125 YEARS 1890 – 2015 STIFEL

Retirement Plans Quarterly

Fourth Quarter 2015

IRS ANNOUNCES COST-OF-LIVING ADJUSTMENTS FOR 2016

On October 21, 2015, the Internal Revenue Service announced cost-of-living adjustments applicable to dollar limitations for plans and other items for tax year 2016. In general, many of the pension plan limitations will not change, because the cost-of-living index did not meet the statutory thresholds that trigger their adjustment.

Annual Limit	2015	2016
Social Security Wage Base	$118,500	$118,500
Annual Compensation Limit	$265,000	$265,000
Key Employee Compensation Limit	$170,000	$170,000
HCE Compensation	$120,000	$120,000
Elective Deferral Limit (401(k), 403(b) & 457)	$18,000	$18,000
Catch-Up Contributions (401(k) & 403(b))	$6,000	$6,000
SEP Minimum Compensation	$600	$600
SIMPLE IRA Deferral Limit	$12,500	$12,500
Catch-Up Contributions (SIMPLE IRA)	$3,000	$3,000
Annual DB Benefit Limit	$210,000	$210,000
Annual DC Contribution Limit	$53,000	$53,000

IRA CONTRIBUTION LIMITS REMAIN UNCHANGED

According to IR-2015-118, the Traditional and Roth IRA contribution limit remains unchanged at $5,500 for 2016.

Annual Limit	2015	2016
IRA/Roth Contribution Limit	$5,500	$5,500
IRA/Roth Catch-Up Contributions	$1,000	$1,000

Income limits for IRA deductibility remain unchanged for 2016:

Traditional IRA Deductibility	2015		2016	
	Single Filer's AGI:	Married Filing Jointly AGI:	Single Filer's AGI:	Married Filing Jointly AGI:
Full Contribution	< $61,000	< $98,000	< $61,000	< $98,000
Partial Contributions	$61,000 – $71,000	$98,000 – $118,000	$61,000 – $71,000	$98,000 – $118,000
Not Eligible	> $71,000	> $118,000	> $71,000	> $118,000

If one spouse is covered by an employer-sponsored plan, Maximum Joint Compensation for deductible contribution by non-covered spouse in 2016: $184,000–$194,000

Income limits for Roth IRA contributions have been raised to the following for 2016:

Roth IRA Eligibility	2015		2016	
	Single Filer's AGI:	Married Filing Jointly AGI:	Single Filer's AGI:	Married Filing Jointly AGI:
Full Contribution	< $116,000	< $183,000	< $117,000	< $184,000
Partial Contributions	$116,000 – $131,000	$183,000 – $193,000	$117,000 – $132,000	$184,000 – $194,000
Not Eligible	> $131,000	> $193,000	> $132,000	> $194,000

IRA ROLLOVERS – ONE-PER-YEAR RULE

A new IRA rollover rule went into effect January 1, 2015. IRC Section 408(d)(3)(A)(i) generally provides that any amount distributed from an IRA will not be included in the gross income of the distributee to the extent the amount is paid into an IRA for the benefit of the distributee no later than 60 days after the distributee receives the distribution. Section 408(d)(3)(B) provides that an individual is permitted to make only one rollover in any one-year period.

Under the previous 60-day rollover rule, an individual with multiple IRAs was permitted to take a distribution from each of them during the year, and within 60 days of each distribution roll the assets back into the same or another IRA. Now, an IRA holder will be limited to only one indirect rollover from an IRA to another (or the same) IRA in any 12-month period, regardless of the number of IRAs he or she owns. The limit will apply to all of an individual's IRAs, including Traditional, Roth, SEP, and SIMPLE IRAs, effectively treating them as one IRA for purposes of the limit.

Transfers

When an individual transfers assets from one IRA directly to another without taking constructive receipt of the assets (check not payable to the IRA owner), the transaction is not reportable to the IRS. Therefore, the number of transfers between IRAs within one year is not limited. A transfer may be the preferred method to move assets from one IRA to another, so as not to exceed the rollover limit.

