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Employee Benefits

IRS Launches Compliance Check Program for 401(k) Plans

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Earlier this year, the Internal Revenue Service (IRS) initiated a project to survey the level of 401(k) plan compliance with tax laws and regulations. As part of the project, the IRS sent a comprehensive questionnaire to a random sample of 1,200 plans across the country, selected from all plans that submitted a Form 5500 for the 2007 plan year.

Plans selected to complete the questionnaire were notified by letter mailed to the plan's sponsor. Once the plan receives the notice by mail, the plan must complete the questionnaire online within ninety (90) days of the date of notice. A sample notice can be found here: http://www.irs.gov/pub/irs-tege/letter1562v_epcu.pdf.

Although this questionnaire is only a "compliance check" and not a formal audit or investigation, the IRS has stated that failure to complete the questionnaire will result in further enforcement action. As of this summer, only 500 plans had returned the questionnaire. The 700 that have not returned the questionnaire may be subject to future action if they do not respond, including a full examination of the plan by the IRS.

The IRS intends to use the information gathered through the questionnaire for future enforcement and education efforts. The IRS recommends that plans that do not receive notification to complete the questionnaire should take advantage of the program by using the questionnaire as an opportunity to conduct a "self-audit" to be sure the plan complies with current laws and regulations.

Green & Seifter, Attorneys, PLLC can provide assistance with responding to the IRS compliance check or completing the questionnaire as a self-audit. Our Employee Benefits Practice Group is uniquely qualified to address your needs, answer your questions, and handle your employee benefits matter. For more information, please call us at **315.422.1391** or visit our website at **www.gslaw.com**

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