



IRS Asking Employers To Answer 401(k) Questionnaire

HANDLE WITH CARE!

Insights

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The IRS announced last week that it will be looking at 1,200 401(k) plans by way of a plan compliance questionnaire. Letters from the IRS are expected to go out at the end of May. An employer receiving a letter will be assigned a personal identification number (PIN) to use when filling out the questionnaire online. The employer has 90 days to complete the form, but can get an extension. Answering the questionnaire is "technically voluntary," but an IRS spokesperson made it clear that they want the information.

While this is not "technically" an audit, the IRS is free to use the information to open an audit of your 401(k) plan. Just announced is the audit of 30 colleges and universities – the result of answers to a 2008 compliance questionnaire sent to 400 tax-exempt colleges and universities relating to executive pay and unrelated business income.

If you get this letter from the IRS, use it to help you identify any compliance issues you are asked to disclose. The task of completing the questionnaire should be handled by someone in your organization who is thoroughly knowledgeable about plan compliance. Almost all compliance errors can be corrected either through the IRS Voluntary Correction Program (VCP) or simply by putting the plan in the position it would have been in had the error not occurred, if the plan meets the requirements for correction without submission to the IRS program.

If you have receive such a questionnaire and feel we can be of assistance, please contact a member of our Benefits Practice Group.

This Legal Alert provides a summary of a specific new federal initiative. It is not intended to provide, and should not be construed as providing, advice about any particular fact situation.