



441 G St. N.W.
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Congressional Committees

401(k) Retirement Plan Tax Notices: Federal Actions Can Help Participants Understand Their Distribution Options

The Internal Revenue Code (IRC) requires 401(k) plans to provide a “402(f) Special Tax Notice” (often referred to as the “Rollover Notice” or “402(f) Notice”) to participants who have separated from their employer and requested a distribution from their plan. The 402(f) Notice communicates information about the tax consequences of the distribution options for their plan savings.¹ It is the only disclosure that plans are required to provide to participants who are eligible for a rollover that is specifically about the options for their plan savings and its related tax consequences. To help plans and participants understand and meet their obligations under the IRC, the Department of the Treasury (Treasury) and the Internal Revenue Service (IRS) issue regulations and guidance, including rulings and notices.

In March 2013, we reported on challenges that workers faced in rolling over their retirement savings from one plan to another after job changes. We noted that the 402(f) Notice requirements do not require plans to inform participants that they can leave their savings in their old plan.² In January 2024, we found that understanding distribution options remains a challenge for participants, even with Treasury’s required notice.³ Indecision about what to do with retirement savings as workers change jobs or uncertainty about how to meet necessary requirements in managing accounts can affect retirement security over the course of a worker’s career.

The SECURE 2.0 Act of 2022 includes a provision for GAO to analyze the 402(f) Notices provided by retirement plan administrators to plan participants.⁴ Specifically, this report examines (1) the effectiveness of 402(f) Notices in helping participants understand their distribution options and associated tax consequences, and (2) federal actions that could facilitate better understanding by recipients of their different distribution options and corresponding tax consequences, including spousal rights.

¹ 26 U.S.C. § 402(f)(1). The 402(f) Notice explains the tax implications of the different distribution options available to separating employees. 26 C.F.R. § 1.402(f)-1. The latest IRS Model 402(f) Notice published in 2020 is posted at https://www.irs.gov/irb/2020-35_IRB#NOT-2020-62.

² GAO, *401(k) Plans: Labor and IRS Could Improve the Rollover Process for Participants*, GAO-13-30 (Washington, D.C.: Mar. 7, 2013).

³ GAO, *401(k) Plans: Additional Federal Actions Would Help Participants Track and Consolidate Their Retirement Savings*, GAO-24-103577 (Washington, D.C.: Jan. 18, 2024).

⁴ Pub. L. No. 117-328, div. T, § 336, 136 Stat. 4459, 5373. The SECURE 2.0 Act of 2022 was enacted as Division T of the Consolidated Appropriations Act, 2023.

The work conducted to address these objectives was performed under a previous engagement that resulted in our January 2024 report.⁵ For that report we: interviewed officials from the Department of Labor (DOL), Treasury, and the IRS; and reviewed agency documentation, including available guidance and federal regulations, related to the rollover process.

In addition, for the 2024 report, we surveyed 401(k) plan participants who completed a rollover of their savings to another 401(k) plan or who were eligible but did not complete a plan-to-plan rollover within the last 3 years (that is, from 2019 to 2022).⁶ The survey questions asked about participants' experience managing their 401(k) plan retirement savings after leaving their employer, including information they received from their plans about their options, their understanding of their options, and their decision-making with respect to what options they took. We analyzed 1,043 participants' survey responses, which are generalizable to the population of 401(k) participants in the United States who were eligible to complete a rollover within the last 3 years. See enclosure I for additional details about the scope and methodology, enclosure II for a technical discussion of the survey methodology used in our 2024 report, and enclosure III for a reproduction of the applicable survey instrument questions.

Our work was performed in accordance with generally accepted government auditing standards.

Background

401(k) Plan Distribution Options

When 401(k) plan participants leave their job, they generally have four options for their plan savings (see enclosure IV, fig. 1):

- (1) leave their savings in their former employer's plan,
- (2) consolidate their savings by rolling it over into a new plan sponsored by their new employer (i.e., a plan-to-plan rollover),
- (3) roll over their savings into an Individual Retirement Account (IRA), or
- (4) take a lump-sum distribution of their plan savings (i.e., a "cash-out"⁷).⁸

⁵ GAO-24-103577.

⁶ Our survey was administered by an independent research institution to a national panel of 401(k) participants from February 2, 2022, to February 24, 2022, and from June 30, 2022, to July 28, 2022, to collect additional data. The survey asked eligibility questions that identified individuals who, within the last 3 years, had either: completed a plan-to-plan rollover or were eligible to complete a plan-to-plan rollover but, instead, took a different option with their plan savings. All estimates from the survey are subject to sampling error. In terms of the margin of error at the 95 percent confidence level, the sampling error for estimates in this report is plus or minus 10 percentage points or lower, unless otherwise noted.

⁷ We use the term "cash out" to refer to a lump-sum distribution made to an employee at job separation that is not subsequently rolled over into a qualified employer plan or IRA. For more information on the effects of cash outs see GAO, *Retirement Savings: Additional Data and Analysis Could Provide Insight into Early Withdrawals*, GAO-19-179. (Washington, D.C.: Mar. 28, 2019).

⁸ In some circumstances plan participants may choose a combination of options, such as leaving a portion of assets in the plan and taking a partial distribution. Not all plans accept rollovers from other plans. However, some participants have more limited options; specifically, the Internal Revenue Code allows former employers to force

The first three options allow 401(k) participants to preserve the tax-deferred status of their plan savings. In contrast, for the fourth option—a cash-out—the IRC imposes an additional 10 percent tax (in addition to ordinary income tax) on the taxable portion of the distribution from the savings that are cashed out from qualified retirement plans, such as 401(k) plans, if the participant is younger than 59½. The additional 10 percent tax is intended to discourage plan participants from taking plan savings for uses other than retirement. It also helps ensure that the favorable tax treatment for plan savings is limited to providing participants with retirement income. In addition, employers must withhold 20 percent of the cashed-out savings to cover anticipated income tax.⁹

402(f) Notice

Section 402(f) of the IRC requires 401(k) plan administrators to provide participants with information about their options for managing their 401(k) plan savings before making an eligible rollover distribution.¹⁰ Treasury regulations require plans to provide participants with a general description of the material features of the optional forms of benefit available under the plan before the participant consent requirement is satisfied. However, the notifications that 401(k) plans must send to participants prior to an eligible rollover distribution under the IRC are not required to specifically inform participants about the option to leave their savings in their old plan. (See enclosure IV, fig. 2).

Plans are required to provide the 402(f) Notice to a participant a minimum of 30 days before they make a distribution—such as for a rollover or cash-out—which typically occurs after the participant makes a request.¹¹ However, Treasury regulations allow separated participants to waive their right to the minimum 30-day 402(f) Notice review period if they provide a written acknowledgement to the plan.¹²

The 402(f) Notice may provide spouses of 401(k) participants with information and protections under special circumstances. For example, a surviving spouse who receives a distribution from a plan is provided with a 402(f) Notice. The IRS Model 402(f) Notice includes a dedicated section for surviving spouses that explains their rights and their options in handling the deceased participant's savings. For example, a surviving spouse that rolls over the participant's

participants with vested balances of \$7,000 or less out of their 401(k) plans, and absent participant instruction, transfer their savings into an IRA. We refer to this as a “forced transfer” in this report. 26 U.S.C. § 401(a)(31)(B)(ii).

⁹ 26 U.S.C. § 3405(c)(1)(B).

¹⁰ Plan administrators are required to provide a written explanation to plan participants of the tax consequences of their distribution options. 26 U.S.C. § 402(f)(1). A participant must generally be informed in writing of the right, if any, to defer receipt of the distribution if they have \$7,000 or more in their account. 26 C.F.R. § 1.411(a)-11(c)(3).

