

Publications

IRS Launches 401(k) Compliance Checklist

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SERVICES

On May 17th, the IRS launched its 401(k) compliance check of 1,200 plans and impacted plans should have been notified by mail. As promised, a copy of the comprehensive survey – 45 pages with 69 questions – is available on the **IRS Employee Plans website**. The information collected reportedly will be used to influence future IRS efforts on guidance and outreach – as well as possible enforcement activity. The results are expected to be summarized in a report next year.

Plan sponsors were randomly selected based on 2007 plan year filings. The checklist covers three plan years (2006-2008) and requires extensive data to be gathered, much of which may not be readily available in existing administrative reports/Form 5500. It also requires a rather detailed review of the plan document and existing operational provisions, and addresses the key IRS requirements for 401(k) plans. The checklist even addresses such far-ranging subjects as the unrelated business income tax and FBAR filings for foreign investments. Importantly, the IRS cover letter clearly states that failure to respond or provide complete information may result in an IRS audit. In addition, several questions seek more information where an answer indicates non-compliance with the 401(k) plan rules, and others involve fine distinctions between plan features. Therefore, before submitting responses, we recommend review by legal counsel. The topics covered by the checklist, as well as action steps for all plan sponsors, are summarized in the attached memo below.

Our prior memo from April 6, 2010, “**IRS 401(k) Compliance Checklist Coming Soon,**” contains Q&As that help explain the scope of the program. If you have questions regarding the checklist, [please click here](#).