

## Year End Notice Round-Up



The end of the year is fast approaching. Before calendars fill up too much with parties and PTO, now is a good time to take stock of year-end notice requirements for plan sponsors. As a quick reference, included below are some common year-end notices for retirement plans and important things for your clients to consider:

**401(k) and 403(b) Safe Harbor Notice:** For plans relying on the safe harbor rules (traditional or qualified automatic contribution arrangement (QACA)), this notice should be distributed to participants 30-90 days before the beginning of each plan year. This means that calendar-year safe harbor plans should generally distribute their notice no later than December 1. Keep in mind that computer generated notices may not always properly include special write-in provisions and addenda, so these should be carefully reviewed before sending. Although SECURE 1.0 did eliminate the notice requirement for plans that use nonelective contributions to satisfy the safe harbor, sponsors may wish to continue providing safe harbor notices in order to have the flexibility to reduce or suspend safe harbor contributions during the plan year.

**Automatic Contribution Arrangement (ACA) Notice:** Plans that include automatic contribution arrangements, including eligible automatic contribution arrangements (EACAs), also may have a notice requirement, even if they do not use safe harbor provisions. This notice should go out to participants 30-90 days before the beginning of each plan year. This means that calendar-year plans should generally distribute the notice no later than December 1.

**Qualified Default Investment Arrangement (QDIA) Notice:** For plans that wish to obtain the fiduciary relief applicable to QDIAs, a notice must be distributed to participants 30-90 days before the beginning of each plan year (noticing a general trend yet?) — for calendar year plans, by December 1. It is common to send this notice with the safe harbor

or ACA notice, but the recordkeeper may or may not do so automatically, so sponsors should confirm who is responsible for distribution.

**Annual Participant Fee Disclosures:** This is an “annual” notice detailing the fees that may be charged to the plan that must go out every 14 months. Plan sponsors often distribute this with any applicable year-end notices as well. Like the QDIA notice, it is important for clients to be clear on whose responsibility it is to distribute the notice.

**Summary Annual Report (SAR):** ERISA-covered defined contribution plans must provide the SAR to participants within nine months of the end of the plan year or two months after the Form 5500 filing deadline. For calendar year plans, this generally means the SAR is due September 30th if the Form 5500 deadline was not extended — or generally December 15th if (and depending on how) the Form 5500 deadline was extended.

Plan sponsors should carefully review all notices to ensure they accurately reflect the plan’s terms and operations. It also is a good time to carefully review year-end considerations, including forfeiture allocations, RMDs, and ensuring discretionary operational changes made during the year are timely included in plan amendments. One final note — though many plan sponsors are not yet amending for SECURE 2.0, now is a great time to coordinate with your TPA partner and remind plan sponsors to keep a thorough record of operational changes made to comply with SECURE 2.0 during the year for future such amendments.

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### Reminders

- **November 15, 2023:** Deadline for distributing SARs to participants for calendar year plan if Form 5500 deadline was extended because of a corporate tax filing extension.
- **December 1, 2023:** General deadline for most calendar year plans’ 401(k) Safe Harbor notices, QDIA notices, and ACA notices.
- **December 15, 2023:** Deadline for distributing SARs to participants for calendar year plans if Form 5500 deadline was extended using Form 5558.