

Dear valued clients and friends –

We are pleased to provide you with the latest developments and alerts related to retirement plans and our practice. In an effort to best serve you and keep you up to date on important developments, we will provide you with communications throughout the year. We hope you find them beneficial.

NEW COST OF LIVING ADJUSTMENTS ANNOUNCED FOR 2016

The IRS has announced Cost of Living Adjustments for 2017 to certain plan limits. This is the first adjustment to limits in two years. The limits that have been adjusted are as follows:

Social Security Wages rose from \$118,500 to \$127,200; the limit on defined benefit plan annual income is raised from \$210,000 to \$215,000; the defined contribution plan limit increases from \$53,000 to \$54,000; the maximum compensation that can be considered for retirement plan purposes was adjusted from \$265,000 to \$270,000; and the limit on officer compensation for determining key employees changed from \$170,000 to \$175,000.

All other limits remain unchanged from the 2016 levels. [Click here](#) to view the complete listing of plan limits.

STATE-SPONSORED RETIREMENT PLANS

With the goal of increasing the financial security for a growing population of workers approaching retirement, a majority of states have proposed establishing their own retirement programs as an alternative to the plans currently available to employers.

Governor Brown recently signed the California Secure Choice Retirement plan into law, which may serve as a model program for other states. The following article details the provisions of the various state proposals and examines their potential impact on the private retirement system. [Read more](#)

FIDUCIARY TRAINING SEMINAR

In August, we sponsored a fiduciary training seminar for our clients. The seminar was led by Steve Cohen, a senior retirement consultant with Federated Investors. The meeting was well-received by the participants and offered valuable information regarding fiduciary responsibilities and duties for qualified retirement plan sponsors. Beyond the educational material, the seminar offered practical checklists and action items for the various tasks required of plan fiduciaries, including goal-setting, development of an

investment policy, how to document committee meetings and how to prepare for a potential investigation by the Department of Labor.

If you were unable to attend this event, we have the seminar materials available below or on our website, or you may contact Carolyn De Baca at cdebaca@windes.com or at 562.435.1191, extension 395.

[Click here to view the Annual Fiduciary Checklist.](#)

[Click here to view the Fiduciary Calendar.](#)

[Click here to view the Fiduciary Committee Goals.](#)

[Click here to view the Fiduciary Committee Meeting Minutes.](#)

[Click here to view the Fiduciary Committee Meeting Topics of Interest.](#)

COMPLIANCE SPOTLIGHT: COUNTING PARTICIPANTS FOR AN AUDIT REQUIREMENT

A common compliance mistake made by plan sponsors is to incorrectly count the number of plan participants for purposes of reporting and in determining whether the plan must attach an independent audit to their annual filing.

Retirement plan sponsors must maintain accurate records of plan participants and beneficiaries for purposes of determining plan eligibility, allocating contributions, and distributing benefits. The plan sponsor must list participant totals on the annual IRS report Form 5500 in the following categories:

- Total participants at the beginning of the year
- Total active participants at the beginning of the year
- Total active participants at the end of the year
- Retired or separated participants receiving benefits
- Other retired or separated participants receiving future benefits
- Deceased participants whose beneficiaries are entitled to future benefits
- Number of participants with account balances (defined contribution plans only)

The key term to understand in properly completing this reporting is the definition of “participant.” A participant is any employee who has completed the eligibility requirements and entered the plan, regardless of whether or not that participant has an account balance. In 401(k) plans that only offer elective deferrals and matching contributions, this can lead to a number of participants with no account balances under the plan.

Plan participants must be tracked for reporting purposes, and all participants must receive all of the required plan notices and disclosures (such as a Summary Plan Description), regardless of their account balance.

Retirement plans with a participant count that exceeds 120 (or 100 for Welfare Benefit plans) trigger a required audit of the plan's financial information by an independent CPA and must attach a Schedule H to the Form 5500. The requirement is determined by the participant count on Form 5500 at the beginning of the plan year. Plans with participant counts between 80 and 120 participants are permitted to file the same form as the prior year (must attach a Schedule I to Form 5500 or file Form 5500-SF).

Please contact Richard Green at rgreen@windes.com with any questions on your plan's filing requirements.

403(b) PLANS: FIDUCIARY LAWSUITS TARGET NONPROFITS

The retirement plans of three large universities were recently hit with lawsuits charging the plan fiduciaries with a breach of their duties and for maintaining plans with excessively expensive investment options.

The class action lawsuits are primarily the work of one New York law firm (Schlichter, Bogard & Denton), that has filed 20 such complaints (with nine settlements) since 2006. The most recent plans to be sued were those of MIT, Yale and New York University. Columbia University also faces a similar suit filed by a different firm. The suits target both 403(b) and 401(k) plans of the nonprofit institutions.

The suits claim various breaches of fiduciary duty, alleging that plan fiduciaries selected and retained numerous high-cost and poor-performing investment options compared to available alternatives. The suits charge that these actions caused plan participants to pay millions of dollars in unreasonable and excessive fees that substantially reduced retirement income. The claims of damages against these plans are in the billions of dollars.

In addition, some of the lawsuits assert that the use of multiple record keepers, rather than a single provider (common in many 403(b) programs) has caused duplicative fees to be charged to plan participants.

While being served by a class action lawsuit is unlikely by all but the largest of plans, these complaints do provide some valuable information to all plan fiduciaries against similar claims from plan participants.

Plan investments should be measured (benchmarked) against industry standards for both performance and fees. Plan fiduciaries must document their actions and maintain plan documents and records. Service providers must also be evaluated regularly to determine whether their fees are reasonable compared to the services rendered.

We have resources and checklists to assist plan fiduciaries in executing their duties and protecting their plans from claims. We can also refer plan sponsors to qualified partners to perform benchmarking on investments and fees.

Please contact Richard Green at rgreen@windes.com with any questions.

WELCOME KRYSTAL LANDRUM

It is with great pleasure that we announce the addition of Krystal Landrum to our staff as an administrative assistant. Krystal grew up in Orange County and returns to Southern California after several years in Oklahoma and Texas. She has worked in administrative and client service capacities during the last eleven years, and we are excited to welcome her to the EBS team at Windes.

STRATEGIC PARTNERS

We have partnered with several quality organizations to provide a full range of services to our retirement plan sponsor clients. These services include payroll, investment advice, fiduciary benchmarking, financial planning, insurance and estate planning. We have carefully chosen our referral partners and our clients have had excellent experiences from their interactions with these professionals. Please contact us with any needs you may have.

WINDES

AUDIT | TAX | ADVISORY

With more than a century of combined experience in the employee benefits field, our professionals have the expertise and access to leading-edge resources that uniquely qualify us to provide our clients with complete administrative services that ensure the successful operation of their employee benefit programs. In addition, we work closely with existing advisors to provide the teamwork needed for successful administration of their clients' retirement programs.

Our professionals are members of the American Society of Pension Professionals and Actuaries and the National Institute of Pension Administrators and have earned nationally recognized professional designations.

The Windes Employee Benefit Services group is composed of the following individuals who are dedicated to providing your organizations with complete administrative and consulting services:

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