SSA/IRS

Reporter

Fall 2013

A Newsletter for Employers

Social Security Administration

Internal Revenue Service

Inside this Issue...

National Taxpayer Advocate Voices Concern About IRS Funding

National Taxpayer Advocate Nina E. Olson has released her mid-year report to Congress, expressing concern about IRS budget cuts, the IRS's unwillingness to issue full refunds to victims of tax return preparer fraud, and problems in procedures for assisting victims of tax-related identity theft.

In addition, Olson released a special report examining the IRS's use of questionable criteria to screen applicants for tax-exempt status, analyzing the sources of the problem and recommending steps to address them. "Today, the IRS is an institution in crisis," Olson wrote. "In my view, however, the real crisis is not the one generating headlines.

"The real crisis facing the IRS — and therefore taxpayers — is a radically transformed mission coupled with inadequate funding to accomplish that mission. As a consequence of this crisis, the IRS gives limited consideration to taxpayer rights or fundamental tax administration principles as it struggles to get its job done."

The report identifies the priority issues on which the Office of the Taxpayer Advocate will focus during the 2014 fiscal year, including the impact of budget reductions on taxpayer service, taxpayer rights, and revenue collection. Olson recommends that Congress provide sufficient funding for the IRS to meet taxpayer needs and to restore funds for employee training, which has been cut by 83 percent since fiscal year 2010. "The last thing a financially struggling taxpayer should have to face is an under-trained IRS collection apparatus," she wrote.

Olson also recommends that Congress enact a Taxpayer Bill of Rights. In her preface to the report, she details how the IRS's delays in processing applications for tax-exempt status violated eight of those ten rights.

Other key issues for the IRS include:

- Conducting education and outreach to taxpayers about their responsibilities under the Affordable Care Act; and
- Establishing less draconian and more reasonable "settlement initiatives" for millions of taxpayers who have legitimate reasons for overseas bank and financial accounts.

The Taxpayer Advocate Service (TAS) is your voice at the IRS. We help taxpayers whose problems with the IRS are causing financial difficulties; who have tried but haven't been able to resolve their problems with the IRS; and those who believe an IRS system or procedure isn't working as it should. If you believe you're eligible for TAS assistance, call us toll-free at 1–877–777–4778. For more information, go to www.irs.gov/advocate. IRS

APA Seminar/Webinar: Year-End Compliance and New Rules for 2014

The American Payroll Association's Preparing for Year-End and 2014 provides updates on the latest changes in legislation and regulations that affect the close of 2013 and the first payroll of 2014, including:

- Learning how to determine full-time employee status in preparing to meet health insurance reporting requirements
- Developing an effective and efficient year-end processing plan
- Learning how the prospect of more than 15 credit reduction states will impact Form 940 processing for 2013
- Understanding how fringe benefit taxation will impact W-2 and 941 reporting

Any of the one-day seminars can be attended at locations around the country. If you cannot get out of the office, all four segments of the class are offered as webinars online, both live and on demand. Other seminars/webinars are offered by the APA that have been customized for public sector payrolls, Canadian payrolls, and accounts payable professionals.

There is also a four-segment webinar covering advanced year-end issues, including complex fringe benefit taxation and reporting requirements.

For more information, visit APA's website and look under the Specialty Seminars or Webinar headings for the version of Preparing for Year-End and 2014 that suits your needs.

Editor's Note: The American Payroll Association's strong partnership with the IRS and SSA allows it to prepare its classes and publications, such as The Payroll Source®, with the most accurate and up-to-date information to educate employers. More APA information is available at www.americanpayroll.org. APA

Fast Track Settlement Program: A Nationwide, Time-Saving Option for Small Businesses Under Audit

The Internal Revenue Service is pleased to announce the nationwide rollout of a streamlined program designed to enable small businesses under audit to more quickly settle their differences with the IRS – the Fast Track Settlement program.

The Fast Track Settlement program is designed to help small businesses and self-employed individuals who are under examination by the Small Business/Self Employed division of the IRS.

FTS uses alternative dispute resolution techniques to help taxpayers save time and avoid a formal administrative appeal or lengthy litigation. As a result, audit issues can usually be resolved within 60 days, rather than months or years. Plus, taxpayers choosing this option lose none of their rights because they still have the right to appeal even if the FTS process is unsuccessful.

