

November 9, 2018

Reminders of What's New for Plan Sponsors in 2019

By Sheila Ninneman, JD and Jason Rothman, JD

Retirement and health and welfare plan sponsors have a relatively short list of employee benefit changes that begin on or around January 1, 2019. However, some changes were announced so long ago that they could be easily forgotten, here's a refresher.

For Sponsors of Disability Welfare Plans and Retirement Plans that Provide Disability Benefits

Background

New claims procedures regulations for disability benefits claims, after multiple delays, have finally been set. The Department of Labor (DOL) requires that the new procedures apply to disability claims that arise after April 1, 2018. The rules generally give disability benefit claimants the same level of procedural protections that group health benefit claimants have after the enactment of the Affordable Care Act (ACA). Its aim is to protect disability claimants from conflicts of interest; ensure claimants have an opportunity to respond to evidence and reasoning behind adverse determinations; and increase transparency in claims processing.

What Do Plan Sponsors Need to Do

For most plan sponsors, ERISA claims procedures are described in their summary plan descriptions. That means that the new disability benefit claims procedures require a summary of material modifications. Certain other plan sponsors will want to consider amending their plans to provide that the disability determination under their plan is made by a third party, such as the Social Security Administration or their long-term disability benefits insurer. Plan sponsors are advised to adopt any necessary amendments on or before the last day of the plan year that includes April 2, 2018. For calendar year plans, the amendment deadline is December 31, 2018.

For Sponsors of Retirement Plans

Hardship Withdrawals

Background

Both the December 2017 Tax Cuts and Jobs Act (TCJA) and the February 2018 Bipartisan Budget Act (BBA) made important changes to hardship withdrawals, which can be provided in 401(k), 403(b), and 457(b) retirement plans. The TCJA change made hardship withdrawals more difficult to get for casualty losses, because the damage or loss must be attributable to a federally declared disaster. For more information see our article [here](#). BBA changes generally make hardship withdrawals much more attractive and easier to administer by eliminating certain hurdles for plan participants.

What Changed for Plan Participants

Plan participants no longer need to take the maximum available loan under the plan before requesting a hardship withdrawal for plan years beginning in 2018 (January 1, 2018 for calendar years). Effective on the first day of the applicable plan year beginning in 2019 (January 1, 2019 for calendar year plans), BBA eliminated the rule requiring that employees who take a hardship distribution must cease making salary deferrals for six months. In addition, BBA created a new source of funds for hardship withdrawals— any interest earned on salary deferrals. These hardship withdrawal changes are described [here](#).

What Do Plan Sponsors Need to Do

The TCJA change to hardship withdrawals is an administrative one that impacts internal procedures. However, BBA changes to hardship withdrawals are likely to require a plan amendment to be adopted on or before the end of the 2019 plan year (December 31, 2019 for calendar year plans), and a summary of material modifications to be issued soon thereafter.

402(f) Special Tax Notices

Background

On September 18, 2018, the Internal Revenue Service (IRS) issued updated model notices to satisfy the requirements of Internal Revenue Code (Code) Section 402(f). The modifications are the result of the TCJA, which extended the time within which a participant can roll over the amount of a plan loan offset to effect a tax-free rollover of the loan offset amount. The new extended period applies to accrued loan amounts that are offset from a participant's account balance at either plan termination or the termination of employment. A detailed description of these changes and links to the new model notices can be found [here](#).

Defined Benefit Plan Restatements

In March 2018, the IRS released [Announcement 2018-15](#), stating that it intends to issue opinion and advisory letters for preapproved master and prototype (M&P) and volume submitter (VS) defined benefit plans that were restated for plan qualification requirements listed in the 2012 Cumulative List. An employer that wants to use a preapproved document to restate its defined benefit plan will be required to adopt the plan document on or before April 30, 2020.

403(b) Plan Restatements

The deadline to restate preapproved 403(b) M&P and VS plans is March 31, 2020, according to Revenue Procedure 2017-18. 403(b) plans can be sponsored by a tax-exempt 501(c)(3) organization (including a cooperative hospital service organization defined under Code Section 501(c)), a church or church-related organization, and a government entity (but only for its public school employees). For more detailed information, see our article [here](#).

VCP Applications

On September 28, 2018, the IRS issued [Revenue Procedure 2018-52](#), which provides that beginning April 1, 2019, the IRS will accept only electronic submissions to its Voluntary Compliance Program (VCP) under the Employee Plans Compliance Resolution System (EPCRS). The new procedure modifies and supersedes

[Revenue Procedure 2016-51](#), which most recently set forth the EPCRS, a comprehensive system for correcting documentary and operational defects in qualified retirement plans. Revenue Procedure 2018-52 provides a 3-month transition period beginning January 1, 2019, during which the IRS will accept either paper or electronic VCP submissions.

2019 Plan Limits

In Notice 2018-83, the IRS issued the cost-of-living adjusted limits for tax-qualified plans. A number of these limits were increased from 2018 levels. For a detailed listing of these limits, see our article [here](#).

For Sponsors of Health Plans

The IRS issued Revenue Procedure 2018-34 in May 2018, which sets the 2019 affordability threshold for the ACA employer mandate at 9.86 percent. Coverage is affordable only if the employee's contribution or share of the premium for the lowest cost, self-only coverage for which he or she is eligible does not exceed a certain percentage of the employee's household income (starting at 9.5 percent in 2014, and adjusted for inflation). See our detailed article [here](#).

For Sponsors of High Deductible Health Plans (HDHPs)

In May 2018, the IRS announced in Revenue Procedure 2018-30 the 2019 limits for contributions to Health Savings Accounts (HSAs) and definitional limits for HDHPs. These inflation adjustments are provided for under applicable law. For a more detailed description of the increases, see our articles [here](#) and [here](#).

What Do Plan Sponsors Need to Do

Plan sponsors should review their employee benefit plans to determine if any of them are affected by the changes listed above.

Questions?

Please contact the Findley consultant you regularly work with or Sheila Ninneman at Sheila.Ninneman@findley.com or 216.875.1927 or Jason Rothman at Jason.Rothman@findley.com or 216.875.1907.