¹¹ A reasonable period of time allowed for a plan administrator to provide the 402(f) Notice to a participant is no less than 30 days (subject to waiver) and no more than 180 days before the date on which the distribution is made. 26 C.F.R. § 1.402(f)-1, Q/A-2. Unless a separated participant has an account balance of \$7,000 or less and has their savings forced transferred out of the plan, the participant needs to request a distribution for the date of distribution to be determined.

¹² If a plan administrator provides a plan participant with a summary of the section 402(f) notice and the participant requests a distribution after receiving the summary, the participant can waive the timing requirement for a distribution, that limits distributions from occurring no less than 30 days before the date of a distribution. 26 C.F.R. § 1.402(f)-1, Q/A-2, Q/A-5.

savings to an IRA and treats it as an inherited IRA is not subject to the 10 percent additional tax on early distributions. Additionally, spouses and former spouses of 401(k) participants that receive a payment from a plan under a qualified domestic relations order (QDRO) also have their rights and options disclosed in the 402(f) Notice.¹³ The IRS Model 402(f) Notice explains that spouses and former spouses receiving a payment under a QDRO generally have the same options and tax treatments as the 401(k) participant. However, payments made to spouses under a QDRO are not subject to the 10 percent additional tax on early distributions.

Federal Regulatory Oversight of 401(k) Plan Distributions

Treasury, IRS, and DOL share responsibility for rules relating to plan-to-plan rollovers:

- Treasury’s Office of Tax Policy develops tax policy and reviews regulations to administer the IRC related to the tax consequences of 401(k) distributions, including plan-to-plan rollovers.
- IRS enforces provisions in the IRC, including those related to 401(k) plan distributions.
- The Employee Retirement Income Security Act of 1974 (ERISA) tasks DOL with broad responsibilities to protect the interests of plan participants and their beneficiaries. To carry out its responsibilities, DOL’s Employee Benefits Security Administration (EBSA) issues regulations and guidance, and educates plan participants, beneficiaries, and plan sponsors. The ERISA Advisory Council (EAC) is an advisory body appointed by the Secretary of Labor whose duties are to advise the Secretary and submit recommendations regarding the Secretary’s functions under ERISA.¹⁴

GAO’s Survey Results Show Participant Understanding of Their Distribution Options Remains a Challenge Despite Treasury’s Required 402(f) Notices

In our 2024 report,¹⁵ our generalizable survey showed that eligible 401(k) participants face challenges when making decisions about their distribution options. Specifically, participants eligible to complete a plan-to-plan rollover had challenges understanding all of their distribution options, including the option to leave their savings in the plan. Additionally, our survey found that eligible 401(k) participants also do not fully understand the tax consequences of their distribution options.

¹³ A QDRO, which may be used in the event of divorce, is a court-issued judgment, decree, or order that relates to the provision of child support, alimony payments, or marital property rights to certain individuals, including a spouse or former spouse, and is made pursuant to state domestic relations law. GAO, *Retirement Security: DOL Could Better Inform Divorcing Parties About Dividing Savings*, GAO-20-541 (Washington, D.C.: July 31, 2020).

¹⁴ Typically, DOL’s EBSA will suggest issues for the EAC to consider. For each issue, the EAC defines the issue to investigate, takes testimony from witnesses, and submits a report of findings and recommendations to DOL. The EAC is comprised of a diverse cross-section of stakeholders in the retirement industry, representing plans, employers, and the general public.

¹⁵ GAO-24-103577.

Distribution Options

According to our survey, many participants eligible for a plan-to-plan rollover were not knowledgeable about their distribution options after leaving an employer. For example, an estimated 82 percent of eligible 401(k) participants were not aware of all four distribution options. We asked participants about their understanding of their distribution options when they made a decision about their plan savings. Specifically, 79 percent of eligible participants who did not complete a rollover and 85 percent of eligible participants who completed a rollover were not aware of all four options (see enclosure IV, fig. 3).

Additionally, over half of eligible participants were not aware that they are generally able to leave retirement savings (greater than \$5,000 at the time of our survey) in their plan after they leave their job.¹⁶ When asked about their understanding of what they could do with their plan savings after they left their job, about 53 percent of all eligible 401(k) participants did not know they had the option to leave their savings in their old plans. Specifically, 47 percent of eligible participants who did not complete a rollover and 59 percent of eligible participants who completed a rollover did not know about this option (see enclosure IV, fig. 4). We previously noted in our 2013 work¹⁷ on rollover challenges that the 402(f) Notice requirements do not require plans to inform participants that they can leave their savings in their old plan.¹⁸ This lack of awareness can hinder participants from making informed decisions about their plan savings.

Without information about their ability to leave their retirement savings in their old plan, participants may continue to base retirement account decisions solely on the three other options discussed in the 402(f) Notice—rolling over to another plan, rolling over to an IRA, and taking a cash-out distribution. Participants can benefit from knowing about the fourth option of leaving their savings in their old plan, especially if a participant does not have another plan to which they can roll over their savings. As we reported in March 2013, savings left in an old 401(k) will:

- maintain the savings' tax-deferred status, which would not occur if the savings were cashed out of the account;
- maintain the ERISA fiduciary standard of care for plan fiduciaries to work in the sole interest of participants, which would not be the standard of care for savings transferred to an IRA¹⁹; and

¹⁶ 26 C.F.R. § 1.411(a)-11(c)(3). Written consent of the participant is generally required before the commencement of the distribution of any portion of an accrued benefit if the present value of the non-forfeitable total accrued benefit is greater than the cash-out limit of \$7,000. Beginning after December 31, 2023, the threshold for account balances subject to forced transfers increased from \$5,000 or less to \$7,000 or less.

¹⁷ GAO-13-30.

¹⁸ The "402(f) special tax notice" explains the tax implications of the different distribution options, including explanation of the rollover rules, the special tax treatment for cash-outs (also called lump-sum distributions), and the mandatory withholding of 20 percent of distributions (including those that result in an indirect rollover). 26 U.S.C. § 402(f)(1).

¹⁹ Investment advisers and broker-dealers, which may service IRAs, are subject to certain standards of practice. Investment advisors have a fiduciary obligation under the Investment Advisers Act of 1940, which includes duties of loyalty and care and to serve the best interests of its clients. Broker-dealers have obligations under the anti-fraud provisions of the federal securities laws and Regulation Best Interest and are required to deal fairly with their customers to meet a suitability standard when rendering investment recommendations.

- likely result in lower administration and investment fees than in a retail IRA, even if an IRA may offer a broader selection of investment options.²⁰

Tax Consequences of Distribution Options

We also found that 401(k) participants do not fully understand the tax consequences of their distribution options, even though plans are required to outline them in the 402(f) Notice before participants receive a distribution. We estimated that about 40 percent of all eligible 401(k) participants did not understand the tax consequences of their distribution options. Specifically, we asked whether participants understood that (1) the tax-deferred status of their savings is maintained if they leave their savings in the plan, roll over to another plan, or roll over to an IRA, and (2) cash-outs are subject to a 20 percent tax withholding and an additional 10 percent tax for early distribution for those under age 59 ½. We estimated that 39 percent of eligible participants who did not complete a rollover and 40 percent of eligible participants who did complete a rollover did not understand both of these key tax consequences (see enclosure IV, fig. 5).

Further, only about 38 percent of eligible 401(k) participants indicated that they understood the tax implications applicable to indirect rollovers. Specifically, we asked whether participants understood that “if [they] cash-out their plan savings and then decide to rollover their account balance to another plan, [they] must add additional funds to make up for federal taxes that were withheld and deposit the savings into the new plan within 60 days to avoid taxes and potential penalties.”

