Plan Sponsor
OUTLOOK
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A CURRENT ISSUES RESOURCE FOR PLAN SPONSORS AND ADMINISTRATORS

Retirement Confidence Sank Even Lower

The Employee Benefit Research Institute's (EBRI) *2013 Retirement Confidence Survey* revealed that 28% of workers were "not at all confident" about having enough money for a comfortable retirement, an increase of 23% amongst those who also participated in the 2012 survey. About 13% were "very confident," which is essentially unchanged from the previous survey.

About 17% of workers felt "very confident" that they were doing a good job of retirement preparation, while those who felt "not at all" or "not too" confident that they've done so remained unchanged at 36% from the 2012 survey.

Savings efforts continued to decline

Two-thirds (66%) of workers said they and/or their spouses have saved money for their retirement, which continues the decline from the 75% who responded this way in 2009. Also falling was the proportion of respondents who said they and/or their spouse were currently saving: 57%, versus 65% in 2009.

As previous Retirement Confidence Surveys have found, an alarming percentage of workers have little or no savings or investments. About 57% of workers reported that their savings and investments, excluding the value of their primary residence and any defined benefit plans, were less than $25,000. Also of concern is that 28% said their savings total was less than $1,000.

Only 10% reported their savings and investments amounted to $250,000 or more.

Too few have set their savings goal

Only 46% of workers said they and/or their spouse have calculated how much they need to save for a comfortable retirement, up from 42% in the 2012 survey. And 29% said they think they'll need less than $250,000 for retirement.

Expected retirement age rose

Almost one-quarter (22%) of survey respondents said their expected retirement age would be later than planned. In the new survey, 25% stated that they expect to retire after age 65. Those expecting to retire at age 70 or older represented 26% of those responding.

The Investment Company Institute reported that Americans' retirement assets were nearly $20 trillion at the end of 2012. Of that amount, $5.4 trillion were in IRAs and $5.1 trillion were in defined contribution plans. See retirement asset details at http://tinyurl.com/ICI2013FactBook.

Confidence in retirement affordability declined

Workers continue to have limited confidence in their ability to pay for basic expenses (16% were "not at all confident"), medical costs (29% were "not at all confident"), and long-term care expenses (39% were "not at all confident) in their retirement years.

As far as Social Security's ability in the future to provide benefits at least equal to those that retirees receive today, 41% were "not at all confident" this would happen. Similarly, 37% responded that they were "not at all confident" that Medicare would continue to provide benefits at today's level.

EBRI's survey is at http://tinyurl.com/EBRI2013RetConfSurvey. ■

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U.S. Supreme Court Rulings on Same-Sex Marriage Impact Retirement Plan Sponsors

Background:

On June 26, 2013, the U.S. Supreme Court issued two decisions on same-sex marriage which have broad implications for retirement plan sponsors. In U.S. v. Windsor, the Court ruled unconstitutional Section 3 of the Defense of Marriage Act (DOMA), which denied federal benefits and protections to married same-sex couples even in states where those marriages are legally recognized. In Hollingsworth, et al. v. Perry, the Court's ruling effectively restored the legality of same-sex marriage in California.

What Does this Mean for Plan Sponsors?

For plan sponsors in the 14 states* where same-sex marriages are legally recognized, same-sex and opposite-sex spouses must be treated equally under ERISA law, and are entitled to the same spousal benefits. This includes, but is not limited to, the following changes:

- A same-sex spouse is now entitled to a participant's death benefits under a retirement plan
- For Cash Balance and defined benefit plans, a same-sex spouse is entitled to a qualified joint and survivor annuity (QJSA) or qualified preretirement survivor annuity (QPSA)
- In all retirement plans where a spouse is the default beneficiary, same-sex spouses will be recognized, and they must consent to any changes to beneficiary designations
- A same-sex spouse now qualifies as an alternate payee under a qualified domestic relations order (QDRO)
- Plan participants can receive hardship distributions for a same-sex spouse's medical, tuition or funeral expenses
- Spousal consent for loans and other qualified plan distributions applies equally to same-sex spouses

Many issues related to plan administration still require further guidance from the IRS. It is not clear how the DOMA ruling affects plan sponsors in states where same-sex marriages are not yet recognized. Nor is it clear how the ruling applies to same-sex couples who are legally married in a jurisdiction where such marriages are legal, but who reside in a state where they are not.

