PSCA.org PROFIT SHARING/401k COUNCIL OF AMERICA

Your 401(k) is Protected

Plan Security

Your 401(k) investments are protected. Your company employs plan trustees, administrators, and service providers-who may be fiduciaries. Fiduciaries have specific obligations under federal law to carefully manage your 401(k). Under the law, the assets in your plan are yours and must be managed solely for your benefit, never for the benefit of your employer or any other party. This means that the fiduciaries of your 401(k) plan are responsible for ensuring that every penny of your 401(k) money is where it is supposed to be.

The fiduciaries for your 401(k) are also held to a high standard of conduct under the law. A fiduciary who fails to follow the fiduciary responsibility rules is personally liable to the plan for all losses suffered as a result. In other words, if your plan managers mishandle your investments, they must pay you back out of their own pockets and return any money they made managing the funds.

One of the reasons that you know your company is doing everything it can to manage your 401(k) properly and keep your money safe is that those managing your company and the plan have their money in the 401(k) plan too!

Safe From Debt Collection

Your 401(k) money is always safe from debt collection. If you are very deeply in debt and must declare bankruptcy, most of your assets will be used to pay off your debts. Depending on the laws of your state, this may include your IRA. However, your 401(k) plan is protected from your creditors.

Also, if you have unpaid debts to individual companies, they may sue you in court for repayment. If you are sued, federal lawprotects 401(k) assets from any of the following pleas to the court:

- The removal of funds from your account, either by yourself or your plan administrator, to immediately pay your creditors
- The freezing of your 401(k) account until your debts are paid
- The earmarking of your assets to pay your debts when youremove your money years from now

If you are considering filing for bankruptcy, you should be careful before taking a distribution or loan from the 401(k) plan. Once the 401(k) money is withdrawn or receivd as a loan, you will no longer have the protection from creditors on those funds. Also, you will still have the loan outstanding and be required to repay the loan or, if you default on the loan, be subject to taxes and penalties.

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Government Watchdogs

Not only must your company and your 401(k) plan fiduciaries follow federal law, they must also do so under the supervision of the government. The United States Department of Labor makes sure that your 401(k) assets are properly managed. The United States Treasury Department, along with the Internal Revenue Service, are responsible for ensuring that your company designs your plan correctly and administers it fairly for all employees.

Your company is required to file a report called a Form 5500 with the government every year. Government agencies then review this report to make sure that your 401(k) plan is being properly managed. Government officials may also go to your company to evaluate the management of your 401(k) plan by conducting a special study called an audit. If your company or plan has breached its fiduciary obligations or committed a prohibited transaction, the government may fine the company and, more important to you, require that the company reimburse you for any losses you may have suffered.

The government and your employer do not guarantee investment returns. Rather, they protect plans and their participants by requiring that fiduciaries act responsibly and make plan benefits available on a nondiscriminatory basis.