Types of Rollovers Not Affected

In addition, the one-rollover-per-year rule does not apply to:

- IRA-to-qualified plan rollovers
- Qualified plan-to-IRA rollovers
- Qualified plan-to-qualified plan rollovers
- Conversions from Traditional, SEP, or SIMPLE IRAs to Roth IRAs

Tax Consequences

Under the basic rollover rule, any amount distributed from an IRA and subsequently rolled into an eligible plan (including an IRA) within 60 days is not subject to ordinary income tax. For the remainder of 2015 and beyond, if a distribution is received from an IRA of previously untaxed amounts, an individual must include the amount in gross income if an IRA-to-IRA rollover was made in the preceding 12 months. Note that a 10% early withdrawal penalty tax may apply on the amount the individual includes in gross income if he or she is under the age of 59½. Additionally, if the distributed amount is placed into another (or the same) IRA, the amount will likely be treated as an excess contribution and taxed at 6% per year as long as it remains in the IRA.

For complete details, see Announcement 2014-32 at the following web address:
http://www.irs.gov/pub/irs-drop/a-14-32.pdf

REQUIRED MINIMUM DISTRIBUTION DEADLINES

Each year, certain individuals must take required minimum distributions (RMDs) from their IRA or retirement plan. RMDs apply to Traditional IRAs, Simplified Employee Pension Plans (SEP), SIMPLE IRAs, and all qualified retirement plans (QRPs). RMD rules also apply to beneficiaries who inherit IRA and qualified retirement plan assets. The deadline for taking RMDs is generally December 31 each year.

With Roth IRAs, there are no required distribution rules for owners. However, beneficiaries who inherit Roth IRAs must take RMDs. A spouse beneficiary, on the other hand, may roll (transfer) the deceased spouse's Roth IRA into his or her own Roth IRA where RMDs are not required. Also, it's important to point out that Roth 401(k) rules are different in that 401(k) distribution rules prevail, so RMDs are required for owners and the beneficiaries who inherit them.

First IRA RMD Deadline

IRA owners are required to begin taking distributions from their IRAs in the year in which they reach age 70½. However, an individual may choose to delay the first RMD until April 1 of the year following the year he or she turns 70½. If the first distribution is delayed, a second withdrawal for the second (current) year's RMD must be made by December 31 in the same year.

First QRP RMD Deadline

The same rule of mandatory distributions applies to QRPs (including Roth 401(k)s). However, if the participant is still employed at the QRP sponsor, the required beginning date is April 1 of the year following the later of: the calendar year in which the participant turns 70½, or the calendar year in which the participant retires. Note that 5% or greater owners of the business are not allowed this extension and must begin RMDs from the plan at age 70½. Also note that participants who are 70½ of age or older and terminating their employment are required to withdraw the year's RMD from the plan prior to rolling the remaining assets into an IRA.

Roth 401(k) participants who desire to delay taking RMDs may consider a direct transfer (rollover) of their Roth 401(k) assets into a Roth IRA.

RMDs for Beneficiaries

Beneficiaries who inherit IRAs and QRPs must also take RMDs, and December 31 is the deadline each year for the withdrawal. Note that RMD options for beneficiaries of inherited QRPs may be different than RMD options for beneficiaries of inherited IRAs because of QRP plan document provisions. Therefore, QRP beneficiaries may want to consider a direct rollover (transfer) into inherited IRAs (permissible under provisions of the Pension Protection Act of 2006). Once the assets are received into an inherited IRA account, all IRA RMD rules and deadlines will apply.

Note that spouse beneficiaries have the choice to directly roll the deceased spouse's QRP assets into an inherited IRA or roll them into their own IRA, which would delay the start of RMDs until the new IRA holder turns 70½.

