Retirement Plans Hot Topics
Transcript

Angel Carrington:

[Slide 1] Good afternoon.

I'm Angel Carrington, the acting Director of IRS Employee Plans Customer Education Outreach.

Thank you for joining us today and welcome to our webinar on Retirement Plan Hot Topics.

[Slide 2] Today we'll hearing from Micky Thomas, Senior Tax Analyst Office of Employee Plans Examinations.

Before we start I'd like to point out a few things.

We will e-mail a Certification of Completion to everyone registered for today's forum, if you attend at least 50 minutes of the presentation.

Enrolled agents, retirement plan agents and actuaries can receive continuing education credits for this session.

Other tax professionals should consult their licensing organization to see if today's session qualifies for continuing education credit.

As with all our presentations, the comments expressed by our speakers shouldn't be construed as IRS formal guidance.

Although we will not be addressing questions submitted during today's webinar, you are welcome to use the Ask a Question feature on the program and we'll include them in the question-and-answer sheet that will be posted with the recording of this program at a future date.

[Slide 3] Now here at the IRS we have many retirement plan resources available for you.

If you'll take a look at slide three, you'll see our Retirement Plan web page.

You can also get there by going to the main IRS.gov landing page, where you click on the information for drop-down box on the upper right-hand side of the screen, Retirement Plans.

[Slide 4] On slide four, you'll see a graphic of how you can subscribe to our three electronic newsletters.

To subscribe to the newsletter through the left navigation bar, choose Subscribe and this is Retirement News for Employers, that is our newsletter for employers sponsoring retirement plan and the Employee Plans News, which is our newsletter for retirement plan professionals.

Thank you for letting me share that information with you today and with that, I'm going to hand it off to Micky.

Micky Thomas:

[Slide 5] Thank you, Angel, and hello, everyone.

To use a good-natured parity to a famous line from a popular news radio station, you give us 50 minutes and we'll give you retirement plan news from around the world.

Actually there were enough changes here in the U.S., so we'll probably just stick to that news.

Here is a summary of what I'll be covering today.

In January, President Obama announced MyRA, a new retirement plan option.

From there, we'll talk about the recent change to the number of IRA rollovers allowed each year, then share with you the importance of having a valid Social Security number for plan participates.

Also, many plan sponsors have a window of opportunity to restate the retirement plans in order to stay qualified.

We'll also touch on the Supreme Court Windsor ruling that found the provision of the Defense of Marriage Act unconstitutional and how that affects the definition of "spouse" for retirement plan purposes.

Next up, some 5500-EZ filing tips, plus information on our recently announced pilot penalty relief program for 5500-EZ non-filers.

And lastly, we'll have a slide or two discussing the longevity annuity regulations.

[Slide 6] MyRA, or My Retirement Account program, is the newest retirement plan offering that was outlined by President Obama in his State of the Union address.

The Department of the Treasury will develop MyRA; this is not an IRS production.

MyRA offers a retirement savings account for someone looking for a simple, safe and affordable way to start saving.

These accounts will target the millions of low and middle income Americans who don't currently have access to an employer-sponsored retirement plan.

Some of the numbers from Treasury indicate that half of all workers and 75% of part-time workers do not have access to an employer-sponsored retirement plan.

It's anticipated that beginning later this year, savers will be able to open an account with as little as $25 and contribute $5 or more every payday.

MyRAs will be initially offered through employers.

Contributions are to be forwarded by the employer to the employee's MyRA each payday.

Details in this area will be further explained by Treasury.

Income limits to be eligible to take advantage of a MyRA are the same as for a Roth IRA.

So for 2014, the phase-out limit for Roth IRAs begins $114,000 for single filers and $181,000 for married filers.

[Slide 7] These accounts will hold a new retirement savings bond backed by the U.S. Treasury.

