
From: l_senn@telalaska.com
Sent: Monday, March 29, 2004 1:47 PM
To: e-ori@dol.gov
Subject: Automatic Rollover Regulation

I would like to voice my concerns about the Automatic Rollover Regulation that is being proposed.

As a Human Resources Director, I not only work with the trustees of our Plan to keep them informed of the day to day activities so they can make informed decisions, but I also ensure that Participants that no longer work for our company receive the information necessary to make an informed decision on what they want to do with their account.

I feel these proposed regulations allow employees to continue to take a "back seat" approach to their futures and their retirements. These regulations create more work for Plan Sponsors and relatively no benefit for the participant. If a Plan Participant really wanted their funds to stay in a tax deferred account they would take the actions necessary to make that happen. These regulations simply allow the Plan Participant to delay making a decision that will most likely result in a cash distribution whether it is from the Plan or from the newly created IRA as a result of an Automatic Rollover.

I currently exercise the forced distribution actions of our Plan when a Plan Participant fails to make a choice on what she/he would like to do. For me, it is cleaner to have a distribution check cut to a Participant to sever the responsibilities clearly than to be required to set up an IRA for a Participant, choose investment options and then ensure the Participant has been properly notified of the account information. And even though this may be to protect the Participant from him/herself, Plan Sponsors should not have to coddle Participants who choose not to take responsibilities for their actions or inactions when it comes to retirement accounts. Furthermore, these regulations will certainly lead to lawsuits that the investment options the fiduciaries choose were not "good enough" for whatever reason, and even if the Plan Sponsor wins the lawsuit, it lost in the game of time and expenses to defend its decision.

The third condition in the proposal leads a Plan Sponsor to believe that their fiduciary responsibilities will not end with an Automatic Rollover especially if the Plan Participant continues to take a "back seat" approach to the account's on-going upkeep, meaning getting out of investment choices that originally were sound by later their value declined and rebalancing as needed. A talented attorney will always be able to show that a Fiduciary's responsibilities doesn't end, especially when dealing with a Participant that does not manage their own account. The proposal includes "safe harbor-- investment products would TYPICALLY include" . . . The word TYPICALLY will be the basis of the lawsuits and added expenses to Plan Sponsors. Again, cutting a check to the Participant clearly makes them responsible for the funds and the investing, and cleanly takes the Plan Sponsor out of the picture.

I realize that it is important for each person to plan for their future and to save for their future, however this responsibility should not rest solely on the Plan Sponsor's shoulders. Plan Participants, who are adults, must take responsibility for their own actions.

The effective date of six months after the final regulations are published in the Federal Register is not sufficient time to amend plans, distribute disclosures and identify institutions. Experience has shown that it takes at least 6 months alone to amend plans due to the need to carefully craft the language to meet compliance requirements and to minimize potential lawsuits. About 3 years ago, my assistant did the research needed to understand how to set up an IRA with one institution. It took 2 months to gather the information and assemble it in understandable steps for distribution to ex-employees. That was for one institution. If we undertook the same exercise for several institutions to ensure that we are being diligent in our Fiduciary responsibilities, it would take longer. I recommend 12 months after publishing, better yet, I recommend that the regulations do not get published and therefore allowing us to continue to execute cash distributions to Plan Participants who fail to notify us of their distribution preference.

Thanks,

Linda Senn
Human Resources Director
TelAlaska, Inc
907-563-2003 voice
907-550-1614 fax