Aggregating RMDs

IRA owners who have multiple IRAs, consisting of Traditional, SEP, and/or SIMPLE IRAs, may take the RMD from each IRA or they may aggregate the total amount and withdraw from any one or more of the IRAs. Note that participants in QRPs may not satisfy RMDs from IRAs, and participants who have assets in more than one QRP must withdraw an RMD from each QRP (no aggregation allowed). On the other hand, participants in multiple non-ERISA 403(b) plans are allowed to aggregate RMDs between all 403(b) plans in which they participate.

It is important for individuals who have assets in multiple IRAs or QRPs to consider the value of each and to understand which type of account may be aggregated and which may not in order to insure that proper RMDs are satisfied by the deadline each year.

MEPS – A SOLUTION FOR SMALL PLANS THAT WANT LARGE BENEFITS?

For small business owners, retirement plans with low cost institutional funds, simplified plan administration, and outsourced fiduciary relief are usually too expensive to obtain. However, in certain situations, employers may be able to pool assets with other organizations and participate in a Multiple Employer Plan (MEP) to achieve the perks normally only received by larger plans.

A MEP is a single retirement plan that is jointly sponsored by several employers. Initially, MEPs were founded by professional employer organizations (PEOs) or associations of related employers who came together to adopt a plan under the control of the PEO or association. These types of MEPs came to be known as "closed MEPs." An advantage of a closed MEP is that requirements that would traditionally be applied to each separate plan are now combined. For example, qualified plans that have 100 or more employees are subject to an annual audit. In a closed MEP, even if each employer has more than 100 employees, there is only one plan audit. In addition, only one fidelity bond needs to be purchased for the entire MEP (bonds are required insurance for any qualified plan) and only one Form 5500 must be filed. (Officially known as the Annual Return/Report of Employee Benefit Plans, the Form 5500 must generally be filed by all qualified plans each year.)

MEPs may also be "open MEPs," meaning that the participating employers have no commonality other than providing retirement benefits for their employees. Open MEPs are a more recent development intended to address an interest in outsourced fiduciary responsibilities for employers. Most open MEPs are adopted by a third-party administrator (TPA) that acts as the lead employer for the MEP. Unfortunately for open MEPs, each employer must purchase their own fidelity bond, and each employer must also file their own Form 5500. Also, if any of the employers has 100 or more employees, that employer's portion of the MEP will be audited individually.

Regardless of the type of MEP, by combining the purchasing power of two or more employers, these employers can receive perks they couldn't get on their own. For instance, pooling plan assets gives all employers in the MEP access to low-cost fund share classes to which a small plan cannot expect to be entitled.

MEPs can also simplify plan administration. There is only one plan document instead of one per employer (and as a side bonus, none of the employers are listed by name in the plan document). As such, the costs for establishing the document and for any amendments or restatements done later are shared by the group. Other administrative duties are lessened or shared by the employers or, in some cases, eliminated if the MEP elects to outsource different fiduciary responsibilities.

While not a requirement for participation in an MEP, economies of scale often allow the adopting employers to outsource some or most of their fiduciary responsibilities. An ERISA 3(38) investment manager may be hired to make investment decisions and protect the employers from lawsuits over imprudent investments. A 3(16) Plan Administrator may be enlisted to protect the employers against incorrectly performed administration and the time and expenses associated with correcting said administration errors. If the MEP hires both of these services, the adopting employers are still fiduciaries, but their responsibilities are reduced to the following items: 1) monitoring the MEP arrangement and its service providers, 2) sending contributions on time, and 3) sending data to service providers.

Along with their advantages, there are also several limitations associated with MEPs. First, adopting employers do not get to choose which investments are available on the platform. Second, most MEPs are tied to a specific recordkeeper or third-party administrator, which means employers with existing plans usually must leave their current recordkeeper and TPA firm in order to join the MEP. And finally, if just one of the adopting employers falls out of compliance for their portion of the plan, the entire MEP can be disqualified. This is known as the "bad apple" rule.

