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3Q | 2024 THE 457(b) PLAN FIDUCIARY ADVISOR NEWSLETTER

Two Federal District Courts Stay DOL Fiduciary Rule

“On July 25, 2024, the U.S. District Court for the Eastern District of Texas stayed the U.S. Department of Labor’s (DOL) recently issued final rule, set to take effect September 23, 2024, which would amend the definition of an “investment advice fiduciary” for purposes of the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code (the 2024 Rule). One day later, in a separate case challenging the 2024 Rule, the U.S. District Court for the Northern District of Texas also stayed the 2024 Rule on similar grounds. Both decisions stay the effective date of the 2024 Rule indefinitely while the cases are pending.” [Read More Here](#)

US Department of Labor Updates Cybersecurity Guidance for Plan Sponsors, Fiduciaries, Recordkeepers, Plan Participants to Protect Info, Assets

“The new Compliance Assistance Release issued by the department’s Employee Benefits Security Administration provides best practices in cybersecurity for plan sponsors, plan fiduciaries, recordkeepers and plan participants. The release updates EBSA’s 2021 guidance and includes the following:

- **Tips for Hiring a Service Provider:** Helps plan sponsors and fiduciaries prudently select a service provider with strong cybersecurity practices and monitor their activities, as ERISA requires.
- **Cybersecurity Program Best Practices:** Assists plan fiduciaries and recordkeepers in mitigating risks.
- **Online Security Tips:** Offers plan participants who check their online retirement accounts with rules for reducing the risk of fraud and loss.” [Read More Here](#)

House Approves Legislation to Block So-Called ‘Woke’ ESG Investing

“In what may be a final push before the elections, the Republican-led House of Representatives on Sept. 18 approved legislation to prevent the use of environmental, social and governance (ESG) factors when making investment decisions for retirement plans”. The article goes on to say, “H.R. 5339 generally requires fiduciaries of employer-sponsored retirement plans to make investment decisions based only on pecuniary factors...”, and “The legislation, however, does include some leeway, stating that if a fiduciary is unable to distinguish between investment alternatives on the basis of pecuniary factors alone, the fiduciary may use non-pecuniary factors as the deciding factor, provided they document, among other things, why pecuniary factors were not sufficient to select a plan investment.” [Read More Here](#)

IRS Gives Guidance on Student Loan Payment Matching Contributions

“IRS Notice 2024-63, published Aug. 19, 2024, provides interim guidance for plan sponsors on the SECURE 2.0 Act provision permitting employers to offer matching contributions to their retirement plans — including 401(k) and 403(b) plans — on behalf of employees who make qualified student loan payments (QSLPs) after Dec. 31, 2023. Though proposed regulations are expected in the future, the notice provides interim guidance on a variety of discrete issues involving QSLP match programs and applies for plan years beginning after Dec. 31, 2024 (though plan sponsors may rely on good faith interpretations of the SECURE 2.0 Act legislation before then).” [Read More Here](#)

Loper Bright Ruling Ripples into Courts' ERISA Interpretations

“Going forward, a court doesn’t have to accept an agency’s interpretation if tools of construction point toward a different conclusion. And that is true “even when an ambiguity happens to implicate a technical matter,” because “Congress expects courts to handle technical statutory questions.” The article goes on to point out three areas working their way through the courts, specifically the 2024 Fiduciary Investment Rule, ESG Investing, and pension risk transfers.” [Read More Here](#)

Treasury, IRS Issue Updated Guidance on Required Minimum Distributions from IRAs, Other Retirement Plans; Generally Retains Proposed Rules

“While certain changes were made in response to comments received on the proposed regulations issued in 2022, the final regulations generally follow those proposed regulations. Specifically, Treasury and IRS reviewed comments suggesting that a beneficiary of an individual who has started required annual distributions should not be required to continue those annual distributions if the remaining account balance is fully distributed within 10 years of the individual’s death as required by the SECURE Act. However, Treasury and IRS determined that the final regulations should retain the provision in the proposed regulations requiring such a beneficiary to continue receiving annual payments.” [Read More Here and Access the Final Regulations](#)

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¹ Source: September 3, 2024, VedderPrice: "Two Federal District Courts Stay DOL Fiduciary Rule

² Source: September 6, 2024, U.S. Department of Labor News Release: US Department of Labor Updates Cybersecurity Guidance for Plan Sponsors, Fiduciaries, Recordkeepers, Plan Participants to Protect Info, Assets

³ Source: September 18, 2024, National Association of Plan Advisors (NAPA): House Approves Legislation to Block So-Called 'Woke' ESG Investing

⁴ Source: August 30, 2024, JDSupra: IRS Gives Guidance on Student Loan Payment Matching Contributions

⁵ Source: October 3, 2024, Bloomberg Law: Loper Bright Ruling Ripples into Courts' ERISA Interpretations

⁶ Source: July 18, 2024, Internal Revenue Service: Treasury, IRS Issue Updated Guidance on Required Minimum Distributions from IRAs, Other Retirement Plans; Generally Retains Proposed Rules

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