

31st Annual
Tax Symposium

**A CHANGING
RETIREMENT PLAN
ENVIRONMENT:
THINGS I NEVER
THOUGHT I'D SEE**

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A CHANGING RETIREMENT PLAN ENVIRONMENT

IN THE BEGINNING...

- There was no ERISA
- Many retirement plans were funded exclusively with insurance policies and annuities
- There were no prototype or volume submitter plan documents
- There were no voluntary correction programs
- The results of plan audits actually led to a plan's disqualification

RETROACTIVE ADOPTION OF NEW QUALIFIED RETIREMENT PLANS



THE SECURE ACT

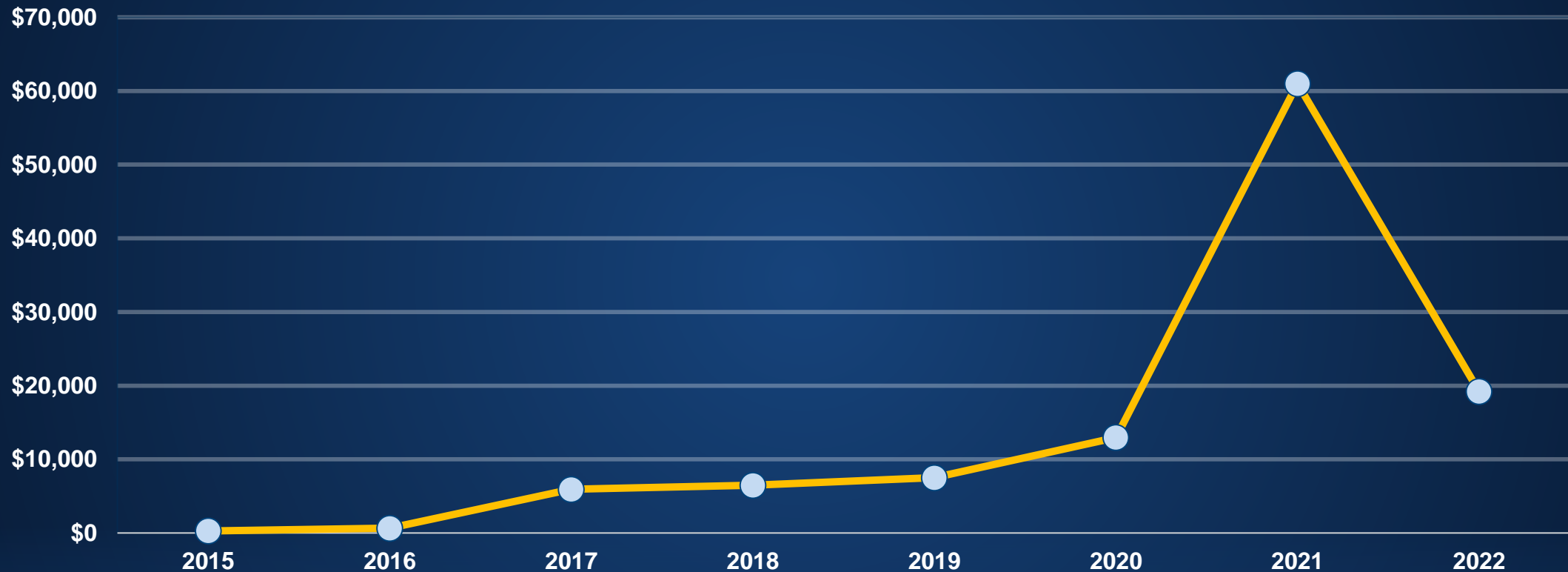
RETROACTIVE ADOPTION OF NEW QUALIFIED RETIREMENT PLANS

- Alternatives available on December 31st or worse January 3rd to adopt a new plan
- Under the SECURE Act, retroactive adoption is permitted
- The new deadlines for adoption

RETROACTIVE ADOPTION OF NEW QUALIFIED RETIREMENT PLANS

- What can't be done retroactively?
 - Modifying plan terms such as allocating contributions, eligibility, or vesting
 - Freezing or reducing plan accruals

CRYPTO AS AN INVESTMENT OPTION FOR PLAN PARTICIPANTS



BITCOIN PRICE HISTORY

CRYPTO AS AN INVESTMENT OPTION FOR PLAN PARTICIPANTS

- What's available today?
- What did the DOL's guidance in CAR No. 2022-01 say?
 - Investment in crypto will be governed by ERISA's prudence standard
 - Crypto investments are speculative and volatile

CRYPTO AS AN INVESTMENT OPTION FOR PLAN PARTICIPANTS

- Participants may not make “informed” decisions
- Crypto provides unique and unusual recordkeeping and custodial concerns
- The regulatory environment is constantly changing over time
- The DOL will be conducting investigative programs to monitor these investments and protect participants

CRYPTO AS AN INVESTMENT OPTION FOR PLAN PARTICIPANTS

- The DOL's punchline: It has “serious concerns about the prudence of a fiduciary's decision to allow 401(k) participants to invest in cryptocurrencies”
- ForUsAll, Inc. vs. U.S. Department of Labor
 - Attempt to stop the DOL's implementation of the CAR
 - Current Status
- Proposed legislation

NEW PRE-EXAMINATION COMPLIANCE PROGRAM



YOU ARE GETTING
AUDITED

NEW PRE-EXAMINATION COMPLIANCE PROGRAM

- Current compliance programs
 - The IRS Fix-It Guides
 - The Employee Plans Compliance Resolution System (“EPCRS”) has been characterized as the most successful voluntary compliance program offered by the IRS
 - The Audit Closing Agreement Program (“Audit CAP”)

NEW PRE-EXAMINATION COMPLIANCE PROGRAM

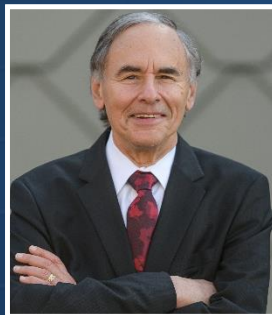
- How will it work?
 - Plans will be advised of an upcoming audit
 - They will be given 90 days to correct plan failures and notify the IRS of the correction
 - The plan sponsor will enter into a closing agreement and pay a sanction comparable to those paid under EPCRS

NEW PRE-EXAMINATION COMPLIANCE PROGRAM

- Has the IRS “deputized” the entire retirement practitioner community?
- What impact will this have on EPCRS?

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THANK YOU



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