MEPs may or may not be the least expensive plan but they are arguably the most cost-effective way to do the least amount of work for employers. Additionally, a properly structured MEP might be the least risky retirement plan solution for many. Although they are not a panacea and have their inherent disadvantages, MEPs can pool assets and labor to achieve economies of scale, reduce costs, and minimize fiduciary responsibilities.

INVESTMENT FIDUCIARY SERVICES FOR RETIREMENT PLANS

In keeping with the Employee Retirement Income Security Act of 1974 (ERISA), plan sponsors have a fiduciary responsibility to plan participants and their beneficiaries and can be personally liable for breaches. Plan sponsors can manage and minimize their investment liability by doing such things as having a sound process for investment selection, documenting decisions, and following an Investment Policy Statement.

ERISA 404(c)

Compliance with 404(c) allows plan sponsors with participant-directed plans to reduce their fiduciary liability for participants' investment results. This is because 404(c) requires that participants have the investment selection, control, and the information necessary to make informed investment decisions. Compliance with 404(c), which is optional, mandates that participants are offered all of the following:

- At least three diversified investment alternatives ("core investments") to achieve a balanced portfolio
- The opportunity to change their investments as frequently as the volatility of an investment suggests and change core investments at least once every three months.
- Participant education of both financial concepts and certain information on the investment options, so participants can educate themselves to make informed investment decisions.

Record keeping platforms offer the investments and participant communications necessary to comply with 404(c). Stifel Financial Advisors can also play an invaluable role in supplying guidance and education to plan participants.

Selection and Monitoring of Plan Investments

Plan sponsors can further reduce their fiduciary exposure by hiring service providers who, in addition to record keeping and plan administration, offer assistance to the plan sponsor via:

- A Fiduciary Warranty
- ERISA 3(21) Fiduciary
- ERISA 3(38) Fiduciary

These services do not completely eliminate the fiduciary role of the plan sponsor, but do offer increased levels of protection from the possibility of imprudence. Plan sponsors should document their service provider selection process and monitor the services to determine if they remain competitive or whether a change is warranted.

The service provider offering the plan investments may offer to share with the plan sponsor the responsibility of prudently selecting and monitoring the plan's investments.

Fiduciary Warranty

- Service provider is not a co-fiduciary of the plan, but
- Selects and monitors plan investments from which the plan sponsor may choose, and
- In case of an audit or lawsuit provides:
    - o Support in demonstrating the suitability of their investment selection process
    - o A promise of indemnification of plan losses and litigation costs if investment appropriateness is challenged

Sections 3(21) and 3(38) of ERISA code define various levels of investment fiduciaries. The appropriateness of one or the other depends on the plan sponsor's desired level of involvement in selecting the plan's investment menu versus further reducing his/her fiduciary exposure.

ERISA 3(21) Fiduciary

- Service provider is a co-fiduciary of the plan, and
- Selects and monitors plan investments from which the plan sponsor may choose to create a menu.
- Plan sponsor makes final decisions to create the plan's menu.

ERISA 3(38) Fiduciary

- Service provider is a co-fiduciary of the plan, and
- Has full discretionary powers for selecting, monitoring, and replacing investment options.
- Ensures that the objectives of the plan's Investment Policy Statement are met.

Often these fiduciary services are provided by third-party investment firms that partner with a plan's service provider, e.g., Ibbotson, Mesirow, Morningstar, and Wilshire. Some service providers include the fiduciary service in their usual fees; others charge an additional, reasonable annual fee, e.g., .02% to .10% for 3(21) and .03% to .25% for 3(38) or a flat fee of $300 for 3(21) or $1,000 for 3(38).

A review of current plan services will help to determine whether additional fiduciary services are suited to a plan sponsor's goals. Working with your Stifel Financial Advisor, the right service provider can be identified to help limit fiduciary liability.

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