EDUCATION guide

ADMINISTRATION

Your Step-by-Step Guide to:

- Understanding the Depth of Information to Manage a Plan Effectively
- Understanding the Provisions of Your Plan Documents
- Developing a Planning Calendar Covering All Key Issues
- Understanding What to Address During Plan Reviews to Keep Current With Changes That Affect Your Plan

Table of Contents

This education guide is not intended to be legal or tax advice. Rather, it is intended only as a general summary, in non-technical terms, of certain basic concepts applicable to 401(k) and, in some cases, certain other types of tax-qualified retirement plans. Although this material concentrates on 401(k) plans, it is not intended to provide a comprehensive discussion of 401(k) plans or other types of tax-qualified retirement plans. Plan sponsors should consult their attorneys about the application of any law to their retirement plans.

Retirement Plan Administrative Issues

The vast amount of information necessary to effectively manage a qualified plan can be daunting.

When you actually step back and review all that is involved in establishing, managing, and monitoring a qualified plan, it is little wonder why plan sponsors turn to retirement plan consultants for help. Even with assistance understanding the information, plan fiduciaries are still responsible for acting prudently in the active management of their plan which means dealing with most or all of the following:

1. Plan Documents
    - Establishing
    - Distributing
    - Maintaining
    - Amendments
    - Filing
    - Contribution Limits
    - Hardship Withdrawals
    - Vesting
2. Processing
    - 5500
    - Withholding
    - Tax Reporting
    - Contributions
    - Loans
    - Data Collection
    - Top Heavy Testing
3. Participants
    - Enrollment
    - Withdrawals
    - Allocation Changes
    - Distributions
4. Legislative and Regulatory Updates
    - IRS
    - DOL
    - ERISA
    - Cost of Living Adjustments
    - Pension Reform (PPA)
    - Audits
5. Plan Reviews
    - Committee Meetings
    - Investment Reviews
    - Controlling Expenses
    - Employee Education Requirements
    - Participation Reports

Identify Your Plan Management Strengths and Weaknesses

For most plan sponsors, the amount of time available to devote to the management of your employer-sponsored retirement plan is minimal compared to other areas of employee benefit management. However, as a fiduciary, you have an obligation to ensure your plan is compliant with the legislative acts that govern it.

With all of the issues faced by plan sponsors during plan set-up, management, and review, it is easy to feel overwhelmed and a little unsure about understanding all that is required to prudently manage your plan.

You should take an active role in seeking assistance and education on issues you don't fully understand.

As you review the key points of this education guide, take note of what areas you feel you understand and are addressing and what areas you might need further assistance with, then turn to the resources listed in the back of this guide to help you implement a plan management process for running a successful and compliant plan.

Understanding Basic Plan Provisions

A good starting point for implementing a solid plan management process, is to begin by reviewing the basic plan provisions that govern your company's retirement plan.

By gaining a solid understanding of the key components in a retirement plan design document, you will increase your knowledge level and be able to address the majority of issues raised by plan participants.

Most questions fielded from plan participants deal with the specific issues addressed in the Summary Plan Description. It is imperative then, that you have a thorough understanding of the details in your plan document as well as a comprehensive understanding of each plan option. These can include:

Eligibility
Typically, a plan benefits a mix of rank-and-file employees and owner/managers. However, some employees may be excluded from a 401(k) plan if they:

- Have not attained age 21;
- Have not completed a year of service; or
- Are covered by a collective bargaining agreement that does not provide for participation in the plan, if retirement benefits were the subject of good faith bargaining.

Vesting
Employee salary deferrals are immediately 100 percent vested – that is, the money that an employee has put aside through salary deferrals cannot be forfeited. When an employee leaves employment, he/she is entitled to those deferrals, plus any investment gains (or losses) on their deferrals.

In **SIMPLE 401(k) plans** and **safe harbor 401(k) plans**, all required employer contributions are always 100 percent vested.

In **traditional 401(k) plans**, you can design your plan so that employer contributions become vested over time, according to a vesting schedule.

