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Third-party Pension Administration and Consulting Services

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RetireWell Administrators, Inc. provides total retirement plan solutions by combining TPA services with the employee benefits practice at The Law Firm of Anthony L. Scialabba, LLC.

Exceptions to the Automatic Enrollment Requirement of the SECURE 2.0 Act

By Anthony L. Scialabba IV, Esq., QKA

In recent years, the government has placed a higher emphasis towards enhancing retirement savings. In this regard, the Consolidated Appropriations Act, 2023, which contains the SECURE 2.0 Act of 2022 ("SECURE 2.0 Act"), was signed into law on December 29, 2022. Section 101 of the Secure 2.0 Act requires retirement plans to implement an automatic enrollment feature by January 1, 2025, subject to certain exceptions. As a result of this mandate, there is expected to be a noticeable increase in the number of people saving for retirement. This piece covers the exceptions that apply to this mandate.

1. Small Businesses

Small businesses with generally ten or fewer employers may be exempt from the mandate. This exemption may be "lost" if the employer "normally" employs more than ten employees in a year. This exception aims to lessen the administrative burden on smaller businesses.

2. New Businesses

A plan sponsored by an employer in business for less than three years is generally exempt from the mandate. For businesses that have recently started operations, this exception serves to provide a grace period before they must adhere to the mandate.

3. Specific Plan Types

Church plans, governmental plans, and SIMPLE plans are exempt from the mandate.

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4. Plans Established Prior to December 29, 2022

Any plan “established” before December 29, 2022 is generally exempt from the mandate. A 401(k) plan is established on the date it is adopted, regardless of the effective date of the 401(k) plan. For example, if an employer adopts a new 401(k) plan on September 5, 2022, with an effective date of January 1, 2023, the 401(k) plan is established prior to December 29, 2022. In addition, if a profit-sharing plan was established before December 29, 2022, and the employer adopts an amendment to add a 401(k) feature on a date that is on or after December 29, 2022, then the 401(k) feature would have been established on whatever date the employer adopted the amendment (in which case, the mandate would apply).

In consideration of the aforementioned exemptions, employers should assess whether they are subject to the mandate. Both employers that are and are not subject to the mandate should consider adding automatic enrollment, as they may feel good in knowing that their plans are using a feature that helps their employees save for retirement. If your plan document does not meet any of the exemptions discussed in this piece, an amendment must be adopted to add automatic enrollment before the end of this year.

If you have any questions or comments with regard to automatic enrollment or other retirement plan matters, please contact:

RetireWell Administrators, Inc. at 856-396-0499 or ClientServices@RetireWellTPA.com.

Key Features of Defined Benefit Plans

By Anthony L. Scialabba IV, Esq., QKA

A common type of retirement plan is a defined benefit plan. In a defined benefit plan, a predetermined formula is used to promise a specified benefit upon retirement. An overview of the key features of defined benefit plans is as follows.

- Employer Obligation

- *The Employer : (1) bears the investment risk, and (2) is responsible for funding.

- *Employees may have peace of mind because they know that their employer is supporting their retirement benefits.

- Lifetime income benefits

- *Retirees are generally provided with lifetime benefits, ensuring that they receive income until their death.

- *For retirees who may confront uncertain market conditions or outlive their savings, such a lengthy period of protection can be extremely valuable.

- Portability

- *Although normally associated with traditional pension plans, some may offer options with respect to portability or lump sum distributions, permitting employees to transfer their benefits if they switch jobs or separate from their employer prior to retirement.

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- Guaranteed retirement income

*There is a guarantee of a steady income in retirement. The benefit amount is generally based on criteria such as average salary, years of service, and age at retirement.

*Employees have a dependable source of income for the span of their retirement.

- Formula-based calculation

*The benefit amount is calculated using a predetermined formula.

*Employees can plan for their retirement needs because the predetermined formula renders transparency and clarity as to how benefits are determined.

- Benefit security

*Government regulations and oversight are common to make sure that they are sufficiently funded and managed in the best interests of participants.

*The regulatory framework assists in safeguarding the security of retirement benefits for employees.

- Tax advantages

*Employers experience tax-deductible contributions, and investment earnings grow tax-deferred until benefits are distributed to retirees.

As demonstrated above, a defined benefit plan is a useful type of retirement plan. In a defined benefit plan, employees are offered valuable benefits and security for those planning for retirement. By understanding the key features of defined benefit plans, employers can help their employees make knowledgeable decisions about their savings to have a comfortable and secure future.

If you have any questions or comments with regard to defined benefit plans or other retirement plan matters, please contact RetireWell Administrators, Inc. at 856-396-0499 or ClientServices@RetireWellTPA.com.