Jointly administered by SB/SE and the IRS Appeals office, FTS is designed to expedite case resolution. Under FTS, taxpayers with examination issues in dispute work directly with IRS representatives from SB/SE's Examination division and Appeals to resolve those issues. The Appeals representative typically serves as mediator.

The taxpayer or the IRS examination representative may initiate Fast Track for eligible cases, usually before a 30-day letter is issued. The goal is to complete cases within 60 days of acceptance of the application in Appeals.

For business owners wanting more information on taking advantage of the Fast Track Settlement program, please view the short FTS video and visit the Alternative Dispute Resolution Web page on IRS.gov.

IRS

Become a Tax Volunteer — Learn to Prepare Taxes and Help Others

Ever thought about volunteering to help people with their tax returns? With more than 13,000 volunteer tax help sites nationwide, you can touch lives as a volunteer. Volunteering in either the Volunteer Income Tax Assistance or Tax Counseling for the Elderly program can be rewarding while serving a vital role in your local community.

The VITA and TCE programs generally offer free tax help to people with low-to-moderate income who need assistance in preparing their own tax returns. This includes people with disabilities and those for whom English is a second language.

These programs are always looking for volunteers during the tax filing season. Volunteering can be exciting, educational and enjoyable. As a volunteer, you'll be assigned to work with a sponsoring organization in your area that will ensure you have everything you need. Free training is offered both online and in the classroom. You can also choose your volunteer position. Duties include being a greeter, a reviewer, a tax preparer and more. Tax sites are generally open days, nights and weekends and the hours are flexible and the time commitment is minimal.

In addition to traditional face-to-face tax preparation, the IRS is now offering a self-assistance service at many VITA and TCE locations. If individuals have a simple tax return and need a little help or do not have access to a computer, they can visit one of these participating tax preparation sites and you can be that IRS-certified volunteer to simply guide them through the process. In this capacity you are not actually preparing the return but just simply providing guidance through the process.

Taxpayers rely on volunteers for free quality tax return preparation and assistance each year. Last year, over 90,000 volunteers at thousands of sites nation-wide helped more than 3.3 million taxpayers. To learn more, check out http://www.irs.gov/uac/Newsroom/Six-Good-Reasons-Why-You-Should-Become-a-Tax-Volunteer or if you are ready to sign up now just complete and email the Form 14310, VITA/TCE Volunteer Sign Up to TaxVolunteer@irs.gov.

Make sure to include all your contact information along with the city and state where you want to volunteer. A local IRS representative will direct you to the nearest organizations offering free tax help. Become a volunteer and see what a difference it can make in your life and the lives of others - http://www.irs.gov/Individuals/IRS-Tax-Volunteers.

IRS

Hardship Distributions from Retirement Plans

When we at IRS Employee Plans audit retirement plans, we find errors in the way plan administrators apply the hardship distribution rules. These errors include not following the plan terms and not ensuring that hardship distributions meet the Internal Revenue Code requirements. Here are some questions and answers, as well as tips to help you make sure your plan follows the rules.

What types of plans may allow participants to take hardship distributions?

A retirement plan (that isn't an IRA-based plan) may, but isn't required to, provide hardship distributions. Many plans that permit elective deferrals (for example, 401(k) and 403(b) plans) allow hardship distributions.

What are the most common hardship distribution errors that we find during plan audits?

Often we find that the plan made hardship distributions to participants, even though the plan document didn't permit these distributions.

We also find plan documents that allow hardship distributions, but the plan sponsors don't follow the document's specific hardship criteria and distributed the money for another reason.

For example, if the plan states hardships distributions can only be made to pay tuition, then the sponsor can't permit a hardship distribution for any other reason, such as a home purchase.