MyRAs will earn interest at the same variable rate as the G-Fund, and that's the fund found in the Federal employee's Thrift Savings Plan. This fund earns about the same rate as a 30-year bond rate. There are no fees and there is no risk of loss in your account.

A MyRA acts much like a Roth IRA. Since these are after-tax contributions, the contributions can be withdrawn tax free at any time. Earnings on the contributions can be withdrawn tax free after the account is five years old and the saver is age 59 and a half. Earnings removed prior to five years at age 59 1/2 will be subject to the 10% early distribution tax.

The account can be transferred at any time to a private sector account.

After 30 years or when their account reaches $15,000 dollars, the balance will transfer to a private sector Roth IRA.

There are two goals here.

One, to try to get people to a place where they can save with convenience and ease.

And two, to accommodate small business owners and make this as easy as possible for them.

In fact, the plan is to provide employers with a small tax credit for their troubles.

It is not a heavy lift, but it is another item on the employer's to-do list while they're trying to maintain and grow their business.

There are many details that Treasury must still work out.

If you have an interest in the MyRA, check out Treasury's website at Treasury.gov, or Treasurydirect.gov/readysavegrow.

[Slide 8] Earlier this year, I think we were all surprised when the tax court ruled an individual could only make one rollover from an IRA during any one-year period.

It was a surprise because our Publication 590 implied the one rollover limit applied separately to each IRA owned by an individual and when I use the word "implied," I mean it contains an example of a person with two IRAs to make tax-free rollovers from each IRA to new IRAs during a one-year period. That's been the prevailing view for 20 or more years.

This is where I need to remind that you an IRS publication is not official guidance. The tax code is always the authoritative source.

And this is a puzzling issue for many. Some look at this and see their favorite Aunt Fay rolling over a couple of her IRAs to a different bank to get a better rate. If she did that in 2015, one of our Aunt Fay's IRA rollovers could be a taxable transaction.

While some might worry about their aunt being caught up in this new interpretation, others look at it and welcome the change. That's because some individuals maximizing the opportunities available under the view of the old multiple rollover rule.

They take a distribution from IRA one and then 59 days later, they take a distribution from IRA two and use those dollars to repay IRA one. 59 days later, they use the distribution from IRA three to pay IRA two, that's followed by IRA four's distribution to repay three and so on. It's really just an extended interest-free loan, as long as you don't miss one of those 60-day periods.

In response to the ruling, IRS issued Announcement 2014-15, which states that IRS anticipates that we'll follow the interpretation of Code Section 408(d)(3)(B). IRS has already withdrawn a proposed regulation from 1981 and intends to revise Pub 590.

The hesitant language is because the announcement was issued shortly after the Tax Court ruling when some felt there was a possibility the ruling could be reversed, but it was not reversed.

What this means for everyone is that beginning no earlier than January 1, 2015, individuals will only be allowed one rollover of a distribution from any of their IRAs during any one-year period.

This announcement does not apply to any rollover that involves an IRA distribution occurring before January 1, 2015, unless you are one of the unfortunate Bobrows.

This announcement also applies to distributions rolled over from SEP and simple IRA plans because those funds are held in individual IRAs. It does not apply to any distributions rolled over to or from any retirement plans, such as 401(k) plans.

Let's run through an example.

It’s December 31, 2014, and you decide to take a required minimum distribution from each of your three IRAs.

A couple weeks later you review the calculations and discover you've taken $10,000 more from each IRA that was required and you do not want to have to pay tax on the extra amounts you distributed.

Since these distributions occurred in 2014, you could still roll over tax free $10,000 back into each IRA within 60 days, assuming the IRA has had no other rollovers on distributions occurring within the last year. So for 2014, it was like we decided to use the rule as outlined in Pub 590.

Only distributions occurring after December 31, 2014 may be affected by this new rollover interpretation.

Let's change the facts in the example to make the distributions occur in 2015.

For 2015 distributions only one of those three distributions could be rolled over tax free within 60 days. Timing wise, if you had three IRA distributions, the first one rolled back into an IRA would be considered tax free 60-day rollover.