Timing and Content of 402(f) Notice

Our survey also found that of participants who received “unsolicited written information” (used as a proxy for the 402(f) Notice) from their old plan after leaving their jobs, about one-third received it before they made a decision about their 401(k) savings, but about 15 percent received it after they made a decision (see enclosure IV, fig. 6). Although a waiver can be beneficial to participants who understand their distribution options and the associated tax consequences, many separated participants have already made a decision about their plan savings when they make a distribution request. As a result, the likelihood that participants who do not understand the entirety of their distribution options and associated tax consequences will choose to delay the fulfillment of their own request by at least 30 days (by not signing a waiver of the mandated review period), in order to read and consider the contents of the 402(f) Notice, may be low. Participants who receive the 402(f) Notice and waive their right to the minimum 30-day review period, enabling them to receive their distribution immediately, could effectively negate the value of the information in the Notice.

Many industry experts previously told us for our March 2013 report that 401(k) participants could use clearer and more concise information about the tax consequences of each of their distribution options because the 402(f) Notice is too complex for most people to understand.²¹ The 402(f) Notice is an important document for participants because it provides critical information about distribution options and tax consequences. Without an adequate understanding of each distribution option and associated tax consequences, participants (1) cannot fully evaluate the advantages and disadvantages of each distribution option, (2) cannot

²⁰ GAO-13-30.

²¹ GAO-13-30.

make fully informed decisions that support their retirement security, and (3) risk unplanned tax consequences for their savings. For example, participants who leave their jobs and choose to cash out 401(k) plan savings may not know that the option will result in income taxes, possibly an additional early withdrawal tax, and the lost opportunity for tax deferred growth of their savings. Similarly, participants who want to maintain the tax-deferred status of their 401(k) savings may benefit from understanding that they can do so by leaving their savings in the plan or rolling them over to another plan or IRA. For participants who want to roll over their 401(k) savings to another plan, an incorrect understanding of the differing tax implications between a direct and indirect rollover can be costly.

GAO's January 2024 Recommendations to Federal Agencies Can Mitigate the Challenges with 402(f) Notices

Treasury

In January 2024, we made recommendations to Treasury to help the agency mitigate the challenges 401(k) participants face regarding 402(f) Notices, as revealed by our survey.²² Specifically, we recommended the Secretary of the Treasury take action, such as amending the 402(f) Notice requirements and Model Notice, or providing clarifying information to the Notice, to

1. include clear information about participants' option to leave their savings in their old plan,
2. provide clearer and more concise information on each of the four distribution options and their associated tax consequences, and
3. address the timing requirements for plans to provide the 402(f) Notice, to ensure the Notice is provided to participants when they leave their job and become eligible to take a distribution.

According to the Treasury regulations, section 402(f) Notices must be designed to be easily understood and to explain required information.²³ By implementing our recommendations and providing clarifying information or taking other actions it deems appropriate, such as updating the Model 402(f) Notice to include language about deferring a distribution, Treasury can help ensure participants receive comprehensive information on all four distribution options. Treasury can also take further actions to ensure participants receive clearer and more concise information about each distribution option and its tax consequences and to ensure the information is provided to participants when they leave their job and become eligible to take a distribution. Such action by Treasury would allow plan participants to fully consider the implications of their distribution options before they make a decision about their plan savings.

²² GAO-24-103577.

²³ The section 402(f) notice must be designed to be easily understood and must explain the following: the rules under which the distributee may elect the distribution to be paid in the form of a direct rollover to an eligible retirement plan; the rules that require the withholding of tax on the distribution if it is not paid in a direct rollover; the rules under which the distributee may defer tax on the distribution if it is contributed in a rollover to an eligible retirement plan within 60 days of the distribution; and if applicable, certain special rules regarding the taxation of the distribution as described in section 402(d) (averaging with respect to lump sum distributions) and section 402(e) (other rules including treatment of net unrealized appreciation). 26 C.F.R. § 1.402(f)(1), Q/A-1.

Enhancing the information presented about distribution options and associated tax consequences in the 402(f) Notice could also assist spouses or former spouses of 401(k) participants. For example, spouses or former spouses of participants who receive a payment from a plan under a QDRO generally have the same options and the same tax treatment as a 401(k) participant. Since surviving spouses of 401(k) participants and former spouses under certain circumstances also receive the 402(f) Notice, improvements made by Treasury to the content of the 402(f) Notice would likely benefit them as well.

Treasury officials told us for our January 2024 report that they periodically update the 402(f) requirements and the Model 402(f) Notice to address issues such as legal changes or to provide additional clarity, in coordination with DOL (which has oversight responsibilities for retirement plans under ERISA). However, they also told us that it can be challenging to make the 402(f) Notice easier to understand because much of the content in the 402(f) Notice requirements is mandated based on statute or rules. In its technical comments provided to GAO for our January 2024 report, Treasury stated that an update to the 402(f) Notice is currently in process and will reflect legislation and guidance issued since the last update.

Addressing the part of our recommendation about changing the timing requirements for when plans are to provide the 402(f) Notice, Treasury stated in response to our January 2024 report findings that there is no statutory authority to require a notice to a participant upon separation from service.²⁴ Indeed in 2013, we reported that federal regulations do not ensure that plans provide a written 402(f) Notice to separated participants in a timely manner that is useful to inform participants' distribution decisions. However, our 2024 recommendation states that Treasury should take action to address the timing issue, and can seek any venue it deems appropriate. For example, Treasury could deem it appropriate to seek statutory authority from Congress to address the timing issue. Alternatively, as we reported in January 2024, Congress can choose to provide Treasury with statutory authority on its own. Without some action, Treasury will miss the opportunity to ensure that participants are receiving easily understandable information about their distribution options at the point in time when a participant is facing an important decision about retirement savings.

DOL

We also made a recommendation in our January 2024 report to the Secretary of Labor to ensure that plan participants, at the time they leave their job and become eligible to take a retirement plan distribution, receive easily understandable information about all four distribution options and the associated tax consequences.²⁵ Specific actions we stated that DOL could take include implementing the ERISA Advisory Council's (EAC) 2015 recommendation, exploring a joint-agency effort with Treasury to update the 402(f) Notice, or other steps that would help plans develop clear and concise communications to inform participants. In its written response to our January 2024 recommendation, DOL stated that it would be appropriate to consider GAO's and EAC's recommendations as part of their joint-agency efforts with Treasury, IRS, and the Pension Benefit Guaranty Corporation, to review the effectiveness of their reporting and disclosure requirements.

²⁴ The timing for providing the notice is 30 to 180 days before the date on which the distribution is made.

²⁵ GAO-24-103577.

We also recommended in January 2024 that DOL take steps to help participants better understand all four distribution options prior to the EAC's 2015 recommendation to DOL.²⁶ Our January 2024 report survey results show that the EAC's 2015 recommendation for DOL—to explore using sample materials the EAC drafted that explained participants' four options for their plan savings—remains valid.

DOL can ensure that participants receive clear and straightforward information about their distribution options. Following our 2013 report, DOL consulted with the EAC in 2014 and 2015 on issues related to the complexity of disclosures.²⁷ The EAC reported in 2014 that the 402(f) Notice is “lengthy and complicated” and recommended the development of model, plain language communications. In 2015, the EAC reported that it heard testimony stating that the 402(f) Notice is “long and confusing” and may contradict the objective of lifetime plan participation by encouraging some participants to transfer assets out of the employer-sponsored plan environment. The EAC recommended in 2015 that DOL explore a joint-agency effort with Treasury to update the 402(f) Notice.²⁸

As of January 2024, DOL had not taken action in response to EAC's 2015 recommendation to explore a joint-agency effort with Treasury to update the 402(f) Notice. Prior to the publication of our January 2024 report, when we asked DOL officials about the EAC recommendations made in the 2014 and 2015 reports, they said that they are not obligated to implement the recommendations EAC offers. DOL officials stated that while the EAC may provide specifics on how to implement their recommendation, DOL may decide not to implement the recommendations because it may not have the capacity or may decide the issues could be handled in ways other than the EAC recommendations. For example, in its technical comments, DOL stated pursuant to a mandate in the SECURE 2.0 Act of 2022, they have a joint notice and comment initiative with Treasury, IRS, and the Pension Benefit Guaranty Corporation where the agencies are reviewing the effectiveness of all disclosures to participants, including the 402(f) Notice, and potential improvements that can be made to the disclosures. As we concluded in our January 2024 report, by taking action to either implement our recommendation to provide guidance or to implement EAC's recommendations, DOL could help ensure participants understand all their distribution options and make more informed decisions about their retirement savings after separating from their employer.

