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2019 ISSUES AND OPPORTUNITES

As we begin a new calendar year, what are the issues and opportunities we can expect and prepare for in 2019? While prediction can be folly, I believe this is a good start.

FIDUCIARY RULE ON HOLD: The newest version of the fiduciary rule would have required financial advisors and those who work with 401(k) investments to sign a Best Interest Contract Exemption (BICE) as a way to get around the self-dealing and prohibited transaction rules. While many have already signed these contracts in anticipation of the final regulations, the enforcement of this rule has been put on hold under the Trump administration. The issues on enforcement of these rules are the Department of Labor (DOL) overstepping its authority and the burden they place on those who work with IRAs and rollovers.

I believe this still means that those who give advice on 401(k) plans and to their participants will be held to a fiduciary standard and should operate as such. While the regulations may have changed, the principles have not. Know your duties and perform them in the best interests of your clients. Clients should always remember to REVIEW, BENCHMARK and DOCUMENT at least annually.

MARKET FLUCTUATIONS AND VOLITILITY: During the past year, we have seen stock market fluctuations as much as 6% per day. This will affect funding requirements in Defined Benefit (DB) plans and may create potential issues for paying out terminated participants in pooled employer accounts within Defined Contribution (DC) plan; 401(k) and profit sharing. Everybody needs to stay diligent in rebalancing portfolios and making sure payouts are done accurately and legally.

In Defined Benefit Plans, a large loss or gain will affect funding, so be prepared for how the market will affect contributions when planning. Perhaps taking less risk for steady returns may be in order or at least a review before yearend.

For large distributions out of employer pooled accounts within DC plans, a mid-year valuation may be prudent to protect all parties involved. When a participant is overpaid because of a market drop after the last valuation, the remaining participants have been wronged. Likewise for the reverse. We are damned if we do, and damned if we don't, because somebody either wins or loses when the market moves quickly in either direction. As always, being proactive and understanding the facts is in order.

NEW ACTUARIAL REPORTING REQUIRMENTS: For plan years beginning in 2018, actuaries will have to calculate and report on the new "Pension Risk" ASOP. In addition to normal calculations of funding targets, target normal costs, funding status, etc., ASOP 51 requires the actuary to identify potential risks that "may be reasonably anticipated to significantly affect the plan's future financial condition." These new requirements will increase the fees for all DB plans by at least a hundred dollars. A good financial planner will use this new information to determine a balanced investment strategy and protect future funding issues with their DB clients, click here.

Section 199A of the Internal Revenue Code produces defined benefit opportunities. Beginning in 2018, small businesses with pass through income must get below certain income thresholds to receive the full 20% deduction. This has created opportunities for more new Defined Benefit plans due to their large deductions/contributions. A good tax practitioner and financial advisor would do well to get educated on this rule and bring added value to their small business clients. For more on this, click here.

IRS GUIDANCE ON PRIORITIES: The IRS has issued priorities and guidance for 2019. By looking at trends of mistakes, we see the common areas of review. These include missed form 5500 filings, deposits of 401(k) contributions and loan repayments made timely, correcting failed ADP/ACP tests, searching for terminated unpaid participants and other administrative issues. We can expect these issues to always be important. Here is a link from the IRS on mistakes made in 401(k) plans. Do your administration and fiduciary duties or face the consequences.

OUTCOME BASED ANALYSIS: I am seeing people looking and reviewing retirement plans based on the actual benefits they are providing to the participants. In the past, we designed and set up "tax plans" that were primarily designed for our owner/employees.

There appears to be a trend towards better benefits for everybody. The advent of Multiple Employer Plans (MEPS) as a way to bring "costs down" and "participation up" is one example of this analysis. Automatic enrollment, target dated funds, and employee education are others. Instead of only talking tax savings, a discussion on what we need to do so all participants have enough to retire is ongoing and I believe will continue well into the future.

BOTTOM LINE: Nobody knows exactly what will happen in 2019, but an understanding of the trends and issues will give all advisors a leg up as opportunities and pitfalls arise. Stay educated and, as always, we are here to help.