So what happens to the other two distributions?

First, they are subject to ordinary income tax and if under 59 1/2 and don't meet one of the other exceptions, the 10% early distribution tax also applies.

If the taxpayer moved the money back into IRAs, any amounts greater than the maximum allowable IRA contribution would be considered excess IRA contributions. These errant contributions would be subject to a 6% excise tax for each year they remained in the IRA.

[Slide 9] The one rollover rule applies separately to each spouse.

So if one spouse does have -- has done a rollover within the last year it does not have any effect on the other spouse's ability to do a rollover.

The rule is one rollover per year beginning with distributions from IRAs occurring on or after January 1 2015.

That's one rollover per year no matter how many Roth and traditional IRA accounts you own.

Any Roth IRA conversions are exempt from the one rollover rule.

And just to clarify, when counting the 60 days of a rollover, day one is the day after the distribution.

A 60-day rollover must be completed by the end of day 60 and day 60 is day 60, even if it falls on a holiday or a weekend.

[Slide 10] It's time now for your vocabulary lesson.

A rollover is a term commonly used for any movement from IRA to IRA, retirement plan to retirement plan, IRA to retirement plan, retirement plan to IRA. I know I'm guilty of using the term rollover to refer to any movement of money from one IRA to another IRA, but there is a big difference between a rollover and a trustee-to-trustee transfer.

A rollover is a distribution from an IRA, then within 60 days you deposit it into the same or another IRA or into a retirement plan. You have full use of that money before you roll it over. The distribution might be in the form of a check from John Doe IRA that's made out to John Doe or it could be in the form of electronic transfer from John Doe IRA to John Doe's checking account. John Doe has full use of the money for up to 60 days and can still roll it into an IRA.

A trustee-to-trustee transfer, a direct transfer, is very different. It goes directly from John Doe IRA one to John Doe IRA two or John Doe 401(k) account to John Doe IRA. When I say directly, I mean that John Doe never has use of that money. This trustee-to-trustee transaction can take on a couple different forms. For example, it may be an electronic transfer of funds from John Doe IRA one to John Doe IRA two. The computer genie handles it all in the background and clearly that's a trustee-to-trustee transfer.

Or at times that trustee-to-trustee transfer gets a little murky. It may be in the form of a check to the other IRA. Mega Bank may give you a check from your John Doe IRA at Mega Bank, made out to John Doe IRA at Honest Abe's brokerage or some pay-to version of that. You then deliver that check to Honest Abe and they deposit it into your account. You could not have stopped on the way to Honest Abe's to buy a hot dog with the funds. You've never had access to the money, it is still a trustee-to-trustee transfer, it would not count as your one rollover.

With this new IRA rollover rule, it is important to know the difference between a rollover and trustee-to-trustee transfer or direct rollover. Tell your financial institution that you want to do a trustee-to-trustee transfer, avoid rollovers unless that is your only option.

The number of IRA rollovers is one per taxpayer per one year period beginning with 2015 distributions. However, there is no limit to the number of direct trustee-to-trustee transfers.

There are still a few areas here that need to be clarified.

Please check back at IRS.gov/retirement for any news on this issue.

[Slide 11] What do you think the odds are that someone else has used your Social Security number? A few years ago an outside firm was able to take a look at this problem and here is what they found.

One of every seven Social Security numbers has been attached to one or more names.

With more than 200 million Social Security numbers, that means 40 million have been used by more than one person.

Five million are connected to three or more people.

140,000 are associated with five or more people and 27,000 Social Security numbers have been connected to 10 or more people.

I'm not sure what all that means, but take a minute and think about it, maybe you're not always who you appear to be.

According to the Social Security Administration, something like 10 million people pay taxes each year using the wrong Social Security number. This ends up with what Social Security Administration calls a no-match situation, which means no wage credits. These go into the earnings suspense file. As of 2011, the suspense file held nearly $800 billion in uncredited wage credits. These wage credits remain in the file waiting to be matched with a person.