Agency Comments

We provided a draft of this report to DOL, Treasury, and IRS for review and comment. DOL, Treasury, and IRS provided technical comments, which we incorporated, as appropriate. DOL provided written comments, which are reproduced in Enclosure V.

²⁶ GAO-13-30. We closed this prior recommendation as implemented because DOL consulted the EAC in 2015 on ways the council could help the department in this area. However, in our January 2024 report, we stated we believed that DOL can take further action because plan sponsors continue to not be required to provide participants with a concise written summary explaining their four distribution options when they separate from an employer.

²⁷ GAO-13-30. ERISA Advisory Council: Issues and Considerations Surrounding Facilitating Lifetime Plan Participation. November 2014. ERISA Advisory Council: Model Notices and Plan Sponsor Education on Lifetime Plan Participation. November 2015. ERISA Advisory Council: Participant Plan Transfers and Account Consolidation for the Advancement of Lifetime Plan Participation. November 2016.

²⁸ ERISA Advisory Council: Model Notices and Plan Sponsor Education on Lifetime Plan Participation. November 2015.

In its written response, DOL stated EBSA is engaged in projects that will enhance disclosures to separating retirement plan participants about options for their retirement savings. They stated that as required under the SECURE 2.0 Act of 2022, EBSA will issue regulations and create a model notice for plans, which will provide an advance notice to plan participants and help them understand their distribution options and potential consequences. They also said that EBSA is engaged in joint agency efforts reviewing all disclosures provided to participant and beneficiaries in retirement plans, including the 402(f) Notice and that they will consider the ERISA Advisory Council's recommendations to enhance participant-level disclosures. DOL also stated that EBSA currently provides webcasts, presentations, and publication materials in plain English to educate plan participants.

We agree that the required efforts for DOL under the SECURE 2.0 Act of 2022, including the creation of a model notice, can potentially lead to plans providing clear and concise communications to inform plan participants about their distribution options and tax consequences. We previously agreed in our January 2024 report that DOL's joint-agency efforts in reviewing retirement disclosures can lead to improvements in reporting and disclosure requirements for plans and participants across a range of retirement issues.

We are sending copies of this report to the appropriate congressional committees, the Secretary of Labor, the Secretary of the Treasury, the Commissioner of the Internal Revenue Service, and other interested parties. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-7215 or nguyentt@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are Tamara Cross (Assistant Director), Daniel Setlow (Analyst in Charge), and David Lin. Also contributing to this report were James Ashley, Andrew Bellis, Justin Gordinas, Abigail Loxton, Amanda Miller, Brenda Mittelbuscher, Jessica Orr, Rachel Stoiko, Curtia Taylor, Walter Vance, and Adam Wendel.



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Enclosures – 5

Enclosure I: Scope and Methodology

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Enclosure III: Reproduction of Select 401(k) Plan Participant Web Survey Questions

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Enclosure V: Comments from the Department of Labor

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The Honorable Ron Wyden
Chairman
The Honorable Mike Crapo
Ranking Member
Committee on Finance
United States Senate

The Honorable Bernard Sanders
Chair
The Honorable Bill Cassidy, M.D.
Ranking Member
Committee on Health, Education, Labor and Pensions
United States Senate

The Honorable Virginia Foxx
Chairwoman
The Honorable Robert C. "Bobby" Scott
Ranking Member
Committee on Education and the Workforce
House of Representatives

The Honorable Jason Smith
Chairman
The Honorable Richard Neal
Ranking Member
Committee on Ways and Means
House of Representatives

Enclosure I: Scope and Methodology

To examine 402(f) Notices' effectiveness in helping participants understand their distribution options and associated tax consequences, and any federal actions that could facilitate better understanding by recipients of their different distribution options and corresponding tax consequences, we relied on work conducted for our January 2024 report.²⁹ Specifically, we interviewed officials from the Department of Labor (DOL), Department of the Treasury (Treasury), and Internal Revenue Service (IRS). We reviewed agency documentation, including available guidance and regulations, related to the rollover process.

In addition, we surveyed 401(k) plan participants who completed a rollover of their tax-deferred 401(k) savings to another tax-deferred 401(k) plan, or who were eligible but did not complete such a plan-to-plan rollover within the last 3 years. The survey specifically excluded Roth 401(k) plans, 403(b) plans, and 457 plans. The survey questions asked about participants' experience managing their 401(k) plan retirement savings after leaving their employer, including information they received from their plans about their options, their understanding of their options, and their decision-making with respect to what options they took. For those who completed a plan-to-plan rollover, the survey questions asked participants about their experience and impression with various aspects of the rollover process. The survey results included information on participants' demographic and financial characteristics.

We analyzed survey responses for 1,043 participants (551 who completed a rollover and 492 who did not complete a rollover), which are generalizable to the population of 401(k) participants in the United States who were eligible to complete a rollover within the last 3 years. See enclosure III for a technical discussion of the survey methodology. See enclosure IV for a reproduction of selected questions from the survey instrument.

²⁹ GAO-24-103577.

Enclosure II: Technical Description of GAO’s Survey of 401(k) Participants

For our January 2024 report, we conducted a questionnaire survey of plan participants concerning their experience managing their tax-deferred 401(k) plan retirement savings after leaving their employer, including their receipt of information from their plans or employers about their options, their understanding of their options, their decision-making with respect to what options they took, and thoughts about what could have helped them with the process.³⁰ We designed the survey questions which were administered by IPSOS Public Affairs (IPSOS) in February 2022 and between June and July 2022 to a nationally-representative sample of 1,043 plan participants drawn from their pre-recruited KnowledgePanel web survey panel.

Questionnaire Design

The primary purpose of our survey was to determine what, if any, challenges 401(k) participants faced recently with respect to the plan-to-plan rollover process. To do so, we surveyed 401(k) plan participants who, within 3 years of the survey (2019 through 2022): (1) completed a rollover of their savings to another 401(k) plan, or (2) were eligible for but did not complete a plan-to-plan rollover. The survey asked participants about their tax-deferred 401(k) plan savings and specifically excluded Roth 401(k) plans, 403(b) plans, and 457 plans. The survey questions asked about participants’ experiences managing their 401(k) plan retirement savings after leaving their employer, including their receipt of information from their plans or employers about their options; understanding of their options, their decision-making with respect to what options they took; and thoughts about what could have helped them with the process.

The survey also asked participants hypothetical questions about approaches to help them track, manage, and consolidate their plan savings. For participants who completed a plan-to-plan rollover, the survey questions also asked about their experience and impression with various aspects of the rollover process. The survey results included information on participants’ demographic and financial characteristics.

