

An **MRP Plans, Inc.** update...

December 2015

End of year thoughts...

The Department of Labor has been making some noise lately; they are apparently trying to get things done before the Obama administration is over and the chairs get shuffled.

One regulation that's been in the works for a long time would make all investment "advisors" to plans (*and IRAs*) fiduciaries. There is currently a distinction - perhaps subtle, or perhaps not, depending on your perspective - between a **broker**, who must only make sure that offerings are **suitable**, and a **Registered Investment Advisor**, who by definition is a fiduciary and must make sure that offerings and advice are in the **best interest** of participants. It's typical government stuff done with the best of intentions, but with unintended consequences. The first argument against it is somewhat weak - the (brokerage) industry says that the small IRA market will likely be underserved, as an RIA can't really charge enough to work in that market, and brokers won't be able to work there any more because they can't act in the best interest of their clients and get paid (enough). It's not hard to see that means that they can't use the high-commission products that they like (wince). The other argument, which holds more water IMO, is that a broker can't get paid at all to serve a typical plan - there are typically many share classes offered in retirement plans, and if an "advisor" must serve the **best interests** of participants, s/he must ratchet down compensation until it is zero. (There is a (technical) distinction between a negotiated RIA fee and a commission, even if they are reasonable and even if they are the same.)

The other thing is an initiative to target plans audited by certain accountants for closer scrutiny. **This does not affect the vast majority of our plans, which have fewer than 100 participants and do not need an audit performed by an independent CPA firm.** But it's disturbing nevertheless - they did a study and found that there was a dropoff in the quality of audits when looking at audits by firms that did between 25 and 99 audits, when compared to firms that did 100 or more audits. Their conclusion is that firms that don't do a lot of audits don't do as good a job, and they apparently are going to look more closely at plans that are audited by the group that does between 25 and 99. There were in fact more dropoffs when looking at firms that did 6-24 audits, and 3-5, and 1-2...but are specifically targeting the 25-99 group because (a la Jesse James) that's where most of the money is. Maybe I'm off-base, but I find it highly offensive that the number of audits done by your accounting firm could be a factor in whether your plan is examined.

There are definitely a few bad apples but in my opinion it's a heavy-handed way to solve problems. We (our clients and our firm) don't have a lot to worry about because we try so hard to keep things squeaky clean, and we are pretty much under the radar anyway. But we'll let you know if you have to pay closer attention.

Finally, I've been keeping an eye on fee litigation cases. Again, this is probably not a concern for our clients' plans, but if you want some real nitty-gritty, check out my blog at <http://www.mrpplansinc.com>.

(If you got this far and stayed awake, congratulations and thanks for listening.)

Best wishes for a happy and healthy holiday season from all of us!

Ed Snyder

Annual update

1) The key limitation numbers for 2016 (and the old 2015 numbers - no changes) are:

	2015	2016
Maximum annual benefit	\$215,000	\$215,000
Maximum annual contribution	\$53,000	\$53,000
Maximum 401(k) deferral	\$18,000	\$18,000
401(k) deferral catchup (over age 50)	\$6,000	\$6,000
Maximum SIMPLE deferral	\$12,500	\$12,500
SIMPLE catch-up (over age 50)	\$3,000	\$3,000
Maximum IRA contribution	\$5,500	\$5,500
IRA catch-up (over age 50)	\$1,000	\$1,000
Annual compensation limit	\$265,000	\$265,000
Social Security Wage Base	\$118,500	\$118,500
Medicare maximum	Unlimited	Unlimited
Comp. threshold for Highly Compensated Employees	\$120,000	\$120,000
Income (exclusion) threshold for SEPs	\$600	\$600

2) Year-end reminders...

~**Remember** to check the appropriate boxes on your W-2s for employees who are covered by your plans...this can sometimes get a bit tricky, especially for profit sharing plans which make contributions after the end of the year, so call if you're not sure.

~**Remember**, when you get your 5500 tax return postcard from the DOL, you do **not** have to send it to us.

~If you'd like to see a trial allocation of a profit sharing contribution, or estimated required contributions to a pension plan, **call or e-mail or fax us** an estimated census (names, compensations, dates of termination if applicable).

~**Please** be sure to include all employees on your year-end census (for calendar year plans, we mail out blank forms in early January). We like to know about all part-time employees, even if you think they'll never enter the plan. If you have "leased employees" or work with "independent contractors", these individuals may have to be covered, or at least considered in certain coverage and participation tests. (Although true independent contractors are not employees, we sometimes run across a client or prospective client who says they have no employees, but then the phone is answered by someone else. If that someone else is paid hourly and works in your office, he or she is most likely an employee in the eyes of the Employee Benefits Security Agency and the IRS.) **Please call** if you have any questions about this area.

~Employee deferrals (401(k) contributions) must be deposited as soon as they can reasonably be segregated from your business assets. **Small plans (under 100 participants) have a safe harbor of 7 business days, and you simply must meet this safe harbor!** There is absolutely no reason not to make the deposits immediately after each payroll; if participants did not have deferrals withheld then you would have paid the money in their paychecks. If we know of late deposits, we will advise you to make up for lost earnings and charge for those calculations.

Employee deferrals (401(k) contributions) should generally be withheld from **all** pay (including bonuses). (For instance, if a participant has elected a 10% withholding rate, you should withhold 10% of bonuses as well as regular pay.) *We have a handful of plans where this does not apply, so check with us if you're not sure.*

~You should have a signed form on file for eligible participants who are not deferring to a 401(k) plan. The government thinks **you** should make contributions **for them** if they haven't properly elected not to contribute (!)

~In general, you **MUST** maintain a fidelity bond for the greater of 10% of plan assets or 100% of the assets that are not "Qualifying Plan Assets" (generally, "Qualifying Plan Assets" are assets held at a financial institution, and plan loans). Most of our clients' assets are "Qualifying Plan Assets", but you must nevertheless make sure that you maintain the appropriate bond! We look at this each year, but the minimum bond is supposed to be in place at the **beginning** of the year, and we might not recognize a deficiency until we do the review during the (next) year.

3) **Terminated participants**

Terminated participants are paid according to the terms of your plan document - in most cases, after the end of the plan year in which they terminate, or later. It's a good idea to remind these people, when they leave, that they have plan benefits and should keep you posted as to their whereabouts. (I know, they're the last ones you want to keep in touch with, but it saves some problems down the road. And no, you can't just hope they disappear and use their money for other participants!) We often have problems finding these "lost" participants, and as always, an ounce of prevention is worth a pound of cure.

4) **1099-R reporting and tax withholding**

If your plan is on a self-directed platform, Form 1099-R distribution reporting will generally be handled by the investment custodian and you don't have to do anything. Otherwise, we will outsource that reporting for electronic filing...which means you don't have to do anything except file copies that will be sent to you! (However, if there was withholding during the year, you still have to file Form 945, which reconciles the deposits made during the year. We will prepare this form for you with filing instructions.)

If your plan is on a self-directed platform, tax withholding will generally be handled by the investment custodian and you don't have to do anything. Otherwise, we've been processing withholding through EFTPS (Electronic Federal Tax Payment System) as required under IRS rules - checks are payable to us for processing through our system. (Just follow our directions.)

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