In the administration of a retirement plan, a participant with an invalid Social Security numbers can be a real problem.

For instance, if an employee is later determined to have an invalid Social Security number, they may be excluded from the retirement plan.

The answer can be found in your plan document. If you have a SIMPLE IRA or a SEP plan, all employees of the employer that meet the service or earning retirement must be in the plan. The only other employees that may be excluded for participating in a

SIMPLE IRA or a SEP plan are non-resident aliens who receive no earned income from the employer that would constitute income from sources within the United States.

In regular retirement plans, such as 401(k), profit sharing, defined benefit plans, a plan sponsor may choose to exclude non-resident aliens who receive no U.S.-based income.

So that begs the question what exactly is a non-resident alien? They are just what they sound like. They're nonresident, meaning they do not reside in the United States and they are alien, meaning they are not U.S. citizens. If you employ a French citizen, who resides outside the U.S. and that employee is paid by a non-U.S. based subsidiary, it may be possible to exclude them as nonresident aliens.

If you have an employee in the U.S. and you later determine they don't have a valid Social Security number, it would be very difficult to exclude them from participating in the plan. If they reside in the United States, they do not meet the nonresident alien exclusion.

If they meet the eligibility requirement spelled out in the retirement plan, SEP or SIMPLE, they must be participants in the plan.

When someone with an invalid Social Security leaves employment their account balance belongs to them to the extent they met any vesting requirements. Social Security numbers in the retirement plan are only being used as an identifier.

What happens if you have an employee with an invalid Social Security number and they meet the eligibility requirements in the plan? If you have a SEP or SIMPLE IRA plan, you can't set up an IRA for your employee without a valid Social Security number. You have an eligible employee not in the plan. Since every employee who meets the eligibility requirement in a SEP or SIMPLE must be a participant in the plan, it's possible the entire SEP or SIMPLE IRA plan would not be qualified. Remember, there is no provision in a SEP or SIMPLE IRA plan that would exclude someone because of an invalid Social Security number. In qualified retirement plans, you may run into similar problems. If a financial institution holding a 401(k) account discovers an invalid Social Security number, you have an eligible employee and a financial institution unwilling to pay contributions on their behalf.

A participant with an account balance or accrued benefit and invalid Social Security number is another real problem. IRS rules don't allow distributions to participants without a valid Social Security number or an individual tax identification number. And a bank isn't going to allow any rollover without a valid Social Security number. If you aren't able to obtain a valid Social Security number or an ITIN for that participant, those benefits may end up sitting in the plan for a very long time.

Hopefully it's just a data entry error or other easily fixable mistake, but it's a growing problem that we're all becoming more aware of it.

Invalid Social Security numbers in a retirement plan is a problem without a good solution other than be very diligent in verifying Social Security numbers.

Social Security Administration office set up a Social Security number verification service available to employers. If you do an internet search for SSN verification service it should be one of the first hits and the website's available to you on the current slide.

You can use the SSN verification service by snail mail or telephone, in addition to the internet. Both the online and paper brochure provide well written instructions on how to use this service. The service provides the following answers:

Verified, Social Security number never issued, name matches, date of birth does not match, name does not match, Social Security number did not verify, other or deceased.

It also provides detailed steps to take if a Social Security number fails to verify.

[Slide 12] Now it's time to discuss Form 5500-EZ and filing concerns.

A plan sponsor may file 5500-EZ if the plan covers you or you and your spouse and you and your spouse own the entire business or covers only one or more partners and their spouses in a business partnership and doesn't provide benefits for anyone except you and your spouse or one or more partners and their spouses.

If you're eligible to file Form 5500-EZ, you're only required to file this if the total assets of all of your one-person plans is $250,000 or more at the end of the plan year or this is the final year of the plan.