We took several steps to develop the survey questions:

- To determine 401(k) participants’ eligibility to take the survey, we constructed an initial set of questions followed by a series of up to 90 multiple-choice questions. We differentiated the multiple-choice questions based on whether (1) respondents completed a recent plan-to-plan rollover, and (2) the specific circumstances of their experience with the process.
- To test and revise draft versions of the survey questions, we conducted two series of cognitive pretest interviews with 401(k) participants belonging to both subgroups—those who did and those who were eligible but did not recently complete a plan-to-plan rollover. The first series included pretesting the survey with 13 plan participants who were presented with and responded to questions during the interview and who were selected to generally reflect a range of experiences with the rollover process. The second series included pretesting the survey with 9 plan participants who completed a

³⁰ GAO-24-103577.

programmed survey instrument online and were immediately interviewed following the online survey. IPSOS recruited the 9 plan participants from their KnowledgePanel web survey panel. Pretest participants answered the questions in an unaided, realistic setting. GAO analysts asked follow-up questions to determine how participants interpreted the questions and arrived at their answers. Based on pretest results of successive versions of the questionnaire, we made changes to improve the questions' clarity and to reduce the survey's burden.

Sample Design

We designed the survey to make generalizable statements about a target population of non-institutionalized adults aged 18 and older who are 401(k) plan participants and were eligible to roll over their plan savings to another 401(k) plan after changing jobs in the past 3 years of our survey (2019 through 2022). We contracted with IPSOS Public Affairs to administer our questionnaire to a statistically generalizable sample that would be as representative of our target population as practicable. The survey was conducted on KnowledgePanel, a probability-based web panel designed to be representative of the United States.

IPSOS fielded the survey to a representative sample of 24,703 households from the KnowledgePanel and invited one adult from each household to participate in this survey. Each participant was asked to answer a series of screening questions designed to identify eligible participants. From the 14,913 participants who completed the screening questions, IPSOS obtained 1,043 qualified responses (551 who completed a rollover and 492 who did not complete a rollover) from eligible participants to the survey.³¹

Fieldwork

The panelists from the KnowledgePanel qualifying for and being drawn into our sample as described above were then invited to begin the survey. IPSOS began emailing survey invitations to the sample and collecting responses on February 2, 2022, to February 24, 2022, and from June 30, 2022, to July 28, 2022. IPSOS emailed multiple reminders to those sample members not yet responding during this fielding period. IPSOS provided a \$20 cash-equivalent incentive to all survey respondents who completed the survey. The questionnaire was offered in English and was accessible through the web mode of the KnowledgePanel platform.

To properly measure the extent of successful data collection from the sample, a response rate has to account for all sources of nonresponse at each stage of the panel recruitment, management, and survey administration process. Because the KnowledgePanel is a probability-based panel, all panelists have a known probability of selection. As a result, it is possible to calculate a cumulative response rate that considers all sources of nonresponse. The cumulative response rate of 3.8 percent for this study accounts for the outcomes of all the sample selections and data collection attempts made across these stages, by multiplying the rates of:

- average panel recruitment rate (10.6%)

³¹ The 1,043 qualified responses exclude 59 cases that were dropped for skipping 20 percent or more of the survey questions or completing the survey in less than one-quarter of the median survey duration for a given survey path.

- average household profile rate (59.2%), and
- study-specific completion rate (60%).

We analyzed survey responses for 1,043 participants (551 who completed a rollover and 492 who did not complete a rollover). Weighted estimates derived from these responses are generalizable to the population of 401(k) participants in the U.S. who were eligible to complete a rollover within the last 3 years of our survey (2019 through 2022).

Response Weighting

Because our sample was the cumulative result of systematic selections – across the stages of KnowledgePanel creation, the creation of our sampling frame, and the selection of our sample itself – each member of our sample had a known, nonzero probability of being selected from the entire study population into our survey. Once each of our survey responses was multiplied by a final weight that reflected those probabilities and that made up for sample members who did not respond, the aggregate of these weighted responses became our estimates of the percentages and totals that would be found in the entire study population.

The final survey weights were derived by first computing a design weight for KnowledgePanel panelists to reflect their selection probabilities. The design weights for respondents – prior to any screening – were then weighted to the following geodemographic distributions of the 18 and over US population using an iterative proportional fitting (raking) procedure. The needed benchmarks were obtained from the 2021 March Supplement of the Current Population Survey (CPS).

- Gender (Male, Female) by Age (18-34, 35-44, 45-59, 60+)
- Race-Ethnicity (White/Non-Hispanic, Black/Non-Hispanic, Other/Non-Hispanic, Hispanic, 2+ Races/Non-Hispanic)
- Census Region (Northeast, Midwest, South, West) by Metropolitan Status (Metro, Non-Metro)
- Gender (Male, Female) by Education (High School or less, Some College, Bachelor or higher)
- Household Income (under \$25K, \$25K-\$49,999, \$50K-\$74,999, \$75K-\$99,999, \$100K-\$149,999, \$150K and over)

The resulting weights were then trimmed and scaled to sum to the 18 and over US population size. Next, qualified respondents were separated into benchmarks created for those that completed a rollover and those that did not complete a rollover. These were then raked to the following weighted geodemographic distributions.

- Gender (Male, Female) by Age (18-34, 35-44, 45-59, 60+) by 401K Roll Over (Yes, No)
- Race-Ethnicity (White/Non-Hispanic, Black/Non-Hispanic, Other or 2+ Races/Non-Hispanic, Hispanic) by 401K Roll Over (Yes, No)
- Census Region (Northeast, Midwest, South, West) by 401K Roll Over (Yes, No)

- Metropolitan Status (Metro, Non-Metro) by 401K Roll Over (Yes, No)
- Gender (Male, Female) by Education (High School or less, Some College, Bachelor or higher) by 401K Roll Over (Yes, No)
- Household Income (under \$50K, \$50K-\$74,999, \$75K-\$99,999, \$100K-\$149,999, \$150K and over) by 401K Roll Over (Yes, No)

Finally, the resulting weights were trimmed and scaled to sum to the corresponding population size.

Survey exclusions, quality, and error

Sampling error is present in our estimates because our probability-based sample is only one of a large number of samples that we might have drawn. Because each sample could have provided different estimates, we express our confidence in the precision of our particular sample's results as a 95 percent confidence interval (e.g., plus or minus 7 percentage points, also referred to as a "margin of error") around an estimate. This is the interval that would contain the actual population value for 95 percent of the samples we could have drawn. The width of confidence intervals can vary for estimates made from different questions, because they are a function of not only the overall design of our sample (or the subsamples, for test questions), but also of the number of answers received to a question, and the distribution, or variability, of those answers.

Confidence intervals, or margins of error, for estimates from questions asked of all 1,043 respondents are no larger than plus or minus 3.8 percentage points. For estimates derived from the subset of respondents who either completed a rollover (551 respondents) or did not (492 respondents), the confidence intervals are no larger than plus or minus 5.4 percentage points. Estimates derived from smaller subsets of respondents (such as for follow-up questions based on specific responses) may have margins of error greater than 3.8 or 5.4 percentage points. All estimates in this report have a 95 percent margin of error of plus or minus 10 percentage points or lower, unless otherwise noted. Caution should be taken when comparing estimates (for example, of the answers of different demographic subgroups to a question) in the presence of sampling error. Apparent differences between point estimates that are within the confidence intervals, or margins of error, of those estimates may not represent actual differences in the target population.

Nonresponse error can occur when a survey fails to collect any information from an eligible member of the sample (unit nonresponse), or when respondents do not provide a usable answer to an individual question (item nonresponse). In our survey, the main risk of nonresponse is the potential for nonresponse bias—to the extent that those who did not answer would have answered differently from those who did, our estimates will depart from the true values for the study population as a whole.

In the weighting process described above, adjustments were incorporated to compensate for the effects of nonresponse occurring in different stages of our survey, from KnowledgePanel creation through fieldwork for our specific survey. In addition, raking adjustments of weights was done to make the demographic characteristics of our set of survey respondents more closely align with those of the study population, under the assumption that the answers to survey questions like ours are generally associated with common demographic characteristics. To the extent this assumption is true, increasing or decreasing the weights of responses with demographic characteristics that are under- or over-represented, respectively, may mitigate bias

from nonresponse. Given the weighted cumulative response rate of 3.8 percent, however, we cannot rule out the possibility of nonresponse error in our estimates.