Contributions

There are many contribution options available to 401(k) plans. They can be used together or separately to help meet the plan's objectives. The most common contribution types include:

Elective contributions (sometimes referred to as employee pre-tax contributions or salary deferrals):

- allow participants to save for their retirement
- are made on a pre-tax basis
- are immediately 100% vested

Catch-up contributions (employee contributions above and beyond the legal limit for elective contributions available to participants who are at least 50 years of age as of the end of the plan year):

- allow participants who are at least age 50 during the year to make pre-tax salary deferrals over a limit imposed by the law or by the plan
- are made on a pre-tax basis

Employee after-tax contributions:

- may be offered in addition to pre-tax deferrals in a 401(k) plan

Employer matching contributions (contributions expressed in terms of participants' deferral amounts):

- provide an incentive to participants to make pre-tax contributions to the plan
- may be made on pre-tax deferrals or employee after-tax contributions
- may be discretionary (determined by the employer each year) or the formula may be defined in the plan document

Employer non-elective contributions (contributions that are typically expressed in terms of participants' compensation and are often called discretionary employer or profit sharing contributions):

- may be used to provide performance incentives and/or to share company profits with eligible participants
- may be discretionary or may be defined in the plan document

Basic Plan Provisions Continued...

Loans

Loans are a popular feature in 401(k) plans because they offer participants a way to access their savings in the event of an unforeseen financial need. Participants can repay the loan to their retirement savings and, while participants should ideally leave their retirement accounts invested, many participants would be reluctant to participate if they had no way to get to their savings when needed. Most plans offer loans for this reason.

In order for a plan to be able to offer loans to its participants, it must follow guidelines that are within legal parameters and that are set forth either in the plan document or a separate document referenced by the plan. The IRS and the DOL share the responsibility of enforcing the participant loan rules set out in the Internal Revenue Code and in ERISA.

Hardship Withdrawals

The IRS code that governs 401(k) plans provides for hardship withdrawals only if: (1) the withdrawal is due to an immediate and heavy financial need; (2) the withdrawal must be necessary to satisfy that need (i.e. you have no other funds or way to meet the need); (3) the withdrawal must not exceed the amount needed by you; (4) you must have first obtained all distribution or nontaxable loans available under the 401(k) plan; and (5) you can't contribute to the 401(k) plan for six months following the withdrawal.

The following items are considered by the IRS as acceptable reasons for a hardship withdrawal:

1. Un-reimbursed medical expenses for you, your spouse, or dependents.
2. Purchase of an employee's principal residence.
3. Payment of college tuition and related educational costs such as room and board for the next 12 months for you, your spouse, dependents, or children who are no longer dependents.
4. Payments necessary to prevent eviction of you from your home, or foreclosure on the mortgage of your principal residence.
5. You can also take a hardship withdrawal for funeral expenses and repair of a primary residence.

Hardship withdrawals are subject to income tax and, if you are not at least 59½ years of age, the 10% withdrawal penalty. You do not have to pay the withdrawal amount back.

Distributions

Although 401(k) plans are meant to be long term savings vehicles, participants cannot leave money in a 401(k) account indefinitely:

- Plan participants generally MUST begin taking withdrawals from their 401(k) accounts when they reach age 70 1/2.
- Plan participants CAN begin taking withdrawals from their 401(k) accounts as soon as they reach age 59 1/2.
- Withdrawals prior to age 59 1/2 are permitted without penalty due to a qualifying permanent disability or death.
- At any time, a plan participant leaving the company can remove his or her 401(k) money without subjecting it to early withdrawal penalties by rolling the money over into a Rollover IRA or new employer's qualified retirement savings plan (401(k) or other).

Outside of these instances, there are only two ways for participants to withdrawal money from a 401(k) account while employed: hardship withdrawal and 401(k) loan.

Rollovers into your Plan

Thanks to the Economic Growth and Tax Relief Reconciliation Act of 2001, employees have greater freedom to make a tax-free rollover of distributions from one type of retirement plan to another. This is important for a person who changes jobs and wants to move retirement assets from one employer's plan to another. Some plans have been limited to rollovers to or from the same type of plan. Since 2002, qualified employer plans, 403(b) annuities, governmental 457 plans and IRAs have been able to accept rollovers from another plan, even if they are different types. For example, workers switching from a government agency to a public school might roll over their 457 plan assets to a 403(b) annuity. **Although plans may accept rollovers, they are not required to do so.**

Changes That Require Attention

If you want to keep up with the changes that affect your plan, you must understand what the changes are and who initiates them.

