



AUDIT ALERT

RETIREMENT PLAN SPONSORS FAILURE TO COMPLETE 401(k) QUESTIONNAIRE WILL RESULT IN AUDIT

March 2011

INSIGHTS

Nine months ago we advised that the IRS was mailing letters to a random group of 1,200 employers that sponsor 401(k) plans, asking them to complete an online 401(k) compliance check questionnaire within 90 days. ***The IRS recently announced that plan sponsors who did not respond to the questionnaire will be subjected to a "full-scope examination."***

The purpose of the questionnaire is to gather data to provide the IRS with a comprehensive review of 401(k) plans. The information gathered will be used by the IRS to identify areas where additional education, guidance and outreach are needed; and how the IRS can focus its enforcement efforts to address and/or avoid non-compliance with regulations and related guidance. The IRS will be posting an interim report this year with the final available in 2012.

The questionnaire is designed to serve dual purposes: First, to obtain a representative sampling of utilization, administrative and functional information, and second, as a general and representative compliance check. According to the IRS, a compliance check is not an audit or investigation but rather, the equivalent of general research in an effort to get a sense of how plans and regulations are functioning relative to expectations and objectives.

IMPLICATIONS

This action by the IRS makes it clear that the Service is raising the bar with respect to the requirement that qualified plans are administered in accordance with the regulations. By its actions and words, the IRS has demonstrated an intent to obtain a deeper understanding of where additional regulations, guidance and enforcement may be appropriate. ***Plan sponsors should anticipate closer examination by the Service of the way in which their plans are used and administered.*** The IRS, like other institutions, is driven to increase revenue. It drives revenue through enforcement. These efforts are being automated, intensified and will be more effective. Sloppiness (or worse) is increasingly likely to come with a price.

It is said that an ounce of prevention is worth a pound of cure. In this respect, plan sponsors can learn a great deal by reviewing the IRS questionnaire with specific respect to their plan. Chernoff Diamond provides such assistance.

ADDITIONAL INFORMATION

Chernoff Diamond provides comprehensive consulting and administrative services with respect to all forms of qualified and non-qualified retirement plans. For more information contact John Grace, Vice President, (516) 247-3426, or jgrace@chernoffdiamond.com.