Enclosure III: Reproduction of Select 401(k) Plan Participant Web Survey Questions

- This survey asks about your experience managing your 401(k) plan retirement savings after leaving your employer that provided the benefit. A 401(k) plan allows you and your employer to make tax-deferred contributions to an account to help you save for retirement.
- This survey will ask you questions about your experience with 401(k) plan rollovers even if you have never completed a rollover of your savings.
- This survey refers to IRAs, which are Individual Retirement Accounts provided by financial institutions that can also allow individuals to save for retirement on a tax-deferred basis, but are not related to an individual's employment.
- For the purpose of this survey, a "401(k) plan" does not include Roth 401(k) plans, 403(b) plans, 457 plans, or IRAs.
- This survey is not a test of your knowledge or familiarity with 401(k) plan rollovers. Please respond to the following questions to the best of your ability.
- This survey may take 25 to 30 minutes to complete.

Q1

Within the last 3 years, did you ever leave a job (for any reason) with an employer where you had accumulated savings in a 401(k) plan they provided? *Please answer no if you only changed positions while working for the same employer or if you had no savings in your plan. For the purpose of this survey, a "401(k) plan" does not include Roth 401(k) plans, 403(b) plans, 457 plans, or IRAs.*

1. Yes
2. No
3. I don't know or remember

Q2

Within the last 3 years, have you completed a rollover of your retirement savings from a 401(k) plan provided by your old employer to a 401(k) plan provided by a different employer? *For the purpose of this survey, a "401(k) plan" does not include Roth 401(k) plans, 403(b) plans, 457 plans, or IRAs. You completed a rollover if savings from your old 401(k) plan were deposited into a new 401(k) plan.*

1. Yes
2. No
3. I don't know or don't remember

Did Not Do Rollover

Based on your responses, you were eligible to roll over your 401(k) plan savings to another 401(k) plan in the last 3 years but did not do so.

Your response to the following questions will help us understand your experience and reasons for not completing a plan-to-plan rollover and for doing something else instead. The questions will ask about:

- (1) your overall 401(k) plan rollover experience,*
- (2) your interactions with your old 401(k) plan or employer, and*
- (3) your interactions with your new 401(k) plan or employer.*

Throughout this survey, we refer to the 401(k) plan from which you could have withdrawn your savings after you left your job as your "old 401(k) plan," and the 401(k) plan to which you could have rolled over your savings as the "new 401(k) plan." We refer to this type of rollover as a "plan-to-plan" rollover, which is different from an "IRA-to-plan" or "plan-to-IRA" rollover.

If you left more than one job with employers where you had 401(k) plan savings in the last 3 years, please respond to the following questions based on your most recent experience.

A7

*At the time you made a decision, what was your understanding of what you could do with your old 401(k) plan savings after you left your job with your old company? *Your understanding of your options may not be the same as what is allowed. Please select the option(s) that best reflects your understanding when you made a decision.**

- a. I could cash out some or all of my plan savings (and do what I choose)
- b. I could roll over some or all of my plan savings to an IRA
- c. I could roll over some or all of my plan savings to another 401(k) plan
- d. I may be able to leave my savings in my old 401(k) plan
- e. I could roll over some or all of my savings to an annuity
- f. I don't know or remember

A27

Did your old 401(k) plan or employer provide any unsolicited written information that explained what you can do with your plan savings and their tax consequences around the time or after you left your job? “*Unsolicited written information*” in this question refers to information they provided to you without you asking for it regarding options for your plan savings and their tax consequences. This does not refer to regular mailing of your account statements. Please select the option that best reflects the information you received, regardless of whether you fully read or understood the information.

1. Yes, I periodically received this information while I was working for my old employer
2. Yes, I received this information at or around the time my employer became aware that I would be leaving my job
3. Yes, I received this information at or around the time I left my job with my old employer
4. Yes, I received this information after I had started working at my new job
5. No, I never received this type of information
6. I don't know or remember

A27_followup

When did you receive the unsolicited written information explaining what you can do with your plan savings and the tax consequences?

1. I received it before I decided what to do with my plan savings
2. I received it at or around the time I decided what to do with my plan savings
3. I received it after I had decided what to do with my plan savings
4. I don't know or remember

A33

Based on the unsolicited written information from your old 401(k) plan or employer, what was your understanding of the tax consequences of what you could do with your plan savings after you left your job?

	Yes	No	Don't know or remember
--	-----	----	------------------------

a. If I roll over my plan savings to another 401(k) plan, an IRA, or an annuity, I can avoid paying taxes until I take a withdrawal	1	2	3
b. If I cash out any or all of my plan savings, I must pay taxes and potentially also early withdrawal penalties	1	2	3
c. If I cash out my plan savings and then decide to roll over my entire account balance to another 401(k) plan, an IRA, or an annuity, I must add additional funds to make up for federal taxes that were withheld and deposit the savings into the new plan within 60 days to avoid taxes and potential penalties	1	2	3
d. If I leave my savings in my old 401(k) plan, I can avoid paying taxes until I take a withdrawal	1	2	3
e. Other: [Text box, PIN]	1	2	3

Did Do Rollover

Based on your responses, you completed a rollover of your 401(k) plan savings to another 401(k) plan in the last 3 years.

Your responses to the following questions will help us understand your reasons for and experiences with a plan-to-plan rollover. The questions will ask about:

- (1) your overall 401(k) plan rollover experience,
- (2) your interactions with your old 401(k) plan or employer, and
- (3) your interactions with your new 401(k) plan or employer.

Throughout this survey, we refer to the 401(k) plan from which you could have withdrawn your savings after you left your job as your “old 401(k) plan,” and the 401(k) plan to which you could have rolled over your savings as the “new 401(k) plan.” We refer to this type of rollover as a “plan-to-plan” rollover, which is different from an “IRA-to-plan” or “plan-to-IRA” rollover.

If you have completed more than one plan-to-plan rollover in the last 3 years, please respond to the following questions based on your most recent experience.

B6

At the time you decided you were going to roll over your retirement savings from your old to your new 401(k) plan, what was your understanding of what you could do with your retirement savings after you left your job with your old employer? *Your understanding of your options may not be the same as what is allowed. Please select the option(s) that best reflects your understanding when you made a decision.*

- a. I could cash out some or all of my plan savings (and do what I choose)
- b. I could roll over some or all of my plan savings to an IRA

- c. I could roll over some or all of my plan savings to another 401(k) plan
- d. I may be able to leave my savings in my old 401(k) plan
- e. I could roll over some or all of my plan savings to an annuity
- f. I don't know or remember

B19

Did your old 401(k) plan or employer provide any unsolicited written information that explained what you can do with your plan savings and the tax consequences around the time or after you left your job? *“Unsolicited written information” in this question refers to information they provided to you without you asking for it regarding options for your plan savings and their tax consequences. This does not refer to regular mailing of your account statements. Please select the option that best reflects the information you received, regardless of whether you fully read or understood the information.*

- 1. Yes, I periodically received this information while I was working for my old employer
- 2. Yes, I received this information at or around the time my employer became aware that I would be leaving my job
- 3. Yes, I received this information at or around the time I left my job with my old employer
- 4. Yes, I received this information after I had started working at my new job
- 5. No, I never received this type of information
- 6. I don't know or remember

B19_followup

When did you receive the unsolicited written information explaining what you can do with your plan savings and the tax consequences?

