What Do You Do with the SIMPLE IRA Sponsored by the Company You Just Acquired?

Facts

My company recently acquired another firm. As we work to combine all of our operations, we've discovered a few differences in our employee benefits, specifically our retirement plans. While we've sponsored a 401(k) plan for several years, the company we bought has a SIMPLE IRA. I've done a little research and found that when a company offers a SIMPLE, it cannot also sponsor any other types of plans.

Question

Now that we have a 401(k) plan and a SIMPLE IRA on our hands, what do we do?

Answer

First things first, take a deep breath! There are exceptions to that "exclusive plan" requirement that provide you with a transition period to work through these details as the dust settles on your acquisition.

Mixing the worlds of 401(k) plans and SIMPLE IRAs can add a degree of difficulty to a merger and, at the very least, throw a few new questions into the mix. We're happy to report, though, that there is a post-acquisition grace period that allows for the coexistence of both a 401(k) plan and a SIMPLE IRA for a limited timeframe. That transition period runs through the last day of the plan year following the year in which the acquisition takes place.

Breaking that down a bit, if your company purchased the other company October 1, 2019, you can maintain both your existing 401(k) and their existing SIMPLE through December 31, 2020, without violating the exclusive plan rule. Beginning January 1, 2021, the transition rule ends, so you must close out one plan or the other by that date.

What if you don't want to deal with two plans until 2021? Not a problem. You can cover everyone under the 401(k) plan, beginning on January 1, 2020 rather than waiting until 2021. The thing to keep in mind with regard to the SIMPLE IRA, however, is that you must give a notice to participants by November 1st to inform them that there will be no new contributions to the SIMPLE in the upcoming calendar year.

Beyond the headaches of dealing with two plans, one reason you might choose to cover everyone under one plan before the transition period ends is the restrictive nature of the SIMPLE IRA rollover rules. Participants are not able to roll their funds from a SIMPLE IRA into a 401(k) plan until they've held their account for two years. This means, the sooner new participants stop accruing benefits under the SIMPLE IRA, the sooner all participants will have the opportunity to roll their funds into a 401(k) account.

Just for fun, let's shake up the fact pattern just a bit. Instead of the 401(k)/SIMPLE combination, let's say that you and the company you acquired both have SIMPLE IRAs. On the surface, that probably looks easier to work through, so you bring the two plans together immediately and continue with business as usual. What if as of

January 1, 2021, there are now 110 employees covered by the SIMPLE IRA (due to ongoing hiring as well as the combined workforces of the two companies)?

As long as the SIMPLE IRA has been in place for at least a year, you have a two-year grace period after surpassing the 100-employee mark to close the SIMPLE and open a 401(k) plan (or other retirement plan offering). If you do not correct the issue by the end of the grace period, you'll need to utilize the IRS Voluntary Correction Program (VCP) to correct this plan error.

Mergers and acquisitions can bring up a whole host of questions from coverage to plan design to timing for changes. We've covered a number of those concerns for you here; however, each situation is unique and needs a thoughtful and strategic review to help you know the actions to take now and the items to lookout for in the future. Whether it's a not-so-simple SIMPLE or a move to a 401(k) plan, your DWC team is always ready to talk through the good stuff!

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