Tips:

- Read the plan document to ensure the plan allows hardship distributions. If the plan doesn't allow them, then the plan must be amended. Fortunately, a retroactive amendment is permitted under the Self-Correction Program if a plan made hardship distributions but didn't have provisions authorizing them. Review the plan terms including:
  - o whether the plan allows hardship distributions;
  - o the procedures the employee must follow to request a hardship distribution;
  - o the plan's definition of a hardship; and
  - o any limits on the amount and type of funds that can be distributed for a hardship from an employee's accounts.
- If plan language allows hardship distributions only under specific circumstances, the plan can't be more liberal in its operation. For example, while the law permits hardships for funeral expenses, a plan can't distribute for these expenses unless the plan has payment of funeral expenses as a stated hardship. Again, if a plan sponsor decides to be more liberal in the definition of a hardship, they must amend their plan.
- Keep records of information used to determine a participant's eligibility for a hardship distribution.
- Remember, you should only make a hardship distribution because of a participant's (employee, employee's spouse, dependent or the employee's beneficiary) immediate and heavy financial need, and the amount should be only an amount necessary to satisfy that need. A distribution won't be considered necessary to satisfy an immediate and heavy financial need if:
- it exceeds the amount needed to relieve the person's financial need, or
- the participant can obtain money from other reasonably available resources.

If a plan allows loans, what are the required steps before granting a hardship distribution?

If the plan allows loans, it may require you to document that the employee has exhausted any loans or distributions, other than hardship distributions, that are available under the plan or any other plan of the employer in which the employee participates.

Tip: The plan sponsor should have procedures in place to review hardship applications and loans.

What do we look for when we audit a plan's hardship distributions?

We examine hardship distributions to confirm they comply with the plan language and the law.

Tips:

- Good internal controls – will reduce or eliminate hardship distribution errors. When a plan has a strong internal control system, we'll usually check a sample of the plan's hardship distributions and move on to another area if we don't find errors. Good internal controls lead to a smoother and more efficient overall audit.
- Recordkeeping – The plan sponsor, not the plan participant, is responsible for verifying hardship requests and making hardship distributions only if these satisfy the plan rules and the law. For example, we'll look for documentation that the:
  - o plan sponsor confirmed that the employee requesting the hardship had exhausted other permitted plan distributions, such as loans.
  - o hardship distribution amount didn't exceed the amount necessary to satisfy the participant's immediate and heavy financial need.
- Electronic hardship application – There's a growing trend for plans to grant hardships to participants who electronically apply for them. Participants use their PIN and self-certify that they meet the hardship criteria. While this seems to be an easy process for the participant, enabling them to quickly receive their distribution, this process doesn't relieve the plan sponsor's need for verification and recordkeeping. We'll still look for the same documentation mentioned above to ensure that the plan made hardship distributions according to its terms and the law.

We commonly see hardship distribution errors. However, a plan sponsor may reduce or even eliminate these errors by reading the plan, maintaining strong internal controls and having the proper documentation.

Additional resources:

- Retirement Topics - *Hardship Distributions*
- *Retirement Plans FAQs regarding Hardship Distributions*
- *Do's and Don'ts of Hardship Distributions*

IRS

SEP Plan Eligibility Requirements

Which employees must participate in my company's SEP plan?

Check your SEP plan document for your plan's specific eligibility requirements.

If your SEP plan has the most restrictive eligibility requirements the law permits, your company would only make a plan contribution for employees who have:

- reached age 21,
- worked for your company in at least 3 of the last 5 years, and
- received at least $550 in compensation from your company for the year (subject to annual cost-of-living adjustments in later years).

However, your SEP plan may use less restrictive requirements. For example, you could allow employees to participate who:

- are at least age 18, and
- earn at least $550 for the year.

What is the 3-of-5 eligibility rule?

The 3-of-5 eligibility rule means you must include any employee in your plan who has worked for you in any 3 of the last 5 years. SEP plans can choose not to use the 3-of-5 eligibility rule. Instead, your SEP plan may allow employees to participate immediately or after a shorter period of employment (for example, after working for only 1 year). If you use this 3-of-5 eligibility rule, you must count any service, no matter how little, in the 5 years immediately before the current year.

Example: If your SEP plan uses the 3-of-5 eligibility rule and has no other conditions for participation, you must make a 2013 plan contribution for an employee who has worked for you for any length of time in any 3 years from 2008 to 2012.

If we use the 3-of-5 eligibility rule, do we have to make a 2013 SEP plan contribution for an employee who reached his 3-year employment anniversary on March 15, 2013?

