

Retirement Times

April 2021



Your Investment Policy Statement is Important to Us

The template Investment Policy Statement (IPS) is crafted by a team of ERISA attorneys and investment professionals. Throughout the years, our organization receives myriad versions of the template IPS as edited by a vast number of clients' in-house counsel as well as ERISA counsel. The ERISA team takes the best of the ideas and incorporates them into a revised IPS template. In essence the template IPS is the product of hundreds of ERISA attorneys whose input is all taken into consideration.

In regard to the language of the template IPS, it is drafted to be neither too constrictive nor overly vague. An overly vague IPS leaves the reader with no understanding as to what process fiduciaries follow. In that scenario, the IPS does not help protect the fiduciary by creating evidence of a roadmap of a prudent process. Conversely, an overly constrictive IPS can cause an unwary fiduciary to accidentally run afoul of its terms. The template IPS is crafted to avoid using words like "must" throughout its provisions to avoid such a scenario.

If you have specific questions regarding verbiage, our ERISA team is happy to address them. Forward your inquiries to your financial professional.

401(k) Plan Tax Credit Summary

Eligible employers may be able to claim a tax credit of up to \$5,000, for three years, for the ordinary and necessary costs of starting a SEP, SIMPLE IRA or qualified plan (like a 401(k) plan.) A tax credit reduces the amount of taxes you may owe on a dollar-for-dollar basis.

If you qualify, you may claim the credit using [Form 8881 PDF](#), Credit for Small Employer Pension Plan Startup Costs.

Eligible employers

You qualify to claim this credit if:

- You had 100 or fewer employees who received at least \$5,000 in compensation from you for the preceding year;
- You had at least one plan participant who was a non-highly compensated employee (NHCE); and
- In the three tax years before the first year you're eligible for the credit, your employees weren't substantially the same employees who received contributions or accrued benefits in another plan sponsored by you, a member of a controlled group that includes you, or a predecessor of either.

Amount of the credit

The credit is 50% of your eligible startup costs, up to the greater of:

- \$500; or
- The lesser of:
 - \$250 multiplied by the number of NHCEs who are eligible to participate in the plan, or
 - \$5,000.

Eligible startup costs

You may claim the credit for ordinary and necessary costs to:

- Set up and administer the plan, and
- Educate your employees about the plan.

Eligible tax years

You can claim the credit for each of the first three years of the plan and may choose to start claiming the credit in the tax year before the tax year in which the plan becomes effective.

No deduction allowed

You can't both deduct the startup costs and claim the credit for the same expenses. You aren't required to claim the allowable credit.

Auto-enrollment Tax Credit

An eligible employer that adds an auto-enrollment feature to their plan can claim a tax credit of \$500 per year for a three-year taxable period beginning with the first taxable year the employer includes the auto-enrollment feature.

Retirement Plan Committee Activities

A retirement plan committee consists of co-fiduciaries who are responsible for all plan management activities that have been delegated to them by their plan's named fiduciary.

ERISA states that the committee must act exclusively in the best interests of plan participants, beneficiaries and alternate payees as they manage their plan's administrative and management functions. Many committees meet regularly in order to have sufficient opportunity to deal with the myriad of fiduciary functions.



All fiduciary level decisions must employ ERISA's procedural prudence which includes documented expertise on the topic being considered and periodic review to ensure the decision remains prudent. In terms of investment selection and monitoring, qualitative and quantitative considerations should be included in the decision making process. Quantitative issues involve performance metrics and price, while qualitative issues involve the management approach, process, personnel and more. Due to the importance to both participants and plan fiduciaries, the committee must ensure that the plan's qualified default investment alternative reflects the needs and risk tolerance of the participant demographic.

As there are many other important activities for committees, it makes sense to establish an annual calendar of topics to consider at upcoming meetings. Agenda items may include: plan goal setting & review, fiduciary investment review, fiduciary

education/documentation, participant demographics/retirement readiness, fee reasonableness & structure, plan design analysis, TDF suitability, client advocacy, participant financial wellness, legal, regulatory & litigation activities, employee education, provider analysis, reporting and disclosure requirements. detailed minutes and documenting the processes for each of its decisions is also best practice for fiduciaries.

The Department of Labor [DOL] is now asking plan sponsors to provide documentation of a comprehensive and ongoing fiduciary training program for all plan fiduciaries.

For more information on retirement tax tips, contact Lawley Retirement Advisors at 1.844.4LAWLEY.



This material was created to provide accurate and reliable information on the subjects covered but should not be regarded as a complete analysis of these subjects. It is not intended to provide specific legal, tax or other professional advice. The services of an appropriate professional should be sought regarding your individual situation.

To remove yourself from this list, or to add a colleague, please email us at info@lawleyinsurance.com.

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