2016 IRS Priorities & Top Audit Triggers

Employee Plans Examinations Update - Fall 2015

On December 8, 2015, the IRS Office of Employee Plans announced examination priorities for the 2016 fiscal year in the Employee Plans Examinations Update - Fall 2015 Webinar[1] led by Lisa Beard and Mikio Thomas of the IRS Office of Employee Plans.

Lisa Beard, Director of Examinations, began the webinar by explaining that the agency's budget is at its lowest level of funding since 2008. With a limited budget, the agency is considering remote examinations which will likely include the auditor beginning and closing the audit in person but conducting the rest of the examination remotely. Ms. Beard continued by summarizing the agency's priorities for examinations in fiscal year 2016 followed by Mikio Thomas, Senior Tax Analyst, who discussed the most common errors found in Form 5500 filings and other potential examination triggers.

Summary of Examination Priorities

The agency will continue its traditional casework which includes examining common errors found in Profit Sharing, Money Purchase, 401(k), and Defined Benefit plans, but will allocate higher grade resources to Plan types which display a historical pattern of increased non-compliance. Plan types receiving heightened focus include:

- Employee Plans Team Audit, referred to as EPTA large cases
    - These are Plans with more than 2,500 participants. They pose the greatest risk to the largest number of people. 60% of all Plan Participants and 70% of all Plan assets are in these large Plans.
- Multiemployer Plans
    - Failures commonly occur in Multiemployer Plans when benefits are calculated. Typical errors include misapplying benefit provisions or using faulty participant data.
- IRC 403(b) Plans
    - The most common issues in 403(b) Plans deal with the Universal Availability requirement which generally states that if one employee is permitted to make 403(b) elective deferrals, the employer must extend the option to all its employees.

      Learn more about the Universal Availability rules in our March 2015 403(b) Rescue.

The IRS Office of Employee Plans has begun specialized training in these areas and will continue to focus necessary resources to these programs to combat non-compliance and produce educational materials. Additionally, examinations will focus on Cash Balance Plans which account for nearly one-third of all Defined Benefit plans and are growing in popularity. With the recent statutory guidance on Cash Balance Plans released by the DOL, the IRS is attempting to understand common compliance issues occurring in these Plans.

[1] Employee Plans Examinations Update - Fall 2015. Internal Revenue Service. 08 December 2015.

Another item on the agenda for FY 2016 is to continue the Employee Plans Compliance Unit (EPCU) Compliance Checks. EPCU Compliance Checks are not examination notices but rather a compliance review. In the past 10 years, the IRS Office of Employee Plans has sent out over 35,000 Compliance Checks to Plan Sponsors. These checks cost the IRS less than conducting an examination and lessen the burden on taxpayers. Additionally, they allow Plan Sponsors to find and correct compliance failures using EPCRS before they trigger an audit. Responses to the EPCU Compliance Check letters allow the IRS to focus their efforts on constructing educational materials pertaining to the most common errors.

Common Errors found in Form 5500 Series Filings

Through EPCU compliance checks, the IRS has determined that mistakes found in Form 5500 Series filings are often simple entry errors that can be avoided. Common errors in Form 5500 filings include:

- Missing, incorrect, or contradictory information
- Beginning-of-year (BOY) assets not matching the previous year's end-of-year (EOY) assets
- Missing, inconsistent, or incomplete pension feature codes
- Returns showing zero participants

Besides entry errors, other Form 5500 responses, or the lack thereof, can trigger a potential audit. The biggest "red flags" are blanks, inconsistencies, and major anomalies from the previous year. A good rule of thumb is if the information needs more explanation than provided on the form or in attachments, it has the potential to trigger an audit. For example, a large number of separated employees that are not fully vested may trigger an audit because it could indicate a partial termination and compliance failure. Similarly, significant distributions on the attached income statements could be seen as a red flag because the IRS needs more information to determine the nature of the distributions. Mikio Thomas suggests adding additional pages to explain inconsistencies and anomalies when necessary to lessen the chance of triggering an examination.

Errors can be very costly to correct when found during an IRS audit and endanger the Plan's tax-preferred status. Knowing the IRS examination priorities for 2016, Plan Sponsors should review their Plan with focus on these areas, correct any current errors, and prevent future failures.

Have you recently received a notice that your Plan is under IRS examination? Check out our Retirement Rescue Series: Plan Audit Preparation. Part One clarifies Agency Jurisdiction for both the IRS and DOL followed by the steps to take for proper Planning & Preparation in Part Two.

For additional assistance, contact your Dedicated Plan Specialist at Ekon Benefits today.