No. If your SEP plan uses the 3-of-5 eligibility rule, a SEP contribution isn't required for the employee until the year that contains his 4-year anniversary of employment with your company. For the 3-of-5 eligibility rule, only plan years are counted, not years based on the date the employee started working for you.

If this employee performed any service in any 3 years from 2009 through 2013, and meets any other plan eligibility requirements in 2014 (for example, age or compensation requirements), you must make a 2014 SEP contribution for the employee.

If our SEP plan's only eligibility requirement is age 21, can we prorate an employee's compensation from the date he turns 21 in 2013 for his 2013 SEP contribution?

No. You must base your 2013 SEP plan contribution for the employee on his entire 2013 plan-year compensation.

Our SEP plan requires employees to earn at least $550 in compensation for 2013 to participate in the plan. Can we prorate an employee's compensation from the date he earns more than $550 in 2013 for his 2013 SEP contribution?

No. Once the employee earns at least $550 in 2013 and meets any other plan eligibility requirements, you must base his 2013 SEP plan contribution on his entire plan-year compensation.

Are the eligibility requirements the same for all employees in a SEP plan, including owners?

Yes. The eligibility provisions stated in the SEP plan document must apply equally to owners and employees.

If my spouse and I own the business we work for, must we both meet the SEP plan's eligibility requirements to receive a plan contribution?

Yes. Each of you must meet the plan's eligibility requirements to participate in the plan. For example, if your plan uses the 3-of-5 eligibility rule, even if you're eligible for a 2013 SEP contribution, your wife isn't eligible if she only worked in 2011 and 2012 for the business because she didn't meet the 3-of-5 eligibility rule.

Is my new employee eligible to participate in our SEP plan immediately?

Maybe, if your SEP has no service requirement and the employee meets any other eligibility requirements stated in your SEP plan document. Review your plan document to determine the plan's eligibility requirements.

I'd like to establish a SEP plan that allows me to participate immediately. Can I establish different SEP plan eligibility requirements for future employees?

Yes. You can initially establish the SEP plan so that you are immediately eligible to participate in the plan. Later, you can amend the plan to have more restrictive eligibility requirements, but you must also meet the new eligibility requirements to participate in the plan.

Additional Resources:

- SEP homepage
- FAQ - SEPs
- Retirement Topics - Who Can Participate in a SEP or SARSEP Plan?
- Pub 560, *Retirement Plans for Small Business (SEP, SIMPLE, and Qualified Plans), chapter 2 Simplified Employee Pension* (SEP)
- Pub 4333, SEP Retirement Plans for Small Businesses
- Publication 4285, SEP Checklist IRS

Form 8955-SSA...

Does your retirement plan have participants who have separated from service and have deferred vested benefits? List them on Form 8955-SSA (*Resources*).

SSA/IRS Reporter

SSA/IRS Reporter is published quarterly, Spring (March), Summer (June), Fall (Sept.), and Winter (Dec.) by the IRS Small Business/Self-Employed Communications Office.

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Tips for Employers Who Outsource Payroll Duties

Many employers outsource their payroll and related tax duties to third-party payers such as payroll service providers and reporting agents. Reputable third-party payers can help employers streamline their business operations by collecting and timely depositing payroll taxes on the employer's behalf and filing required payroll tax returns with state and federal authorities.

Though most of these businesses provide very good service, there are, unfortunately, some who do not have their clients' best interests at heart. Over the past few months, a number of these individuals and companies around the country have been prosecuted for stealing funds intended for the payment of payroll taxes. Examples of these successful prosecutions can be found on IRS.gov.

Like employers who handle their own payroll duties, employers who outsource this function are still legally responsible for any and all payroll taxes due. This includes any federal income taxes withheld as well as both the employer and employee's share of social security and Medicare taxes. This is true even if the employer forwards tax amounts to a payroll service provider or reporting agent to make the required deposits or payments. For an overview of how the duties and obligations of agents, RAs and PSPs differ from one another, see the Third Party Arrangement Chart on IRS.gov.

Here are some steps employers can take to protect themselves from unscrupulous third-party payers.

