



A Plan for Retirement Plan Compliance



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With so many things in life, careful planning and preparedness are probably the most important factors in advancing your chances of future success. On a personal level, maybe this means evaluating your past, current and future income and expenses in order to create a realistic but strict family budget. On a professional level, maybe this means examining your current career path and implementing a “five year plan” intended to achieve a higher level of education that would enable you to attain a larger income in a more desirable profession.

Regardless of the specific context; by formulating a plan, you are able to anticipate your needs and attempt to adequately prepare for them. Without a plan, you are left to spontaneously react to the circumstances that are thrust upon you and essentially hope for the best. In times of crisis, it is a safe bet that almost everyone would prefer to have anticipated the proper response before the question is even posed. Thus, most would agree that everyone should strive to be a “planner”.

It should come as no surprise that something as technical and complicated as the establishment, operation and maintenance of a tax-qualified retirement plan follows the same planning and preparedness principles that apply to life in general. Many retirement plan sponsors understand that their actions in connection with a retirement plan invoke a fiduciary level of responsibility to the plan and its participants. However, what specific actions should a plan sponsor embark on in order to satisfy that responsibility? In other words, what is an effective plan for a retirement plan fiduciary to fulfill his or her duties to the retirement plan?

An accurate and complete answer to that question would likely fill several encyclopedic volumes but, as this article is written by a third-party retirement plan administrator, that level of comprehensiveness is



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beyond the scope of the retirement plan administration focus of this article. Therefore, the remainder of this article chooses to focus on administrative preparedness for just one potential crisis encountered by a retirement plan fiduciary, an audit or investigation by a governmental agency such as the Internal Revenue Service (“IRS”) or the Department of Labor (“DOL”).

In order to properly prepare for a government audit or investigation, it is important to understand what the auditor or investigator is looking for which, when reduced to a single word, is compliance. Without going into the specific circumstances of an individual plan sponsor, how could a “generic” plan sponsor readily demonstrate such general compliance? While not necessarily easy, the answer is very straight forward. A plan sponsor should maintain well organized, written documentation of the compliant operation of its retirement plan in relation to each year that such plan is in existence and operation.

Again, focusing only on the retirement plan administration aspects of a government audit or investigation, every such inquiry begins with a blanket request for a laundry list of data and information. Such requests routinely include the results of most annual compliance testing including the non-discrimination testing; copies of applicable plan documents including the Adoption Agreement, Basic Plan Document and Summary Plan Description; Form 5500, the related schedules and a copy of the independent auditor’s report, if applicable; and participant notices for the year(s) subject to inquiry. To already maintain an organized annual record of these items would greatly assist in the context of an audit. Not only would it provide easy access to the pertinent retirement plan records, it would afford the plan sponsor with an opportunity to demonstrate to the regulatory agent the care with which he or she discharges his or her responsibilities to the retirement plan and the respect that the plan sponsor has for the seriousness of such duties. This is important because the first impressions that an investigator or auditor has about a plan sponsor and its plan have the power to influence the tenor of the entire experience.



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Government auditors and investigators who examine retirement plans now routinely request copies of any and all policies and procedures that the plan sponsor employs in order to “govern” its retirement plan. It is important to note that a formal policy or procedure of this sort is not a specific regulatory requirement for a retirement plan. However, in response to such a request, the maintenance of annually organized administrative records could be used to demonstrate the plan sponsor’s attentiveness to the retirement plan’s operational requirements which could then, albeit indirectly, be used to demonstrate the plan sponsor’s procedure for appropriately handling the plan’s administrative burdens and responsibilities.

Benjamin Franklin had it right when he stated that “an ounce of prevention is worth a pound of cure”. In applying that axiom to your retirement plan; plan ahead and, at a minimum, make sure that you have complete and organized records of your retirement plan’s operation. In the event that a crisis occurs, you will be better able to deal with whatever issue may present itself and grateful for the time that was spent preparing for just such an eventuality.

With these concerns in mind, it is by no coincidence that, effective immediately, Legacy Retirement Solutions, LLC (“Legacy”) is proud to announce a new service offering. Starting with the 2012 Plan Year, Legacy will begin offering Plan Year Compliance packages to all of its Plan Sponsors. Each of the three different levels of Plan Year Compliance reporting (Standard, Plus and Premium) is designed to help your Company maintain a “single source” organized and streamlined record of a prior Plan Year’s administration and resulting operational compliance. Please contact Steve Warner at swarner@legacyrslc.com or 484-483-1044 ext 4 for more information.



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