



Big Thinking. Personal Focus.



IRS Examinations of Qualified Retirement Plans

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Internal Revenue Service Audit Triggers

- Random selection
- Participant complaints
- Form 5500 reporting

What Can Plan Sponsors do to Avoid an IRS Examination?

- Utilize available correction programs when errors are identified
 - Self-Correction Program (SCP)
 - Voluntary Correction Program (VCP)
 - Voluntary Fiduciary Correction program (VFCP)
- Maintain a regular, effective communication strategy with participants
- Develop internal controls to maintain the plan

Examples of Effective Internal Controls

- Annual review of plan document to ensure it is up to date with law changes and/or discretionary changes made during the year
- Periodic review of plan operations - Does practice match documentation?

Operational Review - Areas of Focus

- Employee contribution elections consistent with payroll system
- Definition of compensation
- Contribution limits
- Eligibility and enrollment process
- Vesting calculation
- Marital status and spousal consent requirements

Operational Review- Areas of Focus

(continued)

- Required minimum distributions
- Communicate ownership changes for coverage purposes
- Ensure delivery of required notifications
- Participant loan payments

What to Expect if your Plan is Selected for Examination

- Initial data request: plan document, Form 5500, compliance testing reports, census data, organization's tax return; Forms w-2
 - Typically includes examination year and 2 preceding years
- Interview with auditor
 - Organization's business
 - Identify internal personnel tasked with plan administration
 - History of Plan
 - Related entities
 - Administrative process for enrollments, distributions, loans, payroll processing

What to Expect if your Plan is Selected for Examination (continued)

- On-site review- 2-4 days
 - Additional data requests
 - Possible expansion of examination years if issues are identified
- Process can take anywhere from a few months to multiple years!
- Resolution in the form of no action or identification of necessary corrections

What Should You Do if an Examination Notice is Received?

- Notify all service providers and legal counsel
- Communicate with the IRS agent to understand what is being requested
- Provide full and complete information (take advantage of extension if necessary)
- Designate a primary point of contact
- Prepare for a lengthy, thorough process

Case Study: Compensation

- Plan sponsor erroneously excluded bonus payments from compensation when processing 401(k) contributions. This discrepancy existed for the prior 15 plan years
- The IRS agent identified the discrepancy, resulting in a corrective contribution to affected participants in excess of \$500,000, plus penalties

Case Study: Plan Document Compliance

- Plan Document was not timely amended/restated in accordance with applicable regulations
- Penalty imposed as a result of examination in excess of \$30,000

Questions?

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