- Enroll in the Electronic Federal Tax Payment System and make sure the PSP or RA uses EFTPS to make tax deposits. Available free from the Treasury Department, EFTPS gives employers safe and easy online access to their payment history when deposits are made under their Employer Identification Number, enabling them to monitor whether their third-party payer is properly carrying out their tax deposit responsibilities. It also gives them the option of making any missed deposits themselves, as well as paying other individual and business taxes electronically, either online or by phone. To enroll or for more information, call toll-free 800-555-4477or visit www.eftps.gov.
- Refrain from substituting the third-party's address for the employer's address. Though employers are allowed to and have the option of making or agreeing to such a change, the IRS recommends that employer's continue to use their own address as the address on record with the tax agency. Doing so ensures that the employer will continue to receive bills, notices and other account-related correspondence from the IRS. It also gives employers a way to monitor the third-party payer and easily spot any improper diversion of funds.
- Contact the IRS about any bills or notices and do so as soon as possible. This is especially important if it involves a payment that the employer believes was made or should have been made by a third-party payer. Call the number on the bill, write to the IRS office that sent the bill, contact the IRS business tax hotline at 800-829-4933 or visit a local IRS office. See Receiving a Bill from the IRS on IRS.gov for more information.
- For employers who choose to use a reporting agent, be aware of the special rules that apply to RAs. Among other things, reporting agents are generally required to use EFTPS and file payroll tax returns electronically. They are also required to provide employers with a written statement detailing the employer's responsibilities including a reminder that the employer, not the reporting agent, is still legally required to timely file returns and pay any tax due. This statement must be provided upon entering into a contract with the employer and at least quarterly after that. See Reporting Agents File on IRS.gov for more information.
- Become familiar with the tax due dates that apply to employers, and use the Small Business Tax Calendar to keep track of these key dates. IRS

Back-to-School Tax Tips for Students and Parents

Going to college can be a stressful time for students and parents. The IRS offers these tips about education tax benefits that can help offset some college costs and maybe relieve some of that stress.

- *American Opportunity Tax Credit.* This credit can be up to $2,500 per eligible student. The AOTC is available for the first four years of post secondary education. Forty percent of the credit is refundable. That means that you may be able to receive up to $1,000 of the credit as a refund, even if you don't owe any taxes. Qualified expenses include tuition and fees, course related books, supplies and equipment. A recent law extended the AOTC through the end of Dec. 2017.
- *Lifetime Learning Credit*. With the LLC, you may be able to claim up to $2,000 for qualified education expenses on your federal tax return. There is no limit on the number of years you can claim this credit for an eligible student.

You can claim only one type of education credit per student on your federal tax return each year. If you pay college expenses for more than one student in the same year, you can claim credits on a per-student, per-year basis. For example, you can claim the AOTC for one student and the LLC for the other student.

You can use the IRS's Interactive Tax Assistant tool to help determine if you're eligible for these important education credits.

- Student loan interest deduction. Other than home mortgage interest, you generally can't deduct the interest you pay. However, you may be able to deduct interest you pay on a qualified student loan. The deduction can reduce your taxable income by up to $2,500. You don't need to itemize deductions to claim it.

These education benefits are subject to income limitations and may be reduced or eliminated depending on your income. For more information, visit the Tax Benefits for Education Information Center at IRS.gov. Also check Publication 970, Tax Benefits for Education. The booklet's also available at IRS.gov or by calling 800-TAX-FORM (800-829-3676). IRS

Making Adjustments, Correcting Returns, and Obtaining Refunds and Credits When Employers Over Collect Taxes

When errors are made in withholding or reporting federal income, social security, and Medicare taxes, employers must follow procedures set forth in IRS regulations to correct the errors and pay the proper amount of taxes. The method of correction depends on the type of tax involved, whether the employer withheld or reported too little or too much, and when the error was made and discovered. The following details the adjustment procedures for when an employer over collects federal income, social security, or Medicare tax.

Federal income, social security, or Medicare tax over collected – discovered before Form 941 is filed

If an employer withholds too much from its employees' wages for federal income, social security or Medicare tax, and discovers the error before filing Form 941 for the quarter during which the error was made, it does not have to report the over withheld amount if it repays that amount by the due date of the Form 941 and keeps in its records a receipt from the employee showing the date and amount of payment.