- 1. I received it before I decided what to do with my plan savings
- 2. I received it at or around the time I decided what to do with my plan savings
- 3. I received it after I had decided what to do with my plan savings
- 4. I don't know or remember

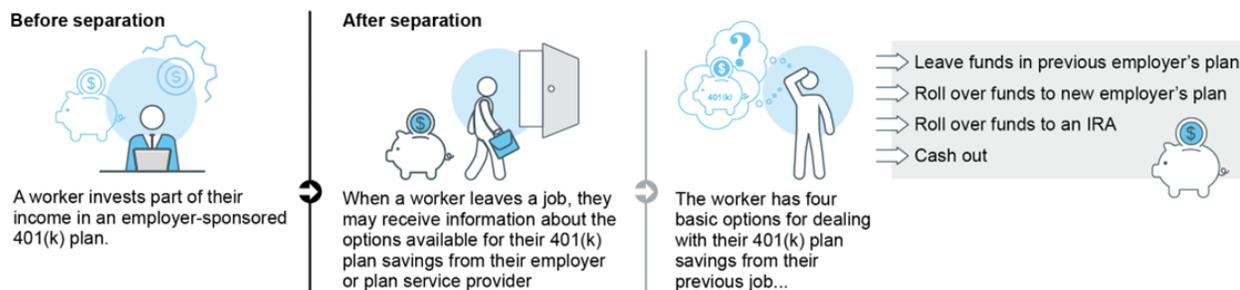
B25

Based on the unsolicited written information from your old 401(k) plan or employer, what was your understanding of the tax consequences of what you can do with your plan savings after you left your job?

	Yes	No	Don't know or remember
a. If I roll over my plan savings to another 401(k) plan, an IRA, or an annuity, I can avoid paying taxes until I take a withdrawal	1	2	3
b. If I cash out any or all of my plan savings, I must pay taxes and potentially also early withdrawal penalties	1	2	3
c. If I cash out my plan savings and then decide to roll over my entire account balance to another 401(k) plan, an IRA, or an annuity, I must add additional funds to make up for federal taxes that were withheld and deposit the savings into the new plan within 60 days to avoid taxes and potential penalties	1	2	3
d. If I leave my savings in my old 401(k) plan, I can avoid paying taxes until I take a withdrawal	1	2	3
e. Other:	1	2	3

Enclosure IV: Graphics/Figures

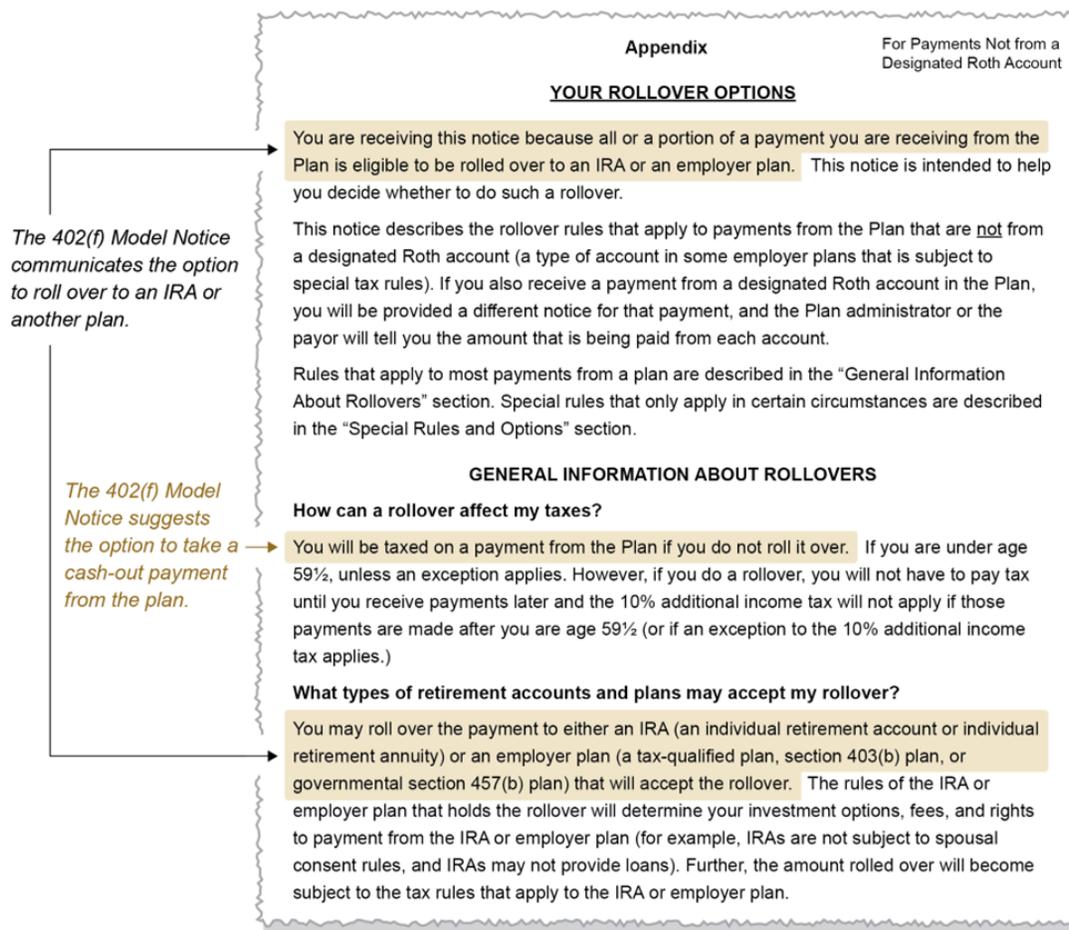
Figure 1: 401(k) Plan Participants Generally Have Four Options for Their Plan Savings After They Leave Their Jobs



Source: GAO analysis of plan savings distribution rules and rollover process. GAO (icons). | GAO-24-107167

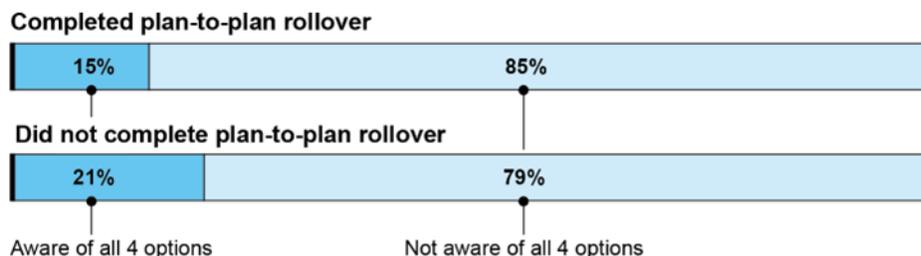
Note: Plans are not always required to permit separated participants to leave funds in the plan once they separate from employment if the balance is less than \$7,000. Plans are also not required to accept rollovers. Participants must check with the new plan's administrator to determine if the plan permits rollovers into the plan. In some cases, participants may be offered the option to annuitize their 401(k) plan savings at annuity purchase rates offered through the plan if they are retiring. However, after such a purchase, participants typically are no longer plan participants, and their annuity benefit is the responsibility of the insurance company from which the annuity is purchased. The first three options allow 401(k) participants to preserve the tax-deferred status of their plan savings. In contrast, for the fourth option—a cash-out—the Internal Revenue Code imposes an additional 10 percent tax (in addition to ordinary income tax) on the taxable portion of the distribution from the savings that are cashed out from qualified retirement plans, such as 401(k) plans, if the participant is younger than 59½. In addition, employers must withhold 20 percent of the cashed-out savings to cover anticipated income tax.

