



One Minute Memo®

IRS To Begin Sending 401(k) Compliance Questionnaires to Employers

Beginning this month, we believe the IRS will launch a new compliance initiative focusing on 401(k) plans. The IRS is expected to select several thousand employers at random to receive detailed questionnaires. The questionnaires are intended to help the IRS assess (1) compliance with the statutory and regulatory rules governing 401(k) plans, (2) potential failures to follow a plan's written terms, (3) whether payroll systems and other internal controls are appropriate, and (4) other topics related to the operation of 401(k) plans.

After analyzing the responses, the IRS is expected to release its findings and describe any follow-up initiatives to improve compliance. It is not clear whether the IRS will use its findings to conduct more audits of 401(k) plans, although we believe that is a possible outcome.

If your company receives one of these questionnaires, you should consider discussing the responses with your outside benefits counsel, third-party administrator, trustee, and other plan service providers before returning the questionnaire to the IRS. Even if your company does not receive a questionnaire, you should consider reviewing the operation of your 401(k) plan to assess any compliance issues that may exist or be discovered should the IRS audit the plan in the future.

For more information, please contact the Seyfarth attorney with whom you work, or any Employee Benefits attorney on our website.