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IS IT TIME TO UPDATE YOUR RETIREMENT PLAN'S SUMMARY PLAN DESCRIPTION?

Most employers know that they need to distribute a Summary Plan Description (or "SPD") that describes the key features of their retirement plans to their employees when they first become eligible to participate in the Plan. But when do SPDs need to be updated?

The 210 Day Rule. ERISA (i.e., the federal Employee Retirement Income Security Act) says that if there is a material modification to the terms of the plan or other important information that is described in a Plan's SPD, then each participant (and any beneficiaries who are receiving benefits under the Plan) should get a summary of the changes not later than 210 days after the end of the plan year in which the change is adopted. In lieu of sending out a separate Summary of Material Modifications (or "SMM"), many employers chose to update the plan's SPD, so that all of the current information is in a single document. **For calendar year plans that made changes in 2018, the 210 day deadline is July 29, 2019 – a date that is fast approaching!**

- 2018 changes to Disability Claims Procedures. In 2018 many employers needed to update the claims procedure language that was in their retirement plans to account for new requirements for processing disability benefit claims. If the plan's claims procedure language

is found in the plan's SPD, then the SPD will also need to be updated. This could be done with an SMM or with an updated SPD.

The Five Year Rule. Even if no changes were made to your retirement plan in 2018, it may still be time to update your plan's SPD. ERISA says that employers should furnish an updated SPD to each participant (and any beneficiaries who are receiving benefits under the Plan) every fifth year. (There is an exception for plans which have not been amended within the applicable five year period.)

Next Steps. If your retirement plan's SPD needs to be updated, and the plan document is a prototype or volume submitter plan document prepared and maintained by a vendor, you should confirm that the vendor has or will be preparing the necessary SMM or updated SPD and will be distributing the document to participants and beneficiaries. If that is not the case, the employer/plan sponsor is responsible for preparing and distributing SMMs and SPDs so participants and beneficiaries are timely informed of changes.

If you have questions about your retirement plans or about preparing and distributing SMMs and SPDs, please contact your Wiggin and Dana attorney.