August 15th, 2017

Musings by Mitchell – August 2017

As the summer continues to dwindle away, I hope everyone is enjoying it and taking advantage of the last weeks of sun, family and fun.

If you are a MJTa client, you may see some account activity as portfolio reviews and rebalancing take place to take advantage of the recent market increase. If you are not a client or haven't looked at your outside assets lately, now is a great time to review and potentially rebalance your accounts.

You have heard a lot from me regarding the new DOL fiduciary rule and how it is going to affect the financial service industry. As implementation of the rule begins, you will continue to hear and receive more information about it from your advisor or financial institutions. As a reminder, the DOL Fiduciary Rule will require all "advisors" to act in a fiduciary capacity, putting clients' best interest first, for those that invest in qualified retirement plans such as 401(k)s, IRAs, and the like. Recently, the State of Nevada took an extra step and imposed the fiduciary rule on all "advisors" and all accounts, not just limiting it to retirement accounts. Nevada's rule, effective July 1st, 2017, requires the advisor to disclose any "profit or commission" they receive and make a "diligent inquiry" about a client's financial condition and goals. We applaud Nevada for enforcing a rule that is right, protective, allows clients to prosper, rather than just company representatives. It allows and demands full transparency for account holders. We hope that other states will follow suit to protect the best interest of the account holders and move past the politics of the rule. At MJTa, our position has not and will not change. We support and encourage the expansion of the fiduciary standard to include all accounts and all "advisors" no matter what company they work for or represent. How do you know if your advisor is a fiduciary? Ask to see their Form ADV. The form is divided into two sections. Part 1 provides information about past disciplinary actions, if any, against the adviser. Part 2 summarizes the adviser's background, investment strategies, services, and fees. If they heehaw around or don't have one, interview the next advisor until you find one that does.

Another part of the recent ruling is called a Best Interest Contract Exemption (BICE). This is a contract that allows a registered representative to continue to work with and sell commission orientated products. A BICE contract may not be in your best interest. Please be sure you fully understand the ramifications of any contract before it is signed. If your advisor asks you to sign one, ask him why and make sure you fully understand the difference between a fiduciary and suitability standard of care as they are very different.

Some financial institutions and broker dealers are taking the liberty to presume that all of the account holders at their firm want to be under the BICE contract and are automatically enrolling all accounts under the BICE contract. How do they do in these days of "full disclosure"? They are sending letters to all account holders under a non-consent or negative consent letter. The non-consent or negative consent letter informs the account holder that they are automatically enrolled into the BICE contract. To disapprove and un-enroll, you would have to return the letter back to the firm stating clearly you DO NOT want your accounts under a BICE contract. Why would firms do this? They say it's for compliance; however, At MJTa & Associates as a fiduciary advisor, we believe it's more of a revenue capturing and retention strategy.

Please be sure you always review the ADV of any advisor and fully understand any letters, contracts, or agreements before signing them. If an advisor has no ADV and/or asks you to sign a BICE contract, I would make the suggestions to ask that advisor why and probably make the recommendation to move to an advisor that has an ADV and/or won't make you sign a BICE contract. If you receive a non-consent or negative consent letter from your advisor or his/her firm, please take the time to through review and read the letter very carefully and understand what it means to do nothing.

As we move into the second half of 2017, this is a great time to review your financial plan and financial accounts. If you haven't spoken with your advisor or simply want a second opinion, please don't hesitate to give us a call at 952-938-3476 or reach us at mitch@mjtassociates.com.

Sincerely,

Mitchell J. Thompson, CFP®
Navigating Clients to Financial Success™