



DOL Issues New Disclosure Rules

What do they mean for you and your 401(k) plan?

After years of debate and uncertainty, the Department of Labor (DOL) has finally issued their "interim final rules" on retirement plan disclosures which are set to go into place next year.

Two of these rules are of particular interest to plan sponsors—one relating to fees and another relating to fiduciary status.

Fee Disclosure

Do you know what you are being charged in plan fees? You will next July, when the new 408(b)(2) rules take effect. At that time, all advisers and registered representatives working for the plan are required to fully disclose all fees received, as well as a list of services provided to the plan sponsor for those fees. The regulations require all service providers to disclose their fees to the plan sponsor as well.

Plan sponsors and those that advise them will tell you that these disclosure rules are long overdue. But interestingly, many in the financial services industry were reticent to support this regulation, due to potential fee compression and other concerns.

What do the new fee disclosure rules mean for you? They mean that plan sponsors will have the ammunition they need to choose the right advisor. It also means that advisors will be held accountable for what they charge plans. So if phrases like 12b-1 and Sub TA are confusing to you, there is clear direction in this bill to change that. By making fees more transparent, the aim is for plan fees to decrease while performance increases.

Fiduciary Status

The 408(b)(2) rules also require parties working on and with a plan to disclose their fiduciary status. A Fiduciary is defined as "a legal or ethical relationship of confidence or trust regarding the management of money or property between two or more parties, most commonly a fiduciary and a principal."

The disclosure of fiduciary status has been an area of tremendous debate over the past few years. With the new regulations, advisors working on plans will not be able to shift the blame for excessive fees or poor investment selection / monitoring back on the plan sponsor and committee. Instead, the advisor will be held to the same fiduciary status as the committee.

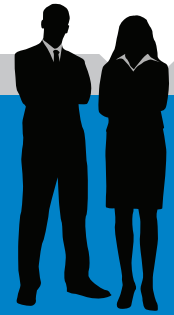
» This legislation has been a work in progress for many years, clearly with the best interest of the public at heart. Charging a fee for a service is acceptable, but an unwillingness to disclose it transparently is not.

~Gary E. Shuford II, AIF, CRSP, Retirement Plan Advisor, Elliott Davis Investment Advisors



Traditional IRA vs. Roth IRA

What's best for you?



Convert or not to convert? That is the question you should be asking yourself this year when it comes to making decisions about your traditional IRA.

If you are considering a conversion to a Roth IRA, it's important to understand what the process entails.

Advantages

Roth IRAs have many advantages, including tax-free distributions in certain circumstances, no required minimum distributions for owners, and income tax-free transfers to beneficiaries. Despite their attractive features, Roth IRAs have not been as popular as traditional IRAs. One reason is the income and filing status limitations that disqualify many individuals from being eligible to contribute to or convert their traditional IRAs to Roth IRAs.

Conversions

Beginning in 2010, however, a change in the tax law allows you to convert your existing IRA to a Roth IRA, regardless of income level or filing status. If you convert your traditional IRA to a Roth in 2010, you will have the choice of including the entire conversion amount as income in 2010, or spreading the conversion amount between tax years 2011 and 2012.

Clearly, there is a Roth IRA conversion trade-off—if you convert to a Roth IRA, you will accelerate taxable income into an earlier year. On the other hand, a Roth IRA, unlike a traditional IRA, would enable both tax-free withdrawals and the avoidance of required minimum distributions—allowing the account to grow tax-free for a longer period of time.

Considerations

There are a few items to consider in the decision of whether or not to convert to a Roth IRA:

- What are your current marginal tax rates and anticipated future marginal tax rates (for the next few years as well as in retirement)?
- Will the tax on the conversion be paid out of IRA assets or other assets? Do you have prior year tax carryforwards, such as net operating losses, that can offset the income from the conversion?
- What is your current age and expected retirement age?
- When will you need to take distributions from your IRA?

Grace period

If you do convert to a Roth IRA and find that the account (or accounts) has not performed as expected—or your circumstances have changed—you can change your mind after the fact. Believe it or not, you have until October 15th of the year following the conversion year to re-characterize the account back to a traditional IRA and possibly try the conversion again the following year.

» The Roth IRA is a powerful retirement and estate planning tool that has not been available to many people until now. Conversion to a Roth IRA is certainly something to analyze and discuss with your tax, legal, and/or investment advisor.

~Marguerite Hardy, CPA, Senior Tax Manager



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