Take care when you complete these returns; there is much more information on them than 10 years ago, so it is easier to make a mistake. If you make a mistake on the 5500-EZ return, you increase the chance the IRS will send you a letter.

We have an Employee Plan Compliance Unit, or EPCU. This group develops compliance projects and performs data analysis to focus on areas of noncompliance. These are not examinations; these are compliance checks. The unit sends out letters requesting an explanation to an item on a return that doesn't make sense. If you receive a letter, you're asked to provide the information requested. EPCU provides project results on their website.

It is very important to respond to their letters. You may see the return mistake and consider not responding because of a silly, simple error, however, EPCU has been known to change a non-responding compliance check request into an opening of a formal audit.

Some examples, our EPCU just completed a project on plans marked as the final return and also showed that assets remained in the plan. The final year of the plan means the plan has been terminated and all assets distributed. EPCU was clarifying why the return was marked final return when there are still plan assets at the end of the plan year.

Or maybe you entered the wrong business codes or tried to use one of the codes used on the Schedule C. You must use a business code that's listed in the 5500-EZ instructions. If not, you may get a letter.

We have a current project in the Employee Plan Compliance Unit involving 5500-EZ, indicating excessive participant loans. If you indicate more than $50,000 in loans and a plan with one participant, $100,000 for two participants, you might get a letter.

One problem area we've noticed on examination of 5500-EZ filers, is that you and your spouse must own the entire business to be eligible to file a 5500-EZ. If the plan is a ROBS, that is a plan you transfer or roll over funds to your retirement plan and use that money to buy stock in the company, the plan owns that stock. Since you and your spouse do not own the entire business, you cannot file using Form 5500-EZ.

5500-EZ is an IRS form and you must file it using a paper copy. Forms 5500 and 5500-SF are DOL forms, Department of Labor, and must be filed electronically. In some cases, 5500-EZ filer may electronically file using the 5500-SF. On IRS.gov/retirement, we have a web page, the Form 5500 Corner that helps explain a plans filing requirements. If you do a search for Form 5500 IRS or Form 5500 Corner, again, it should be one of the first hits.

On the Form 5500 Corner, you will find links to take you to fillable 5500-EZ Form and instructions. Download the form, complete it, print it and mail it to the IRS per the instructions. And for Form 5500 and 5500-SF filers, we have links to the instructions and to EFAST2, which is for the Department of Labor electronic filing system.

[Slide 13] I'm sure there are a number of reasons a plan sponsor fails to file the required Form 5500-EZ, but it is a common mistake to not notice the assets reached the $250,000 threshold. Also many plan sponsors expect someone else to file the Form 5500-EZ return, maybe their CPA, their tax preparer, a prototype sponsor, insurance agent or stockbroker.

As a tax practitioner, if you notice your client is taking a deduction for the retirement plan, you can ask to see copy of the 5500 series return for that year. If the response is -- well, didn't you file it? There might be a problem. The penalty for not filing a 5500 series return can be severe.

The Department of Labor penalty for delinquent 5500 or 5500-SF is up to $1100 per day.

The Form 5500 or Form 5500-SF returns are filed electronically with the Department of Labor. If one of the filings has been missed, their Delinquent Filer Voluntary Correction Program is available to file those missed returns and have the DOL penalties officially waived. To be eligible for relief from the associated IRS penalty you'll need to file Form 8955-SSA with the IRS. Again, you can find more information and links by going to the Form 5500 Corner on our website.

A one-person plan filing Form 5500-EZ with IRS is subject to penalty of $25 per day, up to $15,000 per missed return. Doing a little math it only takes 600 days to reach the $15,000 total. If you miss filing three returns, you could be subject to a penalty of up to $45,000 and that is a severe blow to a small business.

IRS may abate penalties for reasonable cause and in the past that is something we've often done, but there are no guarantees.

