REGULATORY Update

QUARTERLY UPDATE, JANUARY 2018

Tax Reform: What Is the Impact on Retirement Plans?

On December 22, 2017, President Trump signed into law H.R.1, also known as the Tax Cuts and Jobs Act (TCJA), a tax reform bill that makes wide-ranging changes to both individual and corporate tax-saving arrangements. Although the impact of tax reform on employer-sponsored retirement plans is minimal, there are a handful of changes, summarized below, that plan sponsors should be aware of heading into 2018.

Extension for loan offset rollovers

If an employee has an outstanding loan balance at the time he or she separates from service, the employer typically offsets the unpaid loan balance against the employee's account balance. This offset is treated the same as a distribution, which causes a taxable event. Prior to the passing of the TCJA, the employee could avoid taxation by contributing the amount of the unpaid loan balance to another eligible retirement plan or IRA within 60 days of terminating employment. The TCJA relaxes that timetable—effective for taxable years beginning in 2018, the employee may roll over the unpaid loan balance by his or her tax-filing deadline.

Recharacterizations of Roth IRA conversions eliminated

The TCJA eliminates recharacterizations of traditional IRA or employer-sponsored retirement plan assets converted to a Roth IRA. Effective for taxable years beginning in 2018, when an individual rolls over non-Roth assets to a Roth IRA, the transaction will be considered complete, with no possibility of undoing the conversion through a recharacterization. **Please note:** Recharacterizations of regular (not previously converted) IRA annual contributions will still be permitted under the TCJA.

Relief for disaster victims

The TCJA has also granted relief to eligible victims of any 2016 or 2017 presidentially declared disaster (such as Hurricanes Irma and Harvey) by allowing certain special qualifying distributions from employer-sponsored retirement plans, including:

- Qualifying distributions of up to $100,000 from employer-sponsored retirement plans (as well as IRAs) before age 59½ will not be subject to the 10-percent penalty.
- Qualifying distributions from employer-sponsored retirement plans without enabling plan provisions will not be considered operations failures if plans are amended to add such provisions by the end of the first year beginning on or after January 1, 2018.
- Repayment of qualifying distributions from employer-sponsored retirement plans (as well as IRAs) must occur within three years.

Plan sponsors should be mindful of employees who are eligible for relief from federally declared disasters and coordinate associated distributions with their recordkeepers or third-party administrators.

Department of Labor (DOL) Rule Implementation Date Delayed

On November 29, 2017, the DOL announced that it would delay the implementation of key provisions of the much-debated Conflict of Interest Rule until July 1, 2019. The Conflict of Interest Rule was originally proposed in 2010, but it underwent numerous iterations before going into effect on June 9, 2017. The rule broadens the definition of fiduciary advice on qualified retirement accounts—including workplace retirement accounts covered under ERISA and IRAs—and requires fiduciaries to act in the best interests of retirement plan participants and retirement account holders when providing investment guidance.

The DOL has indicated that it will use the 18-month transition period (which began on January 1, 2018) to consider public comments that were collected as a result of President Trump's February 3, 2017, memorandum, which instructed the DOL to conduct an updated analysis of the fiduciary rule's anticipated impact on consumer access to retirement information and financial advice. Additionally, the DOL will seek to coordinate its reexamination efforts with other related industry bodies, such as the Securities and Exchange Commission and state insurance regulators.

Although the implementation date has been pushed back, the DOL made it clear that the impartial conduct standards remain in effect. Plan sponsors should continue to monitor service providers and financial advisors who work with their plans and participants to ensure that they provide advice that is in retirement investors' best interest, require no more than reasonable compensation, and refrain from making misleading statements.

We Can Help

Our firm is ready to provide you with the ideas, guidance, and foresight to position your firm for success. If you would like to review the impact of tax reform on your plan and participants or learn more about the latest Conflict of Interest Rule happenings, we're here to assist you.

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RCS-1479-22114_01/18