Lessons for Plan Sponsors from the 2023 DOL Audit Quality Study

The Department of Labor (DOL) completed their Audit Quality Study in November 2023 the purpose of which was to assess the quality of audit work performed by independent qualified public accountants (IQPA) on the financial statements of employee benefit plans covered under the Employee Retirement Income Security Act (ERISA). Although the focus of the DOL Audit Quality Study was on the audit work performed by IQPA's, the results of the study provide some takeaways for plan sponsors that can assist them with the operation and oversight of their employee benefit plans.

Overview of the DOL Audit Quality Study

The 2023 DOL Audit Quality Study represented the fourth audit quality study performed by the DOL. The previous studies were performed in 1997, 2004 and 2015. ERISA Section 103 requires employee benefit plans to file an annual report of their financial condition and operation with the DOL. This is filed on Form 5500 which also requires that most plans with over 100 participants, as defined, include an audit report issued by an IQPA. In regard to this requirement, the DOL has performed their audit quality studies with the goal of improving quality to ensure that the \$12.5 trillion in plan net assets and 137.3 million plan participants and beneficiaries are receiving the statutory protections of ERISA.

Overall, the DOL found that 70% of audits substantially complied with Auditing Standards Generally Accepted in the United States of America (GAAS). However, the other side of these results is that 30% of the audits contained major GAAS deficiencies. The full text of the DOL's Audit Quality Study can be found at <https://www.dol.gov/sites/dolgov/files/ebsa/about-ebsa/our-activities/resource-center/publications/november-2023-audit-quality-study.pdf>.

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How Audit Areas with Deficiencies Can Translate to Areas of Focus for a Plan Sponsor

The DOL found that the highest deficiency rates in employee benefit plan audits existed in three areas:

- * Participant Data,
- * Contributions Received and Receivable, and
- * Benefit Payments

These areas of an employee benefit plan audit directly correlate to the areas that the IRS has found to have the most compliance errors; the most basic of which is to follow the terms of the plan document when operating the plan. Other examples of common compliance errors that intersect with audit areas are (per the 401(k) Plan Fix-It Guide on www.irs.gov):

- Failure to update the plan document for required amendments;
- Use of a definition of compensation that is not based on the terms of the plan document;

- Timely remittance of participant contributions and loan repayments;
- Employer matching contributions were not made to all appropriate employees;
- Exclusion of eligible employees;
- Participant loans not in accordance with the plan document; and
- Improper hardship distributions.

There are preventive measures that include annual reviews of specific plan operations that a plan sponsor can perform to help avoid such mistakes. Plan advisors, plan auditors and plan ERISA counsel can assist plan sponsors with their operational and monitoring responsibilities.

Torrillo & Associates, LLC is an accounting firm that specializes in audits of employee benefit plans. We are located in the suburbs of Philadelphia and many of our clients are from Pennsylvania, New Jersey and Delaware. However, our firm's reach extends beyond the Delaware Valley serving clients in Connecticut, Florida, Georgia, New York, Minnesota, Texas, Virginia and more. For more information contact us:

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Why Are TPAs A Better Solution Than State-Mandated Plans?

By Anthony L. Scialabba IV, Esq., QKA

In recent years, there has been an increased promotion for retirement plans that are state-mandated and directed at making sure that employees have access to retirement savings options. However, as a result, a number of employers have found themselves burdened with potential liabilities and administrative complexities. As an alternative to using state-mandated plans, using third-party administrators (“TPAs”) for designing and managing plans presents a variety of advantages for employers. This article highlights the reasons why TPAs are commonly a better solution than state-mandated plans.

- Comprehensive services

*In contrast to state-mandated plans, which may offer limited options, TPAs contribute many services that extend beyond basic plan administration, including compliance assistance and plan design.

*Employers may benefit with lessened administrative burden and streamlined administration through having one point of contact for all plan needs.

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- Tailored solutions

*TPAs specialize in designing customized plans that line up with an employer's budget constraints, goals, and employee demographics.

*Employers can offer retirement benefits that best fit their employees while maximizing cost-effectiveness.

- Flexibility and options

*TPAs offer flexibility with respect to plan design and investment options, permitting employers to pick from a number of plan types, such as profit-sharing, 401(k), or defined benefit plans. In addition, employers can pick from various investment funds to suit different investment objectives and risk tolerances.

*Employers are enabled to customize their plans for the broad needs of their employees.

As discussed above, TPAs are commonly a better solution than state-mandated plans. TPAs empower employers to design and manage plans that meet the demands of their employees while lessening administrative burdens and risks. From using a TPA, employers can essentially guarantee the success and sustainability of their plans.

If you have any questions or comments with regard to TPAs or other retirement plan matters, please contact RetireWell Administrators, Inc. at 856-396-0499 or ClientServices@RetireWellTPA.com.

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