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Pension Plan Limitations for 2013

401(k) Maximum Elective Deferral (*$23,000 for those age 50 or over, if plan permits)	$17,500*
Defined Contribution Maximum Annual Addition	$51,000
Highly Compensated Employee Threshold	$115,000
Annual Compensation Limit	$255,000

Automatic Features Remain Popular with Sponsors

According to a new survey conducted jointly by the American Benefits Institute (affiliated with the American Benefits Council) and WorldatWork, 56% of responding plan sponsors reported that they offer automatic enrollment.

The survey report, *Trends in 401(k) Plans and Retirement Rewards*, noted that one-fourth of these sponsors use automatic enrollment with an automatic contribution rate escalation feature and 30% have auto enrollment without auto escalation. About 18% of respondents not currently offering these provisions are considering auto enrollment.

Participation and contribution rates not surprising

About three-quarters of respondents said that their plan's participation rate was 70% or greater.

Similarly, 77% reported that the average participant contribution rate was at least 5%. Another 20% identified their average contribution rate as between 8% and 10%. The most commonly reported range of rates was between 5% and 7%.

Most sponsors indicated that fewer than 10% of participants contribute the maximum to the plan. And only two-thirds said that at least half of their participants were contributing at a level that would earn the full company match.

Education topics are expanding

More than half of respondents offered retirement planning and 41% made investment planning education available to participants. Newly introduced education topics included cash and debt management (offered by 20% of those responding), estate planning (11%) and insurance planning (9%).

Loans and hardship withdrawals decline from 2008

In the 2008 edition of this survey, 43% of respondents said they had seen an increase in hardship withdrawals and 49% saw an increase in loans. In the latest survey, only 25% of sponsors reported a rise in hardship distributions and 37% had seen more loan requests.

The full report is at http://tinyurl.com/AmerBenCouncilTrends.

The Investment Company Institute has FAQs about 401(k) plans and links to its 401(k) resources at http://tinyurl.com/ICI401kFAQs.

Plan Sponsors Ask...

Q: We have several new members on our plan's Administrative Committee. Is there a good source of information about fiduciary obligations that they can explore on their own?

A: The Department of Labor's Employee Benefits Security Administration has consolidated all of its guidance regarding fiduciary responsibilities in one location on its website.

This page (http://tinyurl.com/DOLFiduciaryEducation) includes a link to its ERISA Fiduciary Advisor, which is an excellent resource for definitions, duties and liabilities related to a fiduciary's role in retirement plan administration. Through a series of questions and answers, the ERISA Fiduciary Advisor serves as a useful introduction to this topic.

Also included are links to various Department of Labor publications, such as *Meeting Your Fiduciary Responsibilities* and *Understanding Retirement Plan Fees and Expenses*.

Fact Sheets describing the Voluntary Fiduciary Correction Program and the Delinquent Filer Voluntary Compliance Program are available, as are tools for taking advantage of these programs.

Q: Does providing account balance and retirement income projections encourage participants to save more for retirement?

A: Yes, according to research by the Center for Retirement Research at Boston College. However, it was not just the income projections that led to increased savings. It was the combined effect of receiving retirement planning information along with the projections that resulted in greater savings.

Researchers divided a sample population into four groups: a control group, a group that received general material about saving for retirement, one that received general information regarding how additional contributions could result in higher account balances at retirement and a group that was given age-specific estimates of how higher contributions could increase retirement income.

The group receiving age-specific projections proved more likely than the control group to change their contributions. As a whole, members of the group receiving age-related estimates (including those who changed contributions and those who did not) increased their annual saving by a modest $85. But, when only those who changed their contributions are considered, annual saving increased by $1,150 more per year than the control group.

The researchers concluded that income projections had a statistically significant and beneficial effect on participants' knowledge and confidence, particularly when coupled with practical retirement planning information.