[Slide 14] Form 5500-EZ is an IRS form that is filed with the IRS. If you missed filing it, IRS now has a temporary program available to correct that missed filing. Revenue Procedure 2014-32 established the pilot penalty relief program. It's a one-year pilot program providing relief to plan administrators and sponsors for penalties related to failure to file Form 5500-EZ. This program is open until June 2, 2015.

To be eligible for this program, you must have been eligible to file a Form 5500-EZ, have not received a CP 283 penalty notice from the IRS for the delinquent 5500-EZ return. You are required to file any late returns, along with required schedules and attachments for those years. You are not required, however, to pay any penalties or fees.

In the top margin of the first page of each late 5500-EZ return you are filing above the title, you need to write in red, I know when I say this you might need to find a person who writes small to assist, write "delinquent return submitted under Rev Proc 2014-32 eligible for penalty relief".

If you fail to write that on the return, it will be processed as a late return. There is also transmittal schedule you will need to attach. You'll find all this in the Form 5500 Corner on our website.

Again, you have until June 2, 2015 to uncover your client delinquent 5500-EZ returns.

Delinquent 5500-EZ returns appear to be a big problem, so we need your help to get the word out on this new program. If you choose to stand up and announce it the next time you are in a restaurant, fine by me, however, sharing the information with your peers would be a very good idea.

[Slide 15] The IRS recently announced the opening of the two-year period to adopt restated preapproved defined contribution plans, generally profit sharing and 401(k) plans. Pre-approved plans are master prototype plan, standardized and non-standardized. These plans are normally what you find offered by banks, insurance companies, brokerage firms and other financial institutions, plus planned document companies, third party administrators, just about anyone in the business of retirement plans.

Preapproved plans make up a majority of all plans. The failure to update for current law is and always has been our number one issue across all types of plans, across all types of employers. The two-year window for restating preapproved plans for current law is open now until April 30, 2016. If you have one of these plans, pay close attention to any mail you receive regarding your plan. Some companies may offer the newly updated plan free, most ask for several hundred dollars to update the plan. You'll need to adopt the new document to keep the plan compliant with current laws. To avoid being one of those non-amenders, to keep deducting contributions, and for the plan assets to keep growing tax deferred.

And it sounds simple enough. You have a preapproved plan that needs updating for current law, your plan company sends you the new plan and adoption agreement for you to complete, you fill out the adoption agreement, sign it and it is done.

That is only partially true. Your plan may be properly updated, but now you have new opportunity for more mistakes. First, the adoption agreement must be timely signed and dated. Over the years I've seen many adoption agreements that were signed, but not dated. If have you to adopt a new plan by April 30, 2016, and you do not date your signature, you may have a problem.

Some adoption agreements require you to put the date the amendment is effective. If you have a question about what to put where, follow the instructions for completing the adoption agreement. There can be a number of options on an option agreement if you select an option different from how have you been operating your plan, again, you may have a problem.

Our suggestion is to pull out the old adoption agreement and compare it to the new one. Make sure your new selections match what you have selected in the previous adoption agreement and it also matches how you're currently operating your plan. For example, if the eligibility requirement selected the previous adoption agreement for age 21 and one year of service, the entry dates on January 1 and July 1, make sure that is what you select for the new adoption agreement. If you choose immediate eligibility in the new adoption agreement, but you continue to operate the plan using the old age 21 one-year service requirement, you are not in compliance and you may need to make corrective contributions to participants.

[Slide 16] On June 26, 2013, the Supreme Court's decision in the United States versus Windsor invalidated section three of the Defense of Marriage Act. In response to Windsor, the IRS issued Revenue Ruling 2013-17, which holds that married same-sex couples are now treated as married for all Federal tax purposes where marriage is a factor. If the couple is lawfully married under the laws of one of the 50 states, District of Columbia, U.S. territory or foreign jurisdiction.

