

The 2016 tax landscape and DOL rule outlook

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Agenda

- The latest on the DOL fiduciary proposal
- Other areas of interest in Washington D.C.
- Tax season conversations to explore with clients
- Questions

Background on the DOL fiduciary proposal



- **1974:** Employee Retirement Income Security Act (ERISA) governs retirement accounts and requires fiduciaries to act prudently
- **1975:** Original ERISA “5-part test” defines elements for acting in a fiduciary capacity
 - Advice must be “ongoing” and serve as “primary basis” for making the decision
- **2010:** DOL proposes to expand the definition of fiduciary status and broaden scope to IRAs
 - Would have eliminated commission-based retirement business including IRAs
 - Withdrawn in 2011 after widespread criticism

The 2015 proposal

- What's different from 2010 proposal?
 - Recent Council of Economic Advisors (CEA) study claimed that conflicted advice costs retirement savers \$17 billion annually
 - Strong backing from the administration for DOL to move forward
- Broadens definition of advice:
 - “Regular and ongoing” to “one-time only”
 - “Primary basis” to “considered”
- Applied to IRA business going forward including the decision to roll out of a plan into an IRA (regardless of whether investments were actually discussed)
- Unlike 2010, the 2015 proposal provides an avenue for commission-based business: the Best Interest Contract (BIC)
 - The BIC means more procedures, disclosure, and liability

What's next?

- Public comments and testimony closed at this point (Sept 24)
- Budget deal finalized without a legislative rider to delay DOL (Dec 18)
 - Current legislative efforts to delay DOL in house unlikely to proceed
- DOL submitted final rule to the OMB (Jan 28)
- Key question for many firms and advisors: Will the DOL make changes to the proposed Best Interest Contract?
- Given that the proposal includes an 8-month window for the industry to comply with the changes, a final rule is expected most likely in Q1 to become operational in January 2017

Other areas of interest

- Bipartisan Budget Act of 2015 and Protecting Americans from Tax Hikes (PATH) Act of 2015
 - Budget and debt ceiling impact
 - Social Security changes — reach out to clients now!
 - Many tax extenders permanent
 - Changes to 529 plans
- Legislation to repeal the Affordable Care Act
- 2016 election outlook

Tax season conversations

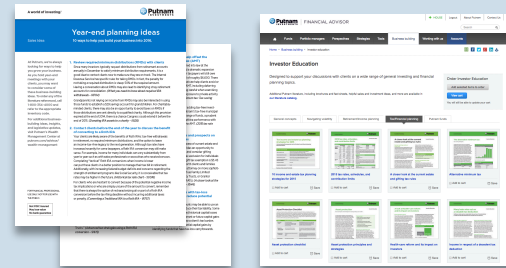
Area	Conversations
Retirement	<ul style="list-style-type: none">• Review accounts, IRA contributions• Roth strategies including the “backdoor” Roth IRA contribution• After-tax retirement funds?• Uncovering Rollover IRA opportunities
Taxes	<ul style="list-style-type: none">• Marginal tax bracket? AMT status?• Opportunities within the 1040
Estate and wealth transfer	<ul style="list-style-type: none">• Gifting• Document status and review• Advanced strategies?

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