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Ask the Experts: Financial FAQs (Summer 2018)

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Q: What happened to the Fiduciary Rule—and what will change now that it has gone away?

A: On March 15, the U.S. Court of Appeals for the Fifth Circuit vacated the Department of Labor’s (DOL) Fiduciary Rule. Ruling in *Chamber of Commerce of the United States of America v. DOL* (5th Cir. 2018), the court struck down a lower court decision, finding that the DOL exceeded its authority in issuing the regulation and its related exemptions. While there is some possibility that it will be resuscitated, it appears that the Fiduciary Rule is dead, and when it becomes official, it will be as if the rule never existed.

Regardless of its fate, the Fiduciary Rule has made a lasting impact on the financial services industry and the agencies that regulate it. One positive side effect is a higher level of consumer awareness around what a fiduciary is and why fiduciaries are beneficial.

In addition, the Securities and Exchange Commission (SEC) has proposed regulations to help fill the gap, and several state legislatures have taken up the mantle and are in various stages of lawmaking in the area of fiduciary standards. Though the SEC proposal is much less stringent than the DOL rule when it comes to investor protection, it does raise the bar by mandating a “best interest standard” of care along with increased and simplified disclosure.

While the rise and fall of the DOL’s Fiduciary Rule shifted the financial services industry toward greater transparency, the regulatory environment has been rolled back to 2016, along with important investor protections.

Put more bluntly, the problems the DOL sought to address still exist, so investors should take care when selecting a financial advisor and seek to understand the standard of care to which financial advisors are obligated when proposing their services and making recommendations.

As an independent registered investment advisor, CAPTRUST adheres to the “best interest standard” and other practices spelled out in The Investment Advisers Act of 1940. We supported the DOL’s Fiduciary Rule and expect to be supporters of new regulation that protects the interests of investors.

Q: Are some savings vehicles better than others? What is the most tax-efficient way to save for retirement?

A: The good news for retirement savers is that they have at their disposal an array of savings account types, each with its own contribution limit and tax treatment. Properly utilized, the right combination of these accounts allows a substantial amount of tax-favored retirement savings. The downside is that optimizing savings can seem complex and confusing, which may cause some savers to tune out or fail to take full advantage of what’s available to them.

The table below includes the retirement savings accounts available to most people and the order in which we suggest they use them to maximize their tax-favored savings. Of course, everyone’s circumstances are different, so please consult your financial and tax advisors to make sure your strategy is appropriate for your unique financial situation.

| | ACCOUNT | TAX TREATMENT | ANNUAL LIMIT |
|----|---|---|--|
| 1 | 401(k) plan up to employer match—traditional or Roth | Traditional 401(k) contributions are pre-tax; withdrawals are taxed as ordinary income. Roth contributions are after-tax; qualified withdrawals are tax-free. | Up to employer match percentage (\$18,500 plus catch-up over age 50) |
| 2 | Health Savings Account (HSA) | Contributions and qualified withdrawals are tax-free. | \$3,450 individual/\$6,900 family \$1,000 catch-up over age 55 |
| 3 | Roth IRA | Contributions are after-tax; qualified withdrawals are tax-free. | \$5,500, plus \$1,000 catch-up over age 50 |
| 4 | Additional 401(k) with no match | Traditional 401(k) contributions are pre-tax; withdrawals are taxed as ordinary income. Roth contributions are after-tax; qualified withdrawals are tax-free. | \$18,500, plus \$6,000 catch-up over age 50 |
| 5 | Traditional IRA | Contributions are tax deductible, subject to income phaseouts. Withdrawals are taxed as ordinary income. | \$5,500, plus \$1,000 catch-up over age 50 |
| 6 | Roth conversion with after-tax 401(k) | After-tax contribution, which can be converted to Roth. | \$55,000 combined with all other 401(k) contributions, excluding catch-ups |
| 7 | Roth conversion with non-deductible IRA | After-tax contribution, which can be converted to Roth. | \$5,500, plus \$1,000 catch-up over age 50 |
| 8 | 529 plan | After-tax contributions to fund future education expenses. Qualified withdrawals are tax-free. | \$15,000 or \$75,000 five-year front load per contributor |
| 9 | Taxable account | After-tax contributions. Growth is taxed at long-term capital gains rates. | Not applicable |
| 10 | Other savings vehicle options may include low-cost annuities, permanent life insurance, or a nonqualified deferred compensation plan. | | |

Have questions? Need help? Call the CAPTRUST Advice Desk at 800.967.9948, or [schedule an appointment](#) with a retirement counselor today.