DOL Deadline for Distribution of Summary of Material Modifications for Calendar Year Plans is Approaching

July 26, 2022

As a reminder, plan administrators of a calendar year ERISA retirement or welfare benefit plan must distribute a Summary of Material Modifications ("***SMM***") to participants and beneficiaries by July 29 if the plan had a material modification or a change in the required information in the plan's SPD during the prior plan year. Plan administrators may also meet the SMM requirement by distributing an updated SPD to participants and beneficiaries by the July 29Â deadline. In considering whether to distribute the SMM versus an updated SPD, plan administrators should consider the number of modifications that need to be described and whether the use of the SMM alone would sufficiently apprise covered persons of their benefits, rights, and obligations under the plan.

- An SMM must be distributed not later than 210 days after the end of the plan year in which the change is adopted and also must be distributed to any newly eligible participants on a prospective basis.
- SPDs must be distributed to participants within 90 days of the participant becoming covered by the plan and to pension plan beneficiaries within 90 days after first receiving benefits.
- An updated SPD must be furnished every five years if changes are made to the SPD's information or the plan is amended. Otherwise, an updated SPD must be furnished every 10 years.
- In the event a plan is not subject to ERISA, but becomes subject to ERISA at a later date, a plan has 120 days from that date to distribute the SPD to participants and beneficiaries.

Plan sponsors should coordinate with their benefits counsel and outside service providers to ensure their SMMs and SPDs are delivered in accordance with the above deadlines.

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