

2023 QUICK REFERENCE GUIDE FOR YOUR RETIREMENT PLAN

- ❖ **If you are considering buying a company, selling your company or changing your business entity please contact your Plan Consultant immediately as your plan might need to be amended BEFORE any transactions are finalized.**
- ❖ **When an employee becomes eligible to participate in the plan, you must ensure each employee receives:**
 - Copy of the plan's Summary Plan Description (SPD) and all Summary of Material Modifications (SMM);
 - Enrollment Form, or instructions to enroll online;
 - Automatic Enrollment Notice (if applicable)
 - Beneficiary Designation Form
 - Fee Disclosure Notice (if applicable)
 - Safe Harbor Notice (if applicable)
 - Qualified Default Investment Alternatives (QDIA) Notice (if applicable)
 - Universal Availability Notice (403b plans only)
- ❖ **Any time money is going to be withdrawn from the plan (for loans, hardship, QDRO's or termination distributions), please contact us should you have questions.** Because there are strict regulations governing who can receive plan funds and when they can be distributed, we are here to help you navigate withdrawals from the plan BEFORE they happen. We can assist you with verifying that the person receiving a distribution is eligible for the withdrawal.
- ❖ **Employee deferrals and loan repayments must be remitted to the plan as soon as possible after being withheld from employees' pay.** The Department of Labor (DOL) provides a safe harbor period of seven business days to deposit employee deferral contributions and participant loan repayments for retirement plans with fewer than 100 participants. The DOL did not expand this rule to cover plans with 100 or more participants, therefore **we still recommend depositing deferrals and loan payments to these plans within 3-5 business days after payroll checks are distributed.** Additionally, all employee and employer contributions must be deposited to the plan. Even if a participant terminates employment, any contributions to that participant must be sent to the plan; you cannot send a company check to the participant or the participant's IRA.
- ❖ **If you are making a discretionary profit sharing contribution, annual discretionary employer match contribution or annual Safe Harbor contribution, it must be deposited by your tax filing deadline, including extensions.**

- ❖ **There are maximum contribution limits for Employee Deferrals and Employer Contributions.** The maximum a participant may contribute to the plan for the 2023 calendar year is \$22,500. If your plan allows catch up contributions, a participant who is 50 years old or older may be able to contribute an additional \$7,500 catch up contribution. There are other limits that may also apply. Please contact your Plan Consultant for more details.
 - **Please note:** the maximum compensation that may be considered when calculating an Employer Contribution is \$330,000 for the 2023 plan year. For instance, if you have a “Safe Harbor” plan that requires an employer contribution of 3% of pay, the maximum “Safe Harbor” contribution would be \$9,900 (\$330,000*3%). You may have other types of Employer Contributions in addition to the “Safe Harbor”, but they would all be calculated using a maximum \$330,000 compensation amount.

- ❖ **If your company pays bonuses, the bonus is most likely subject to deferral withholding.** Depending on your document, an employee who receives a bonus may be required to make a separate election regarding deferrals withheld from his or her bonus, or their regular deferral election may apply. Please contact your Plan Consultant prior to paying bonuses if you are unsure of the procedure for withholding deferrals from bonuses. (Note: if you fail to withhold a deferral from a bonus, you may be liable to make a contribution to the participant in the amount that should have been withheld from the bonus!)

- ❖ **Employer Contributions (excluding required Safe Harbor Contributions) should not be deposited to the plan until after the end of the plan year.** Many plans have a year-end employment and/or a 1000 hour requirement in order to share in the allocation of profit sharing contributions. Every plan also has a specific allocation formula, especially for profit sharing contributions. Since you will not know who will meet all the requirements until the last day of the plan year, you should not “pre-fund” any profit sharing contribution. If you want to accumulate the profit sharing contribution throughout the year, you can open a separate corporate account just for this purpose, then after the profit sharing allocation is determined you can transfer the funds over to the plan account.

- ❖ **Beneficiary Forms completed by plan participants should be maintained in the employee’s personnel file.** We do not maintain copies of these forms. Although not required, we suggest having the forms updated by participants every year or two.

- ❖ **If during a plan year there are a significant number of participants whose employment is *involuntarily* terminated it could be deemed that the plan incurred a partial termination.** If that occurs, all employees who terminated during the plan year (whether voluntarily or involuntarily) in which the partial termination occurred must become fully vested in their accounts. Please let us know if this situation might apply to those who terminated. PLEASE NOTE: The partial plan termination determination is *not* affected by employees who

voluntarily terminate if documentation is on file that supports their voluntary resignation. Therefore, we recommend that you obtain written notification from employees who *voluntary* terminate so that they are *not* counted in making this determination.

- ❖ **It is very important that the following items pertaining to your qualified plan be retained by you in a manner so they can be retrieved should your plan be chosen for an audit by either the IRS or DOL.**

The following must be kept for all years since inception of the plan:

- Executed (signed and dated) plan documents including all amendments, determination letters (or opinion letters);
- All Summary Plan Descriptions (SPD)
- All Summary of Material Modifications (SMM)

The following must be kept on file for a minimum of seven years (six years after the filing date of that year's Form 5500):

- Participant notices and documentation of the dates and method of delivery;
- Participant election forms such as enrollments, deferral elections (even if zero) and investment elections, for all eligible employees, even if they choose not to participate;
- Census information including payroll data and employment history;
- Annual Reports (received from us);
- Form 5500s forms (with signatures) including attachments;
- Plan account and financial statements;
- Recordkeeping reports (those from us as well as your investment provider(s));
- Participant loan documentation including promissory notes
- Completed participant distribution forms including 1099R forms
- Fidelity Bond information

Regardless of your storage method (paper vs electronic) your company is ultimately responsible to produce files requested upon audit. The DOL has clarified the use of electronic systems to retain the above information. They must allow conversion to legible paper copies and be capable of retaining and retrieving of data and cannot inappropriately limit access to the records.