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Coping with 457 Plan Audits

Our Speakers
• Doug Miller: Suffolk County, NY
• Mindy Harris: Senior Consultant, SST Benefits Consulting
• Richard Turner: Deputy General Counsel, VALIC
Our Agenda

• Audit Process Expectations
• Audit Areas
• Plan Documents & Forms
• Administrative Policies & Procedures
• Plan Governance
• Practical Examples

Process Expectations

• Phone call from IRS to Plan Sponsor
• Information Document Request (IDR)
  — Plan Document, Employee Handbook, Forms
• On-site Auditors
• Involve Key Personnel
  — COO, Legal, Finance, HR, Provider
• Typical Duration – approximately 9 months, depending on size of employer & responsiveness of key personnel

Process Expectations (cont.)

• Review of Payroll & Vendor Files
• Walk through of Plan Transactions
• Examination of Internal Controls
• Testing 1099R’s
• Remedy Period
### Additional Notes

- Distinguishing an audit from a non-audit inquiry
  - Ex: Employee Plans Compliance Unit (EPCU)
- Expect multiple IDR, not just one; can involve negotiation
- It helps to have procedures
- Important role for counsel

### Audit Areas

- Official Plan Documents & Forms
  - Legislative & Regulatory Requirements
  - Optional Benefits
- Administrative Policies & Procedures
- Plan Governance

### Official Plan Documents & Forms

- Plan Document - Is it up to date with current legislative & regulatory requirements?
  - Contribution limits, including catch up provisions
  - Participation Eligibility is defined
  - Normal Retirement Age defined
Official Plan Documents & Forms

- Plan Document - are optional plan benefits defined adequately?
  - Unforeseeable Emergencies
  - Rollovers into plan
  - Loans
  - Auto Enrollment

Official Plan Documents & Forms

- Plan Forms
  - Do forms include all required information for the event in question?
  - Are forms processed timely – following first of month rule?
  - What is the process to ensure compliance, e.g., with contribution limits?

- Forms can be hard copy or electronic

Administrative Policies & Procedures

- Do procedures reinforce compliance with
  - participation eligibility
  - contribution limits
  - 1st of month rule

- Are proper authorizations and full documentation included for all transactions?
Administrative Policies & Procedures

• Plan sponsor vs. Provider Responsibility
  – Responsible party must be clearly identified
  – If provider, plan sponsor approval must be clearly documented

Plan Governance

• Auditor will request committee meeting minutes
  – Have decisions been made in compliance with Plan Document?
  – Is committee governance process following exclusive benefit rule?

Some Practical Examples

• Catch-up contributions: prove it up
  – Election: generally; of specific catch-up option (age 50, or special 457(b) catch-up)
  – Documentation
    Plan terms (fixed or floating NRA?)
    Election (ex: floating NRA)
    Supporting data (contribution history)
Some Practical Examples (cont’d)

- Distributions
  - Plan terms
  - Documentation
    - Unforeseeable emergency distributions
    - Other in-service distributions: age 70 ½ or later unless...
    - RMDs

Coping with 457 Plan Audits

- Key takeaways
  - Are plan documents & forms consistent?
  - Do plan documents & forms reflect current legislative requirements?
  - Are internal controls in place to prevent excess contributions and safeguarding of employee deductions?
  - Are optional benefits defined adequately?
  - Have IRC limits and requirements been adhered to?
  - Are transactions processed timely?
  - Are governance decisions documented and conducted following the exclusive benefit rule?

Panel Discussion;
Questions and Answers
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