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JUNE 2010

EMPLOYEE BENEFITS PRACTICE

ALERT

IRS 401(k) PLAN QUESTIONNAIRES

By Theresa Borzelli

The week of May 17, the IRS began sending out questionnaires and letters to 1,200 plan sponsors asking them to complete the 401(k) Compliance Check Questionnaire. The questionnaires and letters are being sent by the IRS Employee Plans Compliance Unit (EPCU) and are intended to provide a comprehensive view of 401(k) plans to help the EPCU “maximize its resources for education, outreach, guidance and enforcement efforts while minimizing the burden to compliant plan sponsors.”

The questionnaire will cover topics such as:

- Demographics
- Participation
- Employer and employee contributions
- Top-heavy and nondiscrimination testing
- Distributions and plan loans
- Automatic contribution arrangements
- Designated Roth features
- IRS voluntary compliance and correction programs
- Plan administration

The same questionnaire will be provided to all selected plan sponsors, but some questions may only apply to plans with certain features. While the questionnaire letter is couched as a request, the IRS has made it clear that it expects a response. Failure to respond or provide complete information will result in further action or examination of the plan.

If you receive a questionnaire your Fox Rothschild benefits attorneys are ready to assist you.

For more information, please contact Theresa Borzelli at 973.994.7539 or tborzelli@foxrothschild.com or any member of Fox Rothschild’s [Employee Benefits & Compensation Planning Practice Group](#).



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