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THE YEAR IN REVIEW AND AHEAD: THE GOOD, THE BAD, AND HOW TO HELP YOUR CLIENTS

This has been an unprecedented year in health, business, and politics. While the chaos continues, here are my insights on how our industry has been affected and what you need to know to help your clients.

THE GOOD: The SECURE Act and the CARES ACT are two legislative pieces that give relief and opportunity to qualified plan sponsors and participants.

The **SECURE Act** was passed last December and provided opportunities for new and existing retirement plan sponsors, among other things. Perhaps the biggest provision now allows for establishing a plan after the end of the plan year. Plan sponsors now have until they file their tax returns, plus extensions to set up qualified plans. This is especially important for those who might be considering adding a defined benefit plan.

Defined Benefit plans (DB) generally requires at least a three year commitment to maintain and fund the plan. Real estate agents and others who have fluctuating incomes can now wait until August or September to set up a DB plan for the prior year. DB plans must be funded by September 15th which may be before an employer's extended tax deadline. This extension gives employers time to see how their current year is going and whether they have the income to also fund for 2021. I have told clients that have had a big year in 2020 to go on extension and see what happens in 2021. This is a great planning tool for those looking at DB plans.

In addition, the SECURE Act raised the Required Minimum Distribution (RMD) age to 72 from 70½. This will help those that have not begun to take RMDs extend the period before they must begin.

Finally, plans may now allow for withdrawals for the birth or adoption of a child. Participants may withdrawal up to $5,000 per parent and not pay the early withdrawal penalty tax. These funds can be repaid as a rollover contribution to the applicable defined contribution plan or IRA. For more information on the SECURE Act, click here.

The **CARES Act** was passed in March in response to COVID-19. The most important thing to remember is that most of these provisions are only available to specific individuals affected by COVID-19; either a diagnosis or those who experience "adverse financial consequences". These provisions ARE NOT available unless they are COVID-19 related. There are three basic forms of relief.

1. The loan limit is increased to $100,000 from $50,000.
2. Existing loan payments may be suspended for one year. This provision is set to expire at the end of 2020.
3. A COVID-19 related distribution up to $100,000 may be taken without with mandatory 20% tax withholding or early withdrawal penalty tax.

In addition, an individual may elect to forgo their Required Minimum Distribution for 2020, if they have not already taken it by the time the Act was passed. RMDs from defined benefit plans still must be taken. There are other proclamations and decisions regarding the response to COVID-19. For more information on the CARES Act click here.

THE BAD: While these acts provide opportunities for clients, there are items that may adversely affect our clients and the marketplace. With the passing of the Secure Act, employers will no longer need to sponsor their own individual retirement plan, so employers are looking into Multiple Employer Plans (MEPs) and Pooled Employer Plans (PEPs). While these types of arrangements will be sold as low-cost alternatives to individually designed plans, I believe they will be a substandard choice for most small businesses.

The beauty of a well-designed plan is the ability to tailor the plan to each owners' objectives and needs. By putting an employer into a boiler-plate plan design, this opportunity is lost. It will be interesting to see what kind of investment options are available and exactly where the fiduciary liability rests. We have seen similar arrangements with bundled providers and payroll companies trying to sell retirement plans without the proper expertise.

I recently had a friend call me asking about setting up an individual 401(k) plan. His payroll company wanted $1,000 to set up and $400 a month to administer. He said the contact would not take "no" for an answer. This hard sale of clearly an overpriced service will continue. It is our job is to educate our clients of these bad actors. My advice is to stay away from any payroll company plan. I imagine the PEPs and MEPs could be the same type of situation. All sales and no expertise.

In addition, overpriced funds, and kickbacks to Third Party Administrators (TPA) remains alive and will into 2021. In one case, a client was being charged $500 per month from his investment advisor on a one-million-dollar trust account. Money is being taken from plans without the clients' knowledge or consent and sent to various parties who may already be compensated through billing. This whole process is wrong and should be exposed and disclosed, so plan sponsors can make proper decisions on who to work with. Make sure your TPA is offsetting any amounts they receive from their bills. It is the right thing to do. We offset our clients' fees by 100% of the third party investment payments we receive.

Market Volatility and big gains are playing havoc with defined benefit plans. Plans that have earned large gains may be close to being fully or overfunded. This gain can be a major issue for those who have had good years and are counting on pension contributions to reduce tax burdens. In general, large gains will reduce pension contributions while losses will increase them. The key to dealing with DB plans to be proactive and figure out ways to keep funding going. Maybe adding a spouse, child or 401(k) plan can help reduce any excess funding. If not, terminate the plan and do not let the problem grow. By letting these issues carry on for years, often you are only making the problems worse.

BOTTOM LINE: There are opportunities in the coming year which can turn out to be good or bad. By working with professionals who are honest and have the client's best interest at heart, we can bring the good and eliminate the bad.