Do Income Projections Affect Retirement Saving? is at http://tinyurl.com/CRRProjections.

Q: Based on our review of retirement plan trends, it's clear that we need to consider adding an automatic enrollment feature to our retirement plan. Where can we go to get specific information about rules and requirements?

A: You will find the Internal Revenue Service's web page on this topic to be a helpful introduction to automatic enrollment.

The Frequently Asked Questions (FAQs) cover the benefits of automatic enrollment, what notices must be furnished to employees, adding this feature to an existing plan and employee elections to not participate in automatic enrollment.

The FAQs are at http://tinyurl.com/IRSAutoEnrollFAQs. Also see *Automatic Enrollment 401(k) Plans for Small Businesses*, a brochure jointly produced by the Internal Revenue Service and the Department of Labor, at http://tinyurl.com/AutoEnrollBrochure. ■

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Guidance is also needed for national employers with retirement plans covering employees in multiple states with differing marriage laws. Further, it is unclear whether the ruling is effective June 26, 2013 or an earlier date.

What Should Plan Sponsors Do Now?

We recommend the following initial action steps if your retirement plan operates in a state where same-sex marriage is legal:*

1. Obtain same-sex marriage information from plan participants and beneficiaries. Update beneficiary designation forms for employees in same-sex marriages.

2. Review corporate and human resources policies and procedures related to spouses and domestic partners, removing any DOMA-related language.

3. Prepare for employees asking questions about rights to various retirement plan benefits.

TRA will soon be able to offer you the following consulting services in partnership with legal counsel, once further IRS guidance becomes available:

1. A review of your plan document and SPD (summary plan description) to determine what changes and/or amendments should be made for compliance with post-DOMA regulations. This may include eliminating DOMA-related language and modifying certain provisions. Plan documents for non-qualified plans should also be reviewed.

2. Review and update plan forms and procedures for post-DOMA compliance, including benefit distribution packages, QDROs, and other forms.

We will communicate with you regularly regarding the implications of this ruling as we continue seeking concrete guidance from the IRS and the Department of Labor. If you have any questions, please contact your TRA Consultant.

* For 2013, same-sex marriages are legally recognized in California, Connecticut, Delaware, Iowa, Maine, Maryland, Massachusetts, Minnesota, New Hampshire, New York, Rhode Island, Vermont, Washington, and the District of Columbia.

PLAN SPONSOR'S QUARTERLY CALENDAR

OCTOBER

- Audit third quarter payroll and plan deposit dates to ensure compliance with the Department of Labor's rules regarding timely deposit of participant contributions and loan repayments.
- Verify that employees who became eligible for the plan between July 1 and September 30 received and returned an enrollment form. Follow up for forms that were not returned.
- For calendar year safe harbor plans, issue the required notice to employees during October or November (within 30-90 days of the beginning of the plan year to which the safe harbor is to apply). Also, within the same period, distribute the appropriate notice if the plan features an EACA (Eligible Automatic Contribution Arrangement), QACA (Qualified Automatic Contribution Arrangement) and/or QDIA (Qualified Default Investment Alternative).

NOVEMBER

- Prepare to issue a payroll stuffer or other announcement to employees to publicize the plan's advantages and benefits, and any plan changes becoming effective in January.
- Conduct a campaign to encourage participants to review and, if necessary, update their mailing addresses to ensure their receipt of Form 1099-R to be mailed in January for reportable plan transactions in 2013.
- Check current editions of enrollment materials, fund prospectuses and other plan information that is available to employees to ensure that they are up-to-date.

DECEMBER

- Prepare to send year-end payroll and updated census data to the plan's recordkeeper in January for year-end compliance testing. (Calendar year plans)
- Verify that participants who terminated during the second half of the year selected a distribution option for their account balance and returned the necessary form.
- Review plan operations to determine if any ERISA or tax-qualification violations occurred during the year and if using an IRS or DOL self-correction program would be appropriate.

Consult your plan's financial, legal, or tax advisor regarding these and other items that may apply to your plan.

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