YOUR PENSION PLAN TAKES ANOTHER BLOW

With no fanfare, new rules have put an end to a highly popular retirement-plan option.

By David J. Schiller, J.D.

Amid all the noise about tax reform, another new set of retirement-plan regulations slipped in with cat-like quiet. This may be the single most bothersome change in your pension plan in recent years.

The new regulations put an end to the common practice of electing to waive participation in a retirement plan in a given year so the doctor can take additional income. This option allowed a practice to meet doctors' differing financial needs. Typically, younger doctors elected out of a plan for several years, while associates in their 40s and 50s were in for full contributions. Or a doctor who needed to pay college bills could take a partial waiver. He'd make smaller plan contributions for several years and take the rest as a bonus.

This flexibility is gone. The new regulations forbid any plan member to decide on a year-by-year basis how much to contribute to a retirement plan. You can either contribute in full every year or stay out permanently. And once you make the election, it's binding for the duration of your stay in the group. A practice can't even terminate its current plan and begin a new one to let plan members make a second election.

To avoid risking disqualification of your retirement plan, you must act immediately to comply with the new rules. Have all plan members who wish to waive participation permanently make a written, one-time election. Then make sure to amend your plan documents if they permit members to waive all or part of their contributions on a year-to-year basis.

The new regulations demand tough decisions about the level of funding that's the best compromise for doctors with differing financial needs. You might consider the following options:

Profit-sharing plans. A money-purchase plan locks you into a fixed contribution that's a specified percentage of compensation. A profit-sharing plan, on the other hand, lets you choose each year what percentage to contribute, allowing some flexibility in contributions. But once your group decides on the annual contribution level, it must apply to *all* plan participants. Contributions to profit-sharing plans are limited to 15 percent of compensation, compared with 25 percent for money-purchase plans. So these plans must be used in combination with a money-purchase plan if doctors in your group want to contribute the maximum amount.

401(k) plans. The regulations didn't touch these. In a professional corporation with a 401(k) plan, you can elect to contribute any amount of pre-tax earnings up to $7,627. Or you can contribute nothing at all. In theory, 401(k)s offer individual flexibility. The problem is, the theory seldom matches up to reality. Strict non-discrimination rules make the plans tough to implement for practices with lower-paid staff members. But they remain an alternative for all-doctor groups with no staff members—psychiatrists or anesthesiologists, for example. If a 401(k) feature were added to a profit-sharing plan, high-earning doctors could put away as much as $30,000. ■

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