Is It Too Late to Set Up a Retirement Plan to Get a Tax Deduction for Last Year?

Facts

Although my New Year's resolutions include less procrastination it's likely that by the time Valentine's Day gets here that good intention will long be in my rearview. As I draft these 2020 resolutions, my CPA reminds me once again of all the tax benefits, personal and corporate, that a qualified retirement plan can offer. Finding incentive for my 2020 resolutions, I'm reminded that my inaction in 2019 has limited my options for tax savings tools as the 2019 returns are prepared.

Question

At this point in the year, has my procrastination gotten the best of me? Or are there still options available for a retirement plan for 2019? If not for 2019, has the ball dropped on 2020 options already too?

Answer

First, know you still have options for the 2019 and 2020 tax years, and the SECURE Act (part of the spending bill Congress passed in late December) just made your options for 2020 a little sweeter!

For the 2019 tax year, the options available for post-December 31, 2019 plans remain the same as in the past. The only option for a company-sponsored plan at this point is a Simplified Employer Pension (SEP). If you're looking for a quick comparison of a SEP and 401(k), we've got you covered here. While the SEP may lack flexibility in eligibility and contribution allocations, it does provide a tax savings opportunity following year-end which may prove valuable this time of year.

Now, for 2020! It's the start of a fresh new year which means ample opportunity to implement a plan for this tax year. With virtually the whole year ahead, there is plenty of time for detailed plan design discussions, employee education, and a strategic rollout of a shiny new qualified retirement plan. Even under the pre-SECURE Act deadlines (more on those here), business owners would have months left to deliberate design and execute a document effective for the 2020 tax year.

Here's the news that will get procrastinators to perk up – for 2020, the end of the year doesn't mean the end of the road. Let's look at what the plan implementation deadlines look like for 2020 and beyond.

Start-Up Safe Harbor Plan: October 1st

This deadline has not changed. If your company does not currently sponsor a retirement plan and you're interested in implementing a safe harbor 401(k) plan, the deadline is 90 days before the year **starts**. That means October 1, 2020, to implement a brand-new safe harbor plan for this year.

Adding Safe Harbor Provisions for 2020: Variable

If you already sponsor a 401(k) plan and are looking to add a safe harbor provision to it, you may no longer be beholden to December 1st of the previous year. The reason is because there are now different deadlines for different types of safe harbor provisions.

> **Safe Harbor Match** The deadline to add a safe harbor match feature to an existing 401(k) plan remains unchanged at 30 days before the year **starts**. That means we have already passed the deadline for 2020, and you have until December 1, 2020 to add a safe harbor match for 2021. We explain the "why" behind the December 1st date here.
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> **Safe Harbor Non-Elective (3% of pay)** You now have until 30 days before the year **ends** to add a 3% safe harbor nonelective feature to your plan. That's December 1, 2020 for the 2020 plan year – a whopping twelve months extra to get this provision in place thanks to the SECURE Act.
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> **Safe Harbor Non-Elective (4% of pay)** If you miss the deadline for traditional safe harbor provisions presented above, there is another new option for you. You can now add a safe harbor nonelective contribution up to the **last day of the following year** if you are willing to contribute 4% of pay rather than the regular 3%. Yep, you read that right…for an extra percent of pay, you have until December 31, 2021 to add a safe harbor non-elective provision to your plan for 2020. Whether you are a procrastinator or simply prefer to take the "wait and see approach" with respect to your ADP test results, this is a huge amount of added flexibility.

The important thing to note is that the extended period to add a safe harbor provision to the plan is only available for safe harbor non-elective and not for safe harbor matching contributions.

Profit Sharing or Cash Balance Plans: Due Date (with extensions) of your Business Tax Return

Again, wondering if you read that correctly? You did. New Year's Eve no longer needs to be a mad scramble; the ball drop doesn't mean your options have. You can now setup a plan (and make deductible contributions) for 2020 until the due date of your 2020 company tax returns (with extensions).

It's important to note that this only applies to company contributions. In other words, it is still not possible to make 401(k) deferrals retroactively to the previous year. Even with that minor limitation, this extra time provides a great opportunity for companies to achieve some additional tax savings right at the time when they realize it most…when they are gasping at a large tax bill from their accountants.

Our priority is always to help our clients. And while we might not be able to help with some of your other resolutions (flossing twice a day, hitting the gym, learning a new language), we like to think the SECURE Act offers a little reprieve from the effects of potential procrastination and your qualified plan opportunities.

Questions regarding the plan design that best meets your needs? We love to talk about this stuff, so reach out to the DWC team and we'll be glad to explore this with you.

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