Benefits Insights

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Employee Benefit Plan Audits: Common Mistakes

Employee benefit and retirement plans are required to comply with a number of complex laws and regulations, and failure to do so can result in significant penalties.

Employee Benefit Plan Audits

The Department of Labor (DOL) requires many employee benefit plans—generally those with 100 or more participants—to have an audit each year as part of their obligation to file an annual Form 5500 report. Inconsistent findings in this audit and report can raise red flags with the DOL and may prompt further examination.

In addition, the DOL conducts its own benefit plan audits, either randomly, due to an employee complaint or as a result of inconsistencies in the Form 5500 report. The DOL may levy fines for any inaccuracies or noncompliance issues.

Avoid Common Errors

There are countless infractions that an audit could uncover, some deliberate and some inadvertent. However, according to one CPA in a recent Employee Benefit News article, there are three mistakes that plan sponsors commonly make.

Incorrectly defining compensation. This error is one of the most common and can be tricky and/or costly to correct. It often occurs when a plan sponsor fails to read the entire plan document—or reads it once but never refers back.

There are many different types of compensation—base pay, overtime, vacation, bonuses, fringe benefits, etc.—made even more complicated by different definitions of compensation regarding employee deferrals, employer match contributions and profit-sharing contributions. If the proper definition of compensation isn't used when contributions are made, your plan is out of compliance and must be corrected.

Not following plan eligibility requirements. There are four ways that plan sponsors fail to properly follow their plan's eligibility requirements:

- Allowing participants that should be excluded per plan requirements.
- Allowing participants into the plan prior to meeting eligibility requirements.
- Not allowing eligible participants into the plan (or not allowing them in on a timely basis).
- Not following eligibility rules regarding elective deferrals and company match or profit-sharing contributions.

Plan sponsors should be familiar with their plan's eligibility requirements and periodically audit themselves to ensure provisions are being followed.

Late deposit of funds. Employee deferrals and loan payments must be deposited into the plan as soon as administratively possible, but no later than the 15th business day of the month following the month in which the participant contributions are received or withheld.

Many companies make the mistake of relying on the "15 days"—but that time period is not a safe harbor. Plans are required to make those deposits as soon as administratively possible, so do not assume you have a 15-day grace period—you can still be penalized if the DOL determines you could have made deposits in a more timely manner.

BBP Admin
BENEFITS ADMINISTRATION
COBRA, FMLA, FSA, HRA, HSA, TRANSIT
info@bbpadmin.com
www.bbpadmin.com
630 773 2337