



**PENSION STRATEGIES**

*QUALIFIED PLAN DESIGN & ADMINISTRATION*

## Strategic Update

*Ideas, news and tips from Pension Strategies*



July 2015

## Fiduciary Rules and the Trouble with Tibble

The rules and definitions of who is a fiduciary in relation to qualified plans has recently been changing at a rather rapid pace. In addition, the rules related to fiduciary responsibilities have also been evolving. Both the Department of Labor and the courts have recently issued proposals and opinions.



### **New Fiduciary Rules (Department of Labor):**

The new addition expands fiduciary advice to include recommendations to participants to take distributions from retirement plans, as well as recommendations on how to invest assets to be rolled over or distributed from a plan or IRA. This is interesting as the advice just to take the distribution action creates a fiduciary relationship. That form of advice often comes from tax advisors and others who by that action could become fiduciaries.

### **Sale of insurance products to a plan or IRA (Department of Labor):**

The commissions relief from prohibited transaction rules for sales of insurance products still continues. However, that relief will not be available for insurance annuity securities. To receive the relief an insurance advisor must comply with the impartial conduct standards.

### **Meeting fiduciary responsibility (U.S. Supreme Court):**

In the case *Tibble v. Edison International*, the Court ruled it is not enough for the plan sponsor to review the investment choices for a plan then set it and forget it. The fiduciary has a duty to continually monitor the quality of the plans investment choices. But it goes further than the investments. The Sponsor fiduciary must also monitor the performance of the investment managers, record keepers, and other service advisors. The court did not give any guidance on how much a fiduciary should monitor a plan. They did make it clear the role of the fiduciary is and active not a passive role.

If you have questions or concerns about your fiduciary responsibility, contact **Pension Strategies** for further explanation.

## UPCOMING DEADLINES

### June 30

Most full time employee participants will have passed the 1,000 hour point thereby earning their pension benefit accrual for the current year.

### July 31

Compliance filing deadline for calendar year end plans. To avoid penalties a form 5500 or extension request must be filed by this date.

### September 15

Final calendar year end corporate and partnership filing deadline and funding deadline for pension plans.

## About Pension Strategies

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## "Why can't I access my own money?"

Participants are often confused about the status of money in their 401(k) plan. They feel they should be able to access the money as if it were a personal savings account. But, that is not the case.

In exchange for being able to defer the tax on moneys held in the plan, the government places some restrictions on the fund. Essentially the funds are there for retirement, not current use. If funds are withdrawn too early they become subject to income tax and a premature distribution penalty tax of ten percent of the distribution.

To access 401(k) money a distributable event must occur. Distributable events include death, disability and hardship (if provided by the plan document), termination of employment, and attained retirement age. The plan may also provide for participant loans. The plan is not, however, a bank account for the sponsor or participants.



## ALERT: New IRS Rules for Cash Balance Plans

Cash Balance Plans have become increasingly popular because of their superior tax efficiency over other types of plans. However, they have always required individually designed documents and costly IRS submission fees to gain approval. That just changed. Cash Balance Plans may now utilize volume submitter type documents and those costly submission fees are going away.

Please let us know if you would like us to address any topics in upcoming issues of Strategic Update. We're here to be your best resource in the Retirement Planning industry.

Sincerely,  
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*And the entire Pension Strategies team*