Earlier this year, IRS issued Notice 2014-19, which provides guidance on how qualified retirement plans should treat the marriages of same-sex couples to retain their qualified status. This notice discussed some of the areas where the marital status of the participants is relevant to operation of the retirement plan. It also provides guidance on how to satisfy those requirements and it describes when retirement plans must be amended to comply with Windsor, Revenue Ruling 2013-17, and Notice 2014-19.

Notice 2014-19 describes several areas of plan operation, where special rules exist with respect to married participants.

Under Internal Revenue Code Section 401(a)(11), certain qualified retirement plans must provide a qualified joint and survivor annuity to a spouse, unless the participant and spouse both consent to wave that requirement. Certain plans are exempt from these qualified joint survival rules provided that married participant's benefit is payable in full on the death of a participant to the surviving spouse unless the surviving spouse consents to designation of a different beneficiary.

Under the required minimum distribution rules and the rollover rules, the spouse has additional alternatives available to non-spouse beneficiaries.

Some plans require spousal consent for distributions and loans.

If each same-sex spouse owns their own business, as of June 26, 2013, those businesses may now be part of a control group and may be treated as one business for retirement plan purposes.

Many plans automatically include all members of the control group of employers.

So if you have a client in this situation, where each spouse owns their own business, same sex or not, you should consider seeking advice from retirement plan professional. Controlled group issues can get complicated and are expensive fix if you get wrong. For married same-sex couples, with all the changes brought on by Windsor, this could be overlooked.

[Slide 17] Notice 2014-19 says that a retirement plan won't be treated as failing to meet requirements of Section 401(a), merely because it didn't recognize same-sex spouse of a participant as a spouse before June 26, 2013. However, qualified retirement operations must reflect the outcome of Windsor as of June 26, 2013.

Question and answer number three of Notice 2014-19 discusses how a plan is allowed to apply new definition of spouse to a date prior to June 26, 2013. However, you need to be very careful which plan operation you like to change to the new definition.

There are real advantages for spouse in a plan. It might be the benefit of qualified joint survivor annuity or it might be improved rollover status you get as a spouse. So it is something to look at. Again, take a look at question and answer number three in the notice and again this might be something to look for help from a retirement plan expert.

We pointed out that your plan's operations must reflect Windsor, the changes in definition of spouse, but we haven't talked about when and if the plan must be amended. Under the notice question and answer number five, if your plan only uses generic term for spouse, such as "spouse," "legally married spouse," "married under Federal law," it may not be necessary to amend your plan, but you may still wish to make an amendment to further clarify.

If your plan's terms define marital relationship by reference to section 3 of DOMA, or are otherwise inconsistent with the outcome of Windsor or guidance and Revenue Ruling 2013-17, then an amendment is likely required.

Also if you choose to apply the new definition of spouse for period prior to June 26, 2013, an amendment should be adopted that specifies the dates and purposes for which the new definition is applied.

Assuming you must or choose to amend your plan for the new definition of spouse, the deadline to adopt the amendment per Notice 2014-19, question and answer number eight is the later of December 31, 2014 or the date outline in Revenue Procedure 2007-44. Again, the date all plans must be operated in accordance with Windsor is June 26, 2013.

Finally, Notice 2014-37 was issued on May 15 and provides the Safe-Harbor 401(k) plans that must be amended in order to comply with the Windsor guidance must be amended mid-year.

I've tried to touch on just a few of the places where the changing definition of a spouse will have some meaning when is it comes to your retirement plan. Again, Notice 2014-19 contains much of the information you'll need to get started. The more complicated your situation, the more likely you'll need to find someone to help determine what you need to do.

[Slide 18] Employees prefer the flexibility of liquidity offered by lump sum at retirement. When given the choice of receiving a large wad of cash all at once or a series of small monthly payments, most people will choose the cash.

This is important because most of us have a difficult time limiting the amount of money we draw from that lump sum each year. Studies show many retirees quickly run out of that lump sum cash and they live only on their Social Security payment.

A longevity annuity is an income stream that begins under advanced age, not exceeding 85, and continues as long as the individual lives.