Figure 2: The Internal Revenue Service Model 402(f) Notice Includes Information about Rollovers and Cash-Outs



Source: IRS 402(f) Model Notice. | GAO-24-107167

Figure 3: GAO Estimates of 401(k) Plan Participants' Awareness of All Four of Their Distribution Options When They Made a Decision about Their Plan Savings



Source: GAO survey of 401(k) participants. | GAO-24-107167

Note: All percentage estimates from GAO's nationally-representative survey of 401(k) participants who were eligible to complete a plan-to-plan rollover in the prior 3 years are subject to sampling error. For these estimates, the margin of error at the 95 percent confidence level is plus or minus 10 percentage points or lower.

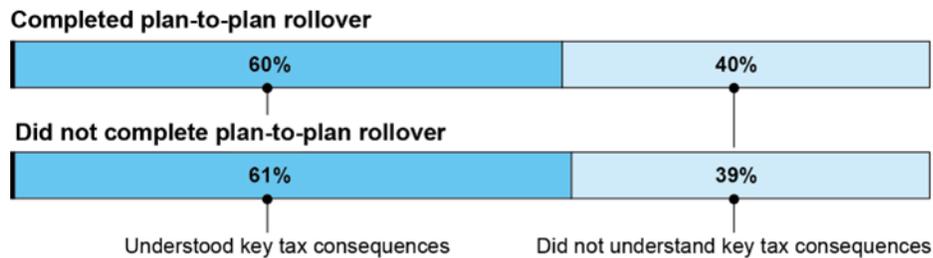
Figure 4: GAO Estimates of Whether 401(k) Plan Participants Who Did and Did Not Complete a Plan-to-Plan Rollover Were Aware of the Option to Leave Their Savings in Their Old Plan



Source: GAO survey of 401(k) participants. | GAO-24-107167

Note: All percentage estimates from GAO’s nationally representative survey of 401(k) participants who were eligible to complete a plan-to-plan rollover in the prior 3 years are subject to sampling error. For these estimates, the margin of error at the 95 percent confidence level is plus or minus 10 percentage points or lower.

Figure 5: GAO Estimates of 401(k) Plan Participants’ Understanding of the Key Tax Consequences of Their Distribution Options



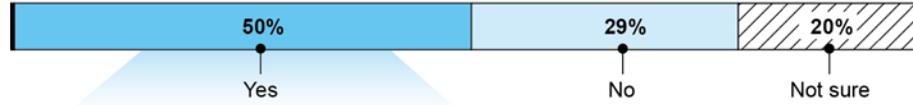
Source: GAO survey of 401(k) participants. | GAO-24-107167

Note: All percentage estimates from GAO’s nationally representative survey of 401(k) participants who were eligible to complete a plan-to-plan rollover in the prior 3 years are subject to sampling error. For these estimates, the margin of error at the 95 percent confidence level is plus or minus 10 percentage points or lower.

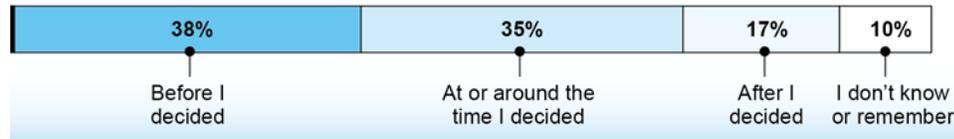
Figure 6: GAO Estimates of Whether and When Separated 401(k) Plan Participants Received “Unsolicited Written Information” about the Tax Consequences of Their Distribution Options

Completed plan-to-plan rollover

Received “unsolicited written notice”?



Received “unsolicited written notice”...

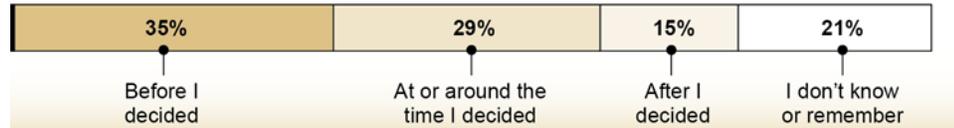


Did not complete plan-to-plan rollover

Received “unsolicited written notice”?



Received “unsolicited written notice”...



Source: GAO survey of 401(k) participants. | GAO-24-107167

Note: In reference to the 402(f) Notice requirements, survey respondents were asked whether they received “unsolicited written information” about the tax consequences of their distribution options from their old plan at or around the time they left their jobs. All percentage estimates from GAO’s nationally representative survey of 401(k) participants who were eligible to complete a plan-to-plan rollover in the prior 3 years are subject to sampling error. For these estimates, the margin of error at the 95 percent confidence level is plus or minus 10 percentage points or lower. Due to rounding, percentages do not always add up to 100 percent.

Enclosure V: Comments from the Department of Labor

U.S. Department of Labor

Assistant Secretary for
Employee Benefits Security Administration
Washington, D.C. 20210



May 13, 2024

Tranchau (Kris) Nguyen
Director
Education, Workforce, and Income Security Issues
United States Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Ms. Nguyen:

Thank you for the opportunity to review the Government Accountability Office (GAO) draft report entitled “Retirement Plan 402(f) Notices: Federal Actions Can Help Participants Understand Their Distribution Options” (GAO-24-107167). Although your draft report does not include any new recommendations for the Secretary of Labor, you reiterate the following two prior recommendations:

- The Secretary of Labor should ensure that plan participants, at the time they leave their job and become eligible to take a retirement plan distribution, receive easily-understandable information about all four distribution options and the associated tax consequences. *See* GAO-24-103577.
- DOL should take steps to help participants better understand all four distribution options. *See* GAO 13-30.

Response: The Department of Labor’s (DOL) Employee Benefits Security Administration (EBSA) currently is engaged in projects that will enhance disclosures to separating retirement plan participants about options for their retirement savings. Based on a directive in section 342 of the SECURE 2.0 Act of 2022,¹ EBSA will issue regulations, including a model notice for plans, requiring advance notice to participants and beneficiaries who are permitted to take lump sum distributions from their plans. The notice will contain specified information to help participants compare other distribution options and the potential consequences of taking a lump sum. These notices also will be furnished by plans to the DOL (and to the Pension Benefit Guaranty Corporation (PBGC)) and be made publicly available.

EBSA also is working jointly with the Department of the Treasury, the Internal Revenue Service, and the PBGC on review of *all* disclosures to participant and beneficiaries in retirement plans pursuant to either the Employee Retirement Income Security Act (ERISA) or the Internal Revenue Code (Code), which includes the Code section 402(f) notice that is the subject of your report. The agencies published a Request for Information in January 2024 to obtain broad

¹ Division T of the Consolidated Appropriations Act, 2023, Public Law 117–328, 136 Stat. 4459 (2022) (SECURE 2.0).

feedback from a diverse set of stakeholders about improving the effectiveness of such disclosures. In this context, we intend to examine (and anticipate that stakeholders will provide input on) potential improvements to the Code and ERISA disclosures relating to participants' options at separation from employment. At the time of this letter, the public comment period for this Request is still active.

This examination will include consideration of the ERISA Advisory Council's recommendations to enhance participant-level disclosures, including information about retirement plan distribution options. Following this review, the agencies are required to submit a report to Congress with recommendations for potential improvements to required notices, including, if determined to be advisable in response to stakeholder views and the agencies' own assessment, the Code 402(f) notice.

Finally, in addition to its regulatory work, EBSA's Office of Outreach, Education, and Assistance provides annual webcasts specifically targeted to workers nearing retirement and presentations on "Taking the Mystery Out of Retirement Planning," which include discussion of retirement plan distribution options. Publication materials on these topics, including "Savings Fitness: A Guide to Your Money and Your Financial Future," are written in plain English, are made available on EBSA's website and in print.

I thank you again for the opportunity to review your draft report and recommendations. Please do not hesitate to contact us if you have questions concerning this response or if we can be of further assistance.

Sincerely,

**LISA
GOMEZ**

Lisa M. Gomez
Assistant Secretary

 Digitally signed by
LISA GOMEZ
Date: 2024.05.13
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