

Long Awaited 401(k) Questionnaire Made Public by the IRS

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[George L. Whitfield](#)

For months, the IRS has been talking about issuing a comprehensive compliance questionnaire for sponsors of 401(k) plans. Now, information about that questionnaire has been mailed to 1,200 plan sponsors and was made public by the IRS on May 17, 2010. Here's what it means for your plan:

Purpose of the Questionnaire

The purpose of the questionnaire is broader than a simple review of the plans of the 1,200 selected recipients. It is also intended to provide the IRS with insight into the business sectors and plan features that are most likely to have 401(k) compliance failures. This will enable the IRS to target its future auditing efforts more precisely, both in terms of the types of employers that should be audited and the primary issues that should be addressed during an audit.

Extremely Detailed and Comprehensive

The questionnaire is being issued through the relatively new Employee Plans Compliance Unit (EPCU) of the Employee Plans Division of the IRS. The approach of the EPCU is to make soft contacts through correspondence. In this way, the IRS can contact many more plans than it could through the formal audit process.

The 401(k) compliance check questionnaire is long and complex. It includes a total of 69 questions covering the following topics:

- Demographics
- Participation
- Employer and Employee Contributions
- Top-Heavy and Nondiscrimination Testing
- Distributions and Plan Loans
- Other Plan Operations
- Automatic Contribution Arrangements
- Designated Roth Features
- IRS Voluntary Compliance and Correction Programs

Obviously, not all of the questions will apply to every plan.

A Tool for Self-Audit

Since the IRS letter, which directs recipients to the online questionnaire, is being sent to only 1,200 plan sponsors nationwide, we expect that few or perhaps even none of you will receive one. However, we strongly recommend that you review the questionnaire as a means of self-auditing your plan. Go through the questionnaire and consider how you would respond with respect to your plan and whether your answers suggest any possibility of noncompliance. We'll be happy to go over any of the questions or the entire questionnaire with you. You can review the questionnaire [here](#).

Careful consideration

If you receive a questionnaire, prepare your responses carefully. You might consider contacting a member of the Warner Norcross & Judd Employee Benefits and Executive Compensation group for assistance and review of your answers before you submit them electronically. Your responses may result in further contact or action by the IRS. Failure to respond or to provide complete information will result in further action or examination of the plan.