Regulation will make it easier for defined contribution plans and IRAs to offer longevity annuity options. If the requirement outlined in the regulations are met, the qualified longevity annuity will not be subject to the age 70 1/2 minimum distribution requirements.

Under the final rules, a 401(k) or similar plan or IRA may permit plan participants to use up to 25% of their account balance but no more than $125,000 to purchase a qualified longevity annuity. Even though the value of the qualified longevity annuity is not included in the account balance while determining the age 70 1/2 required minimum distribution, it is included in the account balance when determining the 25% limit. Qualified longevity annuity must begin no later than age 85.

[Slide 19] In addition, to be considered a qualified longevity annuity contract, or QLAC, it must be stated as such in the contract.

Also under the final rules, a QLAC may allow for a return of premium after the death of the contract holder.

It may also provide for a survivor annuity to a spouse and for payments to a beneficiary after the death of the account holder within certain limits.

The final regulations provide a QLAC does not include a variable contract as an index contract or a similar contract. These regulations also provide a correction mechanism if the premium exceeds the lesser of 25% of the account balance, $125,000 requirement. If the excess is returned to the employee by the end of the calendar year following the calendar year in which the excess premium was paid, it will still be considered a QLAC. And these are just a few quick highlights of the regulation.

[Slide 20] In the pension world, laws and regulations change constantly.

How can you keep up with all of these changes?

Well, for one, bookmark our website, IRS.gov/retirement.

On the right-hand side of our home page, you will find an orange box labeled News.

Under this box you will find links to the most recent retirement plan news.

Second, you can subscribe to our newsletters as Angel mentioned at the beginning of the presentation.

Click on newsletters on the main page and when you do that, it will ask for an e-mail address or social media contact for you to sign up with and from there you will be directed to list of the IRS newsletters.

Click the box next to these newsletters to subscribe and whenever we issue a newsletter, you will receive a message in your inbox with the link.

Also we have the phone forums that go on regularly to give you updates and you can try those, as well.

On the slide, you'll see two ways to get your retirement plan questions answered.

The first one is RetirementPlanQuestions@IRS.gov.

The second is a phone number, 877-829-5500.

Some people like using the e-mail address if they have very detailed questions and want to have it written out for the specialist to answer.

If you are using an e-mail address, please include your phone number as our specialists are required to respond to your questions by phone and if there is a certain time of day that you'd be available to talk, whether it be morning or afternoon, we advise that you put that on there, as well, so they can get ahold of you.

On our website, we also have a number of fix-it guides for just about every sort of plan type.

And with these fix-it guides, we have available again for each plan type, the top 10-12 errors that we find on examination and that are also submitted under our voluntary correction program.

And within each of these 401(k) fix-it guides, we provide how to fix, find and avoid each of these errors and we'll also provide links and give you information on these errors, again, on how to find, fix, avoid.

We also have FAQs for a lot of the plans, plan types and also as I mentioned with the EPCU website, I highly recommend going there, they provide a wealth of information with the different projects that they complete and again everything I'm mentioning the fix-it guides, what EPCU provides.

We're trying to provide for all of you what we're finding from our research, from our examinations, from voluntary correction and the reason why we provide all this information is then you can go back to your clients, to your plans and see if the same mistakes that we see happening, are what's being submitted to voluntary corrections, are happening in your plans, so it's kind of a good self-study internal control use to make sure your plans are compliant and we do our best to keep those updated, so you have the current information.

As I mention with EPCU, they are always providing updates for projects that have been completed and also the current project so you can see what we are looking at and they also have a page that shows the projects that they're considering doing.

So again, these are items that we see.

We are thinking, okay, maybe there is a problem here, we put them in the hopper, so to speak and then from there, we'll define those projects and again, send out letters, as I mentioned.

On behalf of Employee Plans, thank you for your time today.

Please take care of yourselves and take care of someone else.