

Deadline for Retirement Plan Annual Notice Is Rapidly Approaching

By: Alex Mattingly on November 7, 2018 on graydon.law

The time of the year has come for Plan Sponsors to send their annual notices to participants (if your retirement plan has a December 31 plan year-end). Make sure that you send the appropriate notices to your participants on time if your plan contains any of the following features:

401(k) Safe Harbor

Plans that contain a 401(k) safe harbor feature are designed to avoid ADP and/or ACP testing. The annual notice requirement for 401(k) safe harbor plans is satisfied if each eligible employee (not just current plan participants) is given written notice of the employee's rights and obligation under the plan, and the notice contains at least the minimum content requirements set forth in the regulations.

QDIA

A Qualified Default Investment Alternative (QDIA) is a type of default investment option that a plan sponsor can select for participants that have contributions in their retirement accounts but have not directed where those contributions should be invested. If the default fund satisfies the requirements to be a QDIA, the plan sponsor will have fiduciary protection over the selection of that default fund. If your plan contains a QDIA for participants that fail to make their own elections, you must provide an annual QDIA notice to all participants who were defaulted or may be defaulted into the QDIA in order to retain this fiduciary protection. In order to ensure that they don't miss anyone, most plan sponsors choose to send the notice to all plan participants.

Automatic Enrollment

Finally, an automatic enrollment arrangement allows an employer to enroll an eligible employee in the employer's plan unless the employee affirmatively elects otherwise. If your plan has an automatic enrollment feature, you must send an annual notice describing the automatic enrollment feature to all participants who have been automatically enrolled into the plan and haven't made an affirmative election to change

their deferral percentage. This notice requirement applies to traditional automatic enrollment plans that want ERISA preemption as well as to all EACAs and QACAs.

Any of these notices that apply to your plan must be sent to participants between 30-90 days before the beginning of the plan year (i.e., no later than **December 2nd**). **December 2nd falls on a Sunday in 2018, so an internal deadline should be set no later than November 30, 2018.** Fortunately, you may combine multiple notices in a single document, but make sure you send them on time so you can start 2019 off the right way.