Understanding the sources of information that lead to changes on your plan allows you to proactively determine whether or not they affect you.

The following encompasses most sources that can affect how you manage your retirement plan:

Your Company
Management changes, large employee demographic changes, significant increases or decreases in employee workforce size, corporate tax status, etc.—all of these issues may dictate changes to the structure of your existing plan. Internally, you may also decide to increase your employer matching contributions, change your plan's vesting schedule, etc. As you review your plan, these are all issues to discuss and be aware of as they can indicate a change to your plan.

Plan Providers, Administrators, Trustees
Often times providers change internal record keepers, add plan investment options, or make prototype document changes that affect your plan. This is another item to address at plan reviews to ensure any provider changes that affect your plan are addressed.

Internal Revenue Service
Cost of living increases affect your plan, the documents that govern it, and a participant's ability to save for retirement. It is important, then, to be aware of any changes made by the IRS to Pension Plan Limitations or other issues that affect your plan.

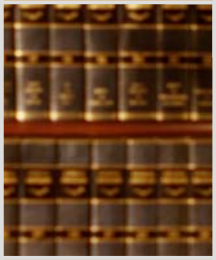
Legislation—The Pension Protection Act, the 408(b)2 Plan Fee Disclosures and 404(a)5 Participant Disclosures, etc.
When pension legislation is passed, often times changes that affect your plan are phased in over time such as the legislation that gave participants the ability to contribute to a Roth 401(k) starting in the year 2006 and the change to the automatic cash out provision limitation. This is another important source to review for changes that affect your plan, especially with the latest round of regulations for that pertain to provider and participant fee disclosures.

Trends
Innovative ways to encourage participants to save for retirement include automatic enrollment, automatic increases, automatic bonus contributions, automatic fund rebalancing, model portfolios, etc. Trends such as these are important to be aware of as they can increase the success of your plan and the perceived benefit to plan participants.

Investment and Plan Reviews
Often times a review of your plan's participation rates, investment results, and monitoring practices will reveal changes that should be implemented for compliance reasons, in accordance with your Investment Policy Statement, or to decrease the risk to plan participants.

Audit / Compliance Testing
Plan audits and compliance testing can also raise issues and reasons to make specific changes to your plan such as redefining the definition of compensation, funding issues, etc.

ERISA and DOL
The Employee Retirement Income Security Act and the Department of Labor come down with changes and rules that affect your plan and those issues that relate to your fiduciary obligations. It is important to be aware of any directives given and to comply with them in a timely manner to avoid penalties.



Taking a Proactive Approach

With the various resources available to help plan sponsors manage a retirement plan, it is possible to take a proactive approach at addressing any issues that might warrant a change to your plan.

Often times, any changes that you need to be aware of are presented to you by your plan advisor, trustee, accountant, or administrator. If you have questions regarding aspects of your retirement plan, there are several sources you can turn to for answers including:

- Your Plan Document
- Your Consultant or Advisor
- Third Party Administrator or Record keeper
- Mutual Fund or Insurance Company Involved in Plan
- Department of Labor (DOL)
- ERISA Regulations
- Internal Revenue Service

Many sponsors find it helpful to proactively receive information regarding changes and updates directly from the source and there are a variety of ways to do this.

Department of Labor

DOL offers updates through their website at www.dol.gov.

DOL's Office of Compliance Assistance Policy (OCA) maintains a variety of educational web pages and free e-tools. You can stay up to date on these important Department offerings by subscribing to receive e-mail updates.

By voluntarily subscribing to email updates, OCA will send you an email when significant Compliance Assistance activities occur or when DOL adds new, valuable information to the Compliance Assistance web pages. You can subscribe to all OCA mailings or narrow the mailings by selecting from individual web pages. It's DOL's way of keeping you informed of new developments in Compliance Assistance programs and employment law resources.

Internal Revenue Service

The IRS also offers a newsletter for sponsors that includes regulatory updates at www.irs.gov.

