

Special update on new participant statement requirements

(Not long ago, we sent an update to a limited number of clients and brokers, specifically, those using or working with self-directed brokerage accounts. We expressed some concern and frustration with reporting requirements in the Pension Protection Act of 2006 (PPA) that appeared to impact those accounts most significantly. Shortly after mailing that update, we received preliminary guidance from the Department of Labor (DOL) that makes it clear that all plans are impacted. We have prepared a brief overview for all readers immediately below, followed by details for each type of investment - The detailed description that is relevant to you has been checked.)

PPA added new requirements that participant statements for defined contribution plans be delivered quarterly for self-directed plans and annually for other plans. (Old law only required that statements be provided when requested; we've always prepared statements for our clients so this didn't seem to be an onerous new requirement.) PPA stated that the requirements were effective for years beginning after 12/31/06, and included some troubling provisions calling for additional disclosures of vesting information, and explanations about investing concepts and rights. We didn't know quite what they meant, and were waiting for guidance from the DOL (in case you didn't know it, the IRS isn't the only government agency with pension oversight) which we received recently in the form of a Field Assistance Bulletin. Here's a recap with our comments:

- For plans with self-directed brokerage accounts or similar accounts
We were **very** concerned that the brokerage account statements themselves weren't good enough to meet the new requirements. The bulletin appears to indicate that the brokerage statements themselves **are** OK, which is good news. We'll have to prepare some supplemental notification which won't mean much of anything to anybody but that's what they want. **Statements and notification are due 45 days after the end of the quarter.**
- For plans with self-directed accounts on a platform (Nationwide, John Hancock, American Funds, MFS, Oppenheimer, Scudder, ExpertPlan)
The statements your participants have been getting are probably OK, and electronic delivery and/or continuous access to account information is also OK. In some cases we may have to provide a supplemental notification which won't mean much of anything to anybody but that's what they want. **Statements and notification are due 45 days after the end of the quarter.**
- For plans with "pooled" (i.e. non self-directed) accounts, valued annually
We weren't too worried about these plans, but the DOL indicates that statements should be provided **45 days after the end of the year**. **Yes**, that's February 15 (2008, thank goodness, since it's first effective for the 2007 year), and **no**, most of you won't have decided on your contributions yet, which would typically be included on those statements, and **no**, the contributions aren't due until (potentially much) later, and **no**, we don't necessarily have all of the financial information by then, and **no**, we **cannot prepare everyone's statements in that timeframe!** It's so absurd that it's laughable, and just shows that these people are making up the rules as they go along and that they don't understand how some (many) plans are run. The good news is that the 45 day standard is just a "safe harbor" - that is, if you meet it, you're deemed to be OK, but if you don't, it doesn't necessarily mean that you haven't complied. But many of us are uncomfortable about not meeting a safe harbor, and our organization, ASPPA, is lobbying hard to educate our civil servants and extend that timeframe.
- For defined benefit plans
Statements are required every three years and we will worry about that in 2010.

That's all for now; more as we learn about it!

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