Social security or Medicare tax over collected – discovered after Form 941 is filed

If an employer withholds too much from its employees' wages for social security or Medicare tax, and discovers the error after filing Form 941 for the quarter during which the error was made and within the period of limitation on credit or refund, the employer must repay the over withheld amount or reimburse the employees by withholding less from their future wages before the period of limitations expires.

If repayment is made in a year after the year the error was made, the employee must be issued a Form W-2c.

If the employer repays the employee, the employer must keep as part of its records a receipt from the employee showing the date of the repayment and the amount repaid (e.g., a canceled check). If the employer reimburses the employee by withholding less social security and Medicare taxes from future wages, the employer must keep evidence of the reimbursement as part of its records.

If the amount over collected from the employee is more than the social security and Medicare taxes on the employee's future wages, the employer must repay the employee the excess amount. If the repayment takes place after the year during which the error occurred, the employer must also keep as part of its records a statement provided by the employee saying that the employee has not and will not seek a refund or credit for the over collected amount from the IRS, or any refund or credit already sought has been rejected.

Federal income tax over collected – discovered after Form 941 is filed

If an employer over withholds federal income tax from its employees' wages and discovers the error after filing Form 941 for the quarter during which the error was made, but before the end of the calendar year, the employer also can either repay or reimburse the employee for the over withheld amount.

However, the employer must repay the over withheld amount before the end of the calendar year during which the error was made, as well as keep the employee's written statement as to the date and amount repaid.

Employers that reimburse employees for over withheld amounts by reducing future withheld taxes can do so only during the same calendar year that the error occurred, and they must keep evidence of the reimbursement as part of their records. Any over collections that exceed the amount reimbursed must be repaid to the employee.

Requirements for interest-free adjustments of overpayments

Once an employer repays or reimburses an employee, the employer may report both the employee and employer portions of social security and Medicare taxes as an overpayment on the Form 941-X.

The employer must certify on the form that it has repaid or reimbursed its employees. The reporting of the overpayment constitutes an interest-free adjustment if it is reported on an adjusted return before the 90th day prior to the expiration of the period of limitations on credit or refund.

Similar rules apply for making interest-free adjustments for overpayments of federal income tax, except that such adjustments may be made only if the employer discovers the error and repays or reimburses its employees within the same calendar year that the wages were paid and reports the adjustment on Form 941-X.

Refunds of overpayments

Instead of making an interest-free adjustment for an overpayment, employers may file a claim for refund of the amount of the overpayment.

If an employer cannot make an interest-free adjustment with respect to an overpayment because the period of limitations for claiming a credit or refund will expire within 90 days or the IRS has otherwise notified the employer that it is not entitled to the adjustment, the employer may recover the overpayment only by filing a claim for refund. An employer can only file a claim for refund for federal income tax that was overpaid to the IRS but not withheld from the employee.

Prior to filing a claim for social security and Medicare taxes, employers must either repay or reimburse the employee or obtain the employee's consent to the allowance of the refund, except to the extent that the overpayment does not include taxes withheld from the employee or, after reasonable efforts, the employer cannot locate the employee or the employee will not provide the requested consent.

If the employer is filing a claim for the employee's share of social security and Medicare taxes over withheld in a year earlier than the year in which the claim is filed, the employer must also certify that it has obtained the employee's written statement that the employee has not claimed a refund or credit of the amount over withheld, or if such a claim has been filed, it was rejected and the employee will not file a subsequent claim for the same amount. The employer must certify that it has either repaid or reimbursed the employee or obtained the employee's consent to the extent required. IRS

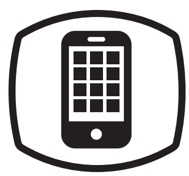
Taxpayers Can Customize Electronic Tax Calendar

Business owners can now have deposit dates readily available.

The simple customizing options available on the IRS CalendarConnector and Online Tax Calendar are designed to help customers remember important due dates. Small business customers can search IRS.gov using keywords "business tax calendar" or "Tax Calendar for Small Business" to access the online calendar. Available in English and Spanish, customers can view monthly due dates including those for monthly and semiweekly employment and excise tax deposits.