Employee Plans News
Geared toward retirement plan practitioners - attorneys, accountants, actuaries and others - this newsletter presents information about retirement plans.

Retirement News for Employers
Designed for employers and business owners, this newsletter provides practical retirement plan information.

Plan Sponsor Magazine

www.plansponsor.com

Plan Sponsor Magazine offers an email program called NewsDash—the latest news for plan sponsors delivered to your inbox daily.

Profit Sharing Council of America

www.psca.org

Legislative & Regulatory Updates
PSCA's *Executive Report*, a monthly legislative newsletter and compliance bulletin, provides members with concise information on Washington's most recent events.

As a plan sponsor, you have a tremendous amount of information to understand. However, you are not expected to be an expert in all areas of plan management, and ERISA requires that you seek out qualified experts to assist you with those items you are unfamiliar with. Taking a proactive approach to learning all you can about the issues that affect your plan is one way to help limit your liability and document your prudence as an plan fiduciary.

Implementing a Plan Management Process

The best way to help manage a retirement plan prudently is to document a process for addressing your key administrative issues.

With everything involved in managing a successful and compliant company retirement plan, the best method to document a process is to develop a plan management calendar that lists the key issues and the dates for completing each issue.

The items you document should include:

- Annual Plan Review
- Plan Expense Review
- Evaluating your Employee Education Program
- Quarterly Investment Monitoring Reviews
- Provider Due Diligence
- Fiduciary Education Initiatives
- Investment Policy Statement Review

In addition to the items listed above, you should document the critical administrative dates you need to be aware of such as:

- Deadline for you to furnish Form W-2 to your Employees
- Date the Form 5500 due to the IRS unless an extension has been filed
- Date you must make the Summary Annual Report available to all plan participants
- Date all Plan Amendments must be signed
- Date to review top-heavy test for accuracy
- Date that RMD's are due for members who are age 70 1/2 and have either retired or are 5% owners
- Other critical administrative dates as necessary


W-2
Tax
1040
Department of the Treasury
U.S. Individual


Resources for Plan Sponsors

There are many issues to address in order to run an effective and compliant plan. Below, you will find a variety of resources and tools available to help you as you look to balance all of your plan management responsibilities.

The Department of Labor (www.dol.gov) offers the following publications:

- **Meeting Your Fiduciary Responsibilities** This publication provides an overview of the basic fiduciary responsibilities applicable to retirement plans under the law.
- **Reporting and Disclosure Guide for Employee Benefit Plans** This guide is intended to be used as a quick reference tool for certain basic reporting and disclosure requirements under ERISA.

The following newsletters and publications provide plan sponsors with current updates on issues relating to employer-sponsored plans:

- **Employee Plans News** A publication of the Employee Plans office of the Tax Exempt and Government Entities Operating Division of the IRS. This quarterly newsletter provides information about current developments and upcoming events within the retirement plans arena. (www.dol.gov)
- **Department of Labor** DOL offers additional updates through their website: (www.dol.gov). By voluntarily subscribing to E-mail Updates, OCA will send you an e-mail when significant Compliance Assistance activities occur or when DOL adds new, valuable information to the Compliance Assistance Web pages.
- **Internal Revenue Service** The IRS also offers a newsletter for sponsors that includes regulatory updates at www.irs.gov. They offer two newsletters:

  Employee Plans News
  Geared toward retirement plan practitioners - attorneys, accountants, actuaries and others - this newsletter presents information about retirement plans.

  Retirement News for Employers
  Designed for employers and business owners, this newsletter provides practical retirement plan information.

- **Profit Sharing Council of America** offers Legislative & Regulatory Updates. PSCA's Executive Report is a monthly legislative newsletter and compliance bulletin for members. (www.psca.org)

How well informed are you regarding CHANGES that affect your retirement plan?

The vast amount of information necessary to effectively manage a qualified plan can be daunting.

All of those involved in the management of a qualified plan must understand those critical issues that affect their plan including being aware of regulatory changes and having a thorough understanding of all plan documents.

This guide can help you better understand and manage the depth of information involved in running an effective employer-sponsored retirement plan.