THE ROSENBAUM LAW FIRM P.C.

THE LAW FIRM REVIEW

A Publication for Plan Sponsors and Retirement Plan Professionals

The Problems and Perils In Changing Your 401(k) TPA

I hate moving and I've only had to do it a handful of times in my life. I've always said that moving can be a traumatic experience. Packing away items over time isn't any fun, as well as the need for paring things done. It's also not fun when you make the move and have to unpack. When you change third-party administrators (TPAs), it's like moving and it can be traumatic. This article is all about the TPA change, which involves a conversion process that can start a whole host of problems for you as a plan sponsor.

To read the article, click here.

How A 401(k) Plan Sponsor Can Avoid Getting Ripped Off By Their Plan Providers

While it rarely happens, there have been instances where plan providers stole from their 401(k) plan sponsor clients. While I've been in the retirement plan business for 22 years, I do know two plan providers that are sitting in federal prison for stealing millions from their clients. This article is how you can avoid getting ripped off by a plan provider.

To read the article, please click here.

When You Have To Tailor Your 401(k) Plan

When it comes to clothes, you can buy a suit or a dress off the rack to wear or you can tailor a suit or dress to fit you. Having tailored clothing allows the clothing to perfectly fit your shape because our shapes are different. When it comes to 401(k) plans, most plan sponsors forget to realize that a 401(k) plan should be perfectly tailored to fit your needs and those needs change from time to time especially from the time when you set up the plan initially. This article is all about how you need to make sure that the 401(k) plan is tailored to your needs as a plan sponsor and employer.

To read the article, please click here.

It's time to start counting hours for 2024

The SECURE Act introduced the concept of a "long-term, part-time employee." Starting in 2021, 401(k) plans are going to need to consider these employees for eligibility, vesting, and company contribution purposes, as they become eligible in 2024.

A "long-term, part-time employee" is any employee who in each of the last three consecutive years (long term) worked at least 500 but less than 1000 hours. For eligibility purposes, only those years starting in 2021 are counted. That means that the first year any long-term, part-time employee will be required to be eligible for the 401(k) Plan is 2024. They will be eligible for the deferral component and plan sponsors can still require 1,000 hours of service for employer contribution purposes.

Plans are going to need to ensure they can track hours appropriately to make sure they identify who will be eligible.

New law provides disaster distribution relief

The Consolidated Appropriations Act, 2021 signed into law by President Trump, also provided relief to distributions from a retirement plan as a result of a declared disaster.

The Act provides that the 10% early withdrawal penalty doesn't apply to qualified disaster distributions; that special rules apply to retirement plan distributions used for qualified disaster area home purchases; and for increases in the limit for retirement plan loans made because of a disaster.

The Act provides that the pre-59 ½ early 10% distribution penalty doesn't apply to any qualified disaster distribution. A "qualified disaster distribution" is any distribution made from an eligible retirement plan: (i) on or after the first day of the incident period of a qualified disaster and before the date which is 180 days after the date of the enactment of the, and (ii) to an individual whose principal place of residence was located in the qualified disaster area and who sustained an economic loss by reason of such qualified disaster. An individual may not receive a qualified disaster distribution that exceeds the excess of $100,000 over the aggregate amounts treated as qualified disaster distributions received by such individual for all prior tax years. If an individual has to include any part of the distribution in income, they can spread it over a three-year period. The Act also allows an individual who received a distribution to purchase or build a home in a qualified disaster area but was unable to do so, to repay the distribution to an eligible retirement plan. The eligible retirement plan can be a plan for which the individual is a beneficiary and to which a rollover contribution of such distribution could be made. This also includes IRAs. For the special repayment rule to apply, a "qualified distribution" means any distribution which was to be used to purchase or build a home in a qualified disaster area, but which was not used because of the qualified disaster. The distribution must have been received within 180 days before the first day of the incident period and ending within 30 days after the expiration of the incident period.

The Act also increased the amount that a qualified individual can withdraw as a plan loan on account of a disaster. A loan from a retirement plan is limited to the lesser of $50, 0000 or 50% of the participant's vested account balance in the plan. The TAct increased the maximum amount to the lesser of $100,000 or 100% of the participant's vested account balance. For purposes of this new rule, a "qualified individual" is an individual whose principal residence was located in the qualified disaster area who sustained an economic loss by reason of such qualified disaster.

In addition, the Act permits qualified individuals to delay the repayment of loans, including previously made loans, for one year if the payment due date occurs during the period beginning on the first day of the incident period and ending on the date which is 180 days after the last day of the period. Any subsequent repayments will be adjusted to reflect the delay and any interest that accrued during the delay.

What you need to do with missing participants

As a 401(k) plan sponsor, it's not hard to lose touch with former employees who still have an account balance in your Plan. The problem is that as a plan fiduciary, you just can't let that money sit without trying to locate these participants.

Every once in a while, you need to identify missing participants (they are missing since you can't locate them). Then you should record your methods in trying to locate them.

The Department of Labor (DOL) in Field Assistance Bulletin 2014-01 outlined steps that should be taken to find missing participants:

- send a notice to a participant using certified mail;
- check employer records;
- contact designated beneficiaries;
- use electronic search tools; and
- check public record databases and obituaries.

Thanks to the internet, it's easier to find missing participants, so you have no excuse by doing nothing.

Check out That 401(k) Podcast

Check out That 401(k) Podcast and my YouTube Channel.

The podcast you should listen to if you have the time, as well as YouTube videos.

Please check out That 401(k) Podcast. We tackle important 401(k) subjects for both plan sponsors and plan providers. In addition, we talk about all the events I'm hosting. as well as important cultural allusions.

Find it here and on Apple Podcasts here.

To catch the podcast and our virtual events, find my YouTube channel here.