

Staying on the IRS's good side! Easy ways for Plan Sponsors to reduce their risks of non-compliance and sleep better at night...

Prevention beats worrying

As a leader in customized retirement plan designs and consulting for over 35 years, we are often asked by very worried business owners:

- “Have you ever seen **this** type of issue before??
- Will I be fined?
- Will my employees sue me?
- Will I go to jail?!
- Will my retirement plan savings be wiped out?”

Our experience allows us to quickly put their minds at ease with the specific steps required to address the issue properly, and to protect the plan's assets from significant penalties or, the ultimate penalty: becoming taxable.

However, we all know that an ounce of prevention is worth a pound of cure. When dealing with the IRS, we think the saying should go something like:

“Discover any issues of non-compliance FIRST, before the IRS finds them, and fix them, properly and quickly.”

If the IRS or Department of Labor finds an issue in a random audit, or in response to a complaint from a plan participant, you can expect to find little sympathy from them. We are constantly educating our clients about how to avoid risk of non-compliance on an ongoing basis so that they do not fear a random audit.

Take advantage of Lessons Learned!

Given the complexity and enormous amount of detail involved in retirement plan law, not to mention the acronyms that no one really remembers, EGTRRA, GUST, etc., what is a business owner to do?! The

Feeling worried and doing nothing, while hoping for the best is NOT a recipe for success! ...or for a good night's sleep.

Ignorance is not bliss when it comes to protecting your retirement plan assets!

To learn more about our **OCPF**[®] plan or about retirement planning in general, please call the MandMarblestone Group at 215-222-5000.

good news is that by paying attention to a few overall themes, and by confirming you are working with the best in class providers, you can be confident that your risks are not unreasonable. Since MandMarblestone began in 1975, no plan has been disqualified on our watch.

Plan Document Problems

Although non-compliance takes many forms, let's focus for now on document compliance. Plan documents are the "license and registration" equivalent when you are "pulled over" in an audit; if you don't have them handy, you're going to pay a penalty.

Here are our top 3 ways to ensure compliance in this area:

1. Sign all amendments promptly and return a copy of the signed document to your provider as a back-up. At MMG, we maintain copies of both the executed plan documents and all amendments to help protect our clients in the event of an audit. Frequently, when we are engaged to help a new client respond to an audit, we are sad to discover these amendments in that client's desk drawer, unsigned. We have also found back years of Form 5500s in desk drawers, unsigned and unfiled. (The IRS will NOT be pleased.)
2. Keep signed copies of **prior plan documents** and amendments on file and readily accessible. Do you know where your prior signed plan documents are?? If not, this is an unnecessary area of exposure! It is the very first thing that any IRS auditor will ask for, and it will stop an unfavorable IRS response in its tracks...take the time to organize your company plan documents; it is worth it!
3. Keep up with required plan document restatements! The IRS periodically requires that every retirement plan be re-written or "restated" in order to be sure that the language and plan provisions are up to date with the changes to retirement plan law. The current restatement is called "EGTRRA" and all defined contribution plans (primarily 401(k) and profit sharing plans) were required to be updated by April 30, 2010. If a company did not complete this action, its plan is now out of compliance and would be subject to tax penalties if discovered on audit. Note: Defined Benefit plans have until April 30, 2012 to complete the EGTRRA restatement.

There is always a best way out

With the proper expertise, there are ways to fix broken plans. Finding and correcting areas of non-compliance can be a straightforward and cost-effective process. At MMG, we can quickly diagnose what is wrong, outline the best steps to correct the problem, and communicate with the IRS on behalf of our clients in order to maximize efficiency and minimize confusion. We help our clients at every step of the way. Doing NOTHING

is very dangerous!! If plans are found to be out of compliance by the IRS or the Department of Labor, then it may be too late to work out a solution that does not include substantial penalties.

We welcome your questions or “worries” – please call or e-mail Bob Mand, Ken Marblestone, Lori Gordon or Ian Haring at MandMarblestone. 215-222-5000, or email us at:

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We also remediate problematic plans to full IRS compliance.

  You also may reach us through our website: www.mand.com.



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