

Year End Notices: Staying on Top of the Requirements

10.05.15

As the turn of the calendar year nears, annual notices should be on the minds of most plan sponsors. For plans using the calendar year, numerous notices are due to be given in the next few months. Here are some highlights of notices that must be sent to either participants, the IRS or the Department of Labor (DOL) in the next three months.

October To December

Many notices due during this time period deal with safe harbor plans and plans that include automatic enrollment opportunities. They include:

Safe harbor 401(k) plan annual notices. Sponsors of traditional safe harbor 401(k) plans must provide an annual notice to participants describing the safe harbor employer contributions. The notice must also provide details on other plan features, such as withdrawal provisions. You must give the notice at least 30 days, but not more than 90 days, before the first day of the plan year. Thus, for calendar-year plans, notice can be provided as early as October 2, but no later than December 1.

Safe harbor contingent notices. Plans may also have to provide a safe harbor contingent notice if they want to preserve the ability to adopt a 3% qualified nonelective contribution safe harbor design before the end of the plan year. This notice must be given to eligible employees that this action may be taken. The timing of this notice is the same as for the safe harbor 401(k) annual notice.

Automatic contribution arrangement notices. There are three types of automatic contribution arrangements:

- Automatic contribution arrangements,
- Qualified automatic contribution arrangements, which contain certain employee and employer contribution requirements that exempt the plan from annual nondiscrimination testing requirements, making it a “safe harbor” plan, and
- Eligible automatic contribution arrangements, which permit penalty-free distribution of “accidental” automatic deferrals and provide a six-month period to distribute excess contributions and excess aggregate contributions without imposition of a 10% excise tax.

Notices for these arrangements must provide employees with information that enumerates their rights and obligations under the plan, explain the employee’s right to elect not to have deferral contributions made or elect a different contribution percentage, and detail the default investment provisions in the absence of an investment election.

Generally, for all three types of automatic contribution plans, you must provide an initial notice of eligibility to the participant generally at least 30 days, but not more than 90 days, from eligibility. Then annually you must give the notice at least 30 days, but not more than 90 days, before the first day of the plan year. Thus, for calendar-year plans, notice can be provided as early as October 2, but no later than December 1.

Savings Incentive Match Plans for Employees (SIMPLE) IRA election notices. When an employer adopts a SIMPLE IRA, it must notify each employee before the beginning of the election period. The notice must explain the employee’s opportunity to make or change a salary reduction choice under a SIMPLE IRA, the employer’s choice to make either matching contributions or nonelective contributions, a summary description provided by the financial institution, and written notice that the employee’s balance can be transferred without cost or penalty if the employer uses a designated financial institution.

The SIMPLE IRA election period is generally the 60-day period immediately before January 1 of a calendar year (November 2 to December 31 of the preceding calendar year). The dates of this period are modified if the employer sets up a SIMPLE IRA midyear or if the 60-day period falls before the first day an employee becomes eligible to participate in the SIMPLE IRA.

Required minimum distributions (RMDs). For employees receiving RMDs, employers must make these by December 31.

Annual participant fee disclosure notice. Employers must provide this notice, sometimes referred to as a Section 404(a)(5) notice, to participants annually within a 12-month period. Many plan sponsors choose to provide this notice with other year end required notices.

January And Beyond

Starting in January, plan sponsors have several IRS filings to be aware of:



IRS Form 1099-R. Plans use this form to report distributions, including direct rollovers, from qualified plans or 403(b) plans. You must provide it to plan participants by January 31 of the year following the calendar year in which the distribution was made. Plans will then have to file the form with the IRS by February 28 (or March 31 if filed electronically) of the year following the calendar year in which the distribution was made.

IRS Form 945. This form reports income tax withheld from distributions made from qualified plans and 403(b) plans. It must also be provided to participants by January 31 of the year following the calendar year in which the distributions were made. You can extend the filing deadline by 10 days if tax payments were made on time and in full.

Get Noticed

These are just some of the annual notices and reports that employee benefit plans must provide each year. For a comprehensive list for your specific plan, contact your benefits specialist.