribution checks
- Having many stale uncashed checks
- Failing to reclaim stale uncashed check funds in distribution accounts

LEGISLATIVE UPDATE

Despite everything taking place on Capitol Hill right now, some members of Congress are still focused on retirement savings. The House Ways and Means Committee released its policy priorities to guide the Committee's work this year. Retirement security is named as one of the pillars economic equity, which is the driving force behind the agenda. Improving retirement security is one of the few policy topics with wide bi-partisan support, and there is momentum for making changes to the long-standing rules governing retirement plans.

Based on these policy priorities and bi-partisan support, we may see action this year on provisions that were included in both House and Senate bills introduced late last year:

- Allowing employers to treat student loan payments as deferrals for purposes of employer matching contributions
- Increasing the catch-up contribution limit, beginning at age 60, to $10,000
- Increasing the RMD starting age to 75
- Waiving the RMD requirement for savers with less than $100,000 in retirement accounts
- Increasing the Saver's Tax Credit for lower income retirement savers

One retirement plan-related bill being prioritized right now is the Butch Lewis Emergency PensionPlan Relief Act of 2021, which was passed by the House to provide financial assistance to under-funded pension plans. To help pay for this relief, the Act proposes to limit tax-deductible contributions to defined contribution plans by freezing COLA increases to these plan limits after 2030:

- **Annual additions limit** – the total amount that can be contributed for a participant in one year (currently $58,000)
- **Compensation cap** – the amount of wages that can be considered for calculating contributions (currently $290,000)

This bill could be fast-tracked to passage with a simple majority in the Senate as part of the budget reconciliation legislation.

Great Valley Advisors
S Jason Kell, AIF®
Director of Retirement Plan Services
163 West Lancaster Avenue
Suite 200
Paoli, PA 19301
610-296-7630 Office
610-420-2747 Mobile
sjkell@gva401k.com
www.gva401k.com

GREAT VALLEY ADVISORS
4 0 1 K CONSULTING