The IRS CalendarConnector is another tool available. It gives the customer access to tax dates right from their desktop even when offline. New requirements are automatically updated. IRS CalendarConnector is accessible on the computer screen but consumes screen space only when the user is reading it.

Smartphone users can also check tax dates and access the small business calendar via IRS.gov through their phone browser. Type in "Business Tax Calendar" in the search box (upper right hand corner); tap the "Tax Calendar for Small Business ..." link; and tap the "view online tax calendar" link. IRS



Small Business Taxes: The Virtual Workshop

Get help understanding and fulfilling your federal tax responsibilities.

Learn about:

- Completing Schedule C and other tax forms
- Filing and paying your taxes using a computer
- Running a business out of your home
- Hiring employees/contractors
- Setting up a retirement plan for yourself and your employees
- Making tax deposits and filing your payroll taxes using a computer
- Hiring of non-U.S. citizens living in the United States
- Managing payroll and withholding the right amount of tax from employees' wages

Use convenient features:

- Select and view lessons in any sequence
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- Access links to reference materials
- Bookmark, share and like the lessons

This free workshop contains accessible content and is available 24/7 at your convenience. Search "virtual workshop" on www.irsvideos.gov IRS

Internal Controls Protect Your Retirement Plan

As the sponsor of a retirement plan, you don't want to endanger your plan's tax-favored status by making mistakes administering your plan. Having formal procedures, known as internal controls, in place to review your plan will help you find and prevent errors in your retirement plan.

What are internal controls?

The exact procedures depend on your organization, your plan type and its features, but involve regularly reviewing your plan document and operations. Your internal controls should include procedures that:

- review your plan document for updates as necessary for new law changes, and
- verify that you operate your plan consistently with your plan document terms.

For example, you should periodically:

- Compare your plan eligibility requirements with employment records to ensure that employees joined the plan once they met the eligibility requirements.
- Compare your employees' salary deferral election forms with the amounts deducted as plan contributions from their wages.
- Verify your plan is using the correct definition of employee compensation for each plan purpose.
- Ensure that you've transmitted accurate employee compensation records to your payroll processor and plan administrator.
- Monitor annual contribution and compensation limits.
- Compare terminated participants' vesting years of service to the plan vesting schedule.
- Secure participant and applicable spousal consent for plan distributions over $5,000.
- Monitor participants' ages to ensure that you make required minimum distributions.

Does the IRS have any tools or resources on internal controls?

- Fix-It Guides – information, including examples on how to find and fix common plan errors and suggestions on how to avoid these errors in the future.
- A Guide to Common Qualified Plan Requirements – a list of important retirement plan requirements to help you implement practices, procedures and internal controls to monitor your plan operation.
- Avoid Plan Errors Web page – checklists, tips and articles on how to avoid common errors.
- A Plan Sponsor's Responsibilities – tips to keep your plan running smoothly.

How often should I check for law changes to my plan?

At least once a year, you should check with your benefits advisor to see if you must amend your plan for law changes. Usually you have a set deadline to update your plan for these changes. It's especially important to check for any updates a few months before the end of the calendar year or the beginning of your next plan year.

What if I miss the deadline for updating my plan document?

If you miss the deadline, you must still update your plan document and can correct the failure to meet the deadline by using the Voluntary Correction Program.

How often should I check whether my plan is operating according to the terms of the plan document?

You should have a periodic review of your plan operation throughout the year to ensure you're following its terms. By doing this, you can more quickly detect and correct any mistakes.

What if I made a mistake and didn't operate the plan according to its terms?

You may correct:

- insignificant operational failures and even some significant operational failures through the Self-Correction Program without paying any fees or even notifying the IRS if your plan had internal controls, or
- most significant operational failures through the Voluntary Correction Program.

What if I don't correct the failure to update my plan by the required deadline or the failure to operate it according to its terms?

Your plan may become disqualified and lose its tax-deferred status resulting in negative tax consequences for you and your employees.

Additional resources

- Internal Controls phone forum (forum presentation and transcript)
- Internal Controls are Essential in Retirement Plans
- Compliance Trends and Tips
- Correcting plan errors

IRS