

HICKS NOTES

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By Tom Hicks, Attorney At Law

IRS and DOL ARE LOOKING AT 401(K) PLANS

At a recent conference, Monika Templeman, the IRS Director of Employee Plans Examinations, outlined the IRS's position on auditing plans for the 2013 year. She stressed that 401(k) plans will be the subject of most of their audits. The IRS sent out an online compliance check questionnaire to 1200 random 401(k) plan sponsors. 98% responded online. Those that didn't respond after repeated requests received a full scope audit through on-site visits to obtain the information requested.

The IRS will use the results of this questionnaire to update their online compliance tools and to determine areas for future audits. The problem areas found most often were *LOANS, TOP HEAVY PLANS and MULTIPLE PLANS*. The IRS will begin a summer program looking at loan issues in a small geographical area and decide whether to expand the program. The issues with loans are the increase in defaults and their improper documentation and administration. The IRS is also looking into plans that offer a Roth 401(k) feature for any errors that may occur due to the separate accounting requirement for Roth contributions.

Given this, what's a Plan Sponsor to do? Templeman stressed the importance of strong internal controls and fixing problems as they arise. She said 65% were aware of the IRS self correction programs, but only 41% knew of the "[401\(k\) Plan Fix-it Guide](#)" the IRS has published. Later this year, the IRS will be publishing "The Questionnaire Self-Audit Tool" with 401(k) rules to find, fix and avoid mistakes.

In addition, the DOL is looking at plan fees paid by both the employer and employees. The new Disclosure Regulations are now having an effect and the DOL wants to make sure plan trustees are performing their "duty to know" how much they are paying, to who, and whether the costs are reasonable.

Plan Sponsors must be proactive in running and fixing their plans. They need professionals to help them decipher fee disclosures and administration issues. If they get requests from the IRS or the DOL, Plan Sponsors should use experts to respond in a timely manner. We are here to help. These plans are fantastic savings vehicles, but they need good controls and oversight to stay in compliance. Need help? Visit our portal at www.nhhicks.com or contact us today.

Credit to Ray Hamond, ASPPA, May 29, 2013

VOLUNTARY COMPLIANCE, THERE IS HELP

The IRS and DOL want you to properly run your plan, but they also understand that we are all human and mistakes happen. Over the years, they have developed various programs for fixing errors depending on the type of mistake.

These programs are available to sponsors of 401(k), 403(b) and SEPs and are designed to correct specific problems:

- Failure to file Form 5500 under the DFVC program.
- Failure to adopt or amend plans under the VCP program.
- Correct the late deposits of 401(k) contributions and participant loan repayments under the VFPCP.
- Correct minor operational mistakes and defects under the SCP. The SCP covers failure to follow the terms of the plan, excluding eligible participants, not making contributions under the plan terms or loan failures.

For additional information, [click here](#) to view the services provided by our Compliance Division.

On December 31, 2012, the IRS released Revenue Procedure 2013-12 that made significant changes to these programs expanding and clarifying types and methods for correction. 403(b) plans are covered as well as clarification on fees, submission procedures, and other correction methods. [Click here](#) for this link.

There is an array of information available to help sponsors fulfill these duties. Again, we have added links to the resources and professionals on our (portal) website for not only operating the plans but complying with the new disclosure regulations. To view, [click here](#).

Finally, we are here to help. Call or email and we will find a solution to your problem. It is always better that Plan Sponsors run internal controls and find their problems BEFORE the IRS or DOL does. You have a lot more options at fixing them. Contact us today!

Call or email us with any questions or pension administration needs. [Click here](#) to email us.

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