



What Common Compliance Issues Should we be Watching For?

Facts

Our company sponsors a 401(k) plan, and we want to make sure we do everything correctly. We have a great staff and have put processes in place to help ensure we operate the plan in a compliant manner. With all the moving parts, however, there is still a concern that we might miss something.

Question

You provide in-depth compliance services for quite a few plans on a regular basis (especially this time of year), so you must see quite a bit. Are there any common issues you see that we should keep in mind throughout the year?

Answer

Great question! We do provide compliance services for more than 2,000 plans across the entire country and many industries. They range in size from a single participant to nearly 10,000 participants. With that broad cross-section, one might expect the issues to be all over the place. As it turns out, though, the ones that we see most frequently are fairly common regardless of plan shape or size...a “greatest hits” compilation, if you will. We’ve covered all of these in past QOTWs, so we will summarize here and provide links to the more detailed answers.

True-up of Company Matching Contributions

It is a pretty regular occurrence for a company that funds its matching contributions each pay period to have to make some adjustments at the end of the year. From time-to-time, this can come as a surprise when true-up matching contributions must be made. What exactly is a match true up, and why is it required even though you are funding the contribution each payroll? The short answer is that it has to do with two key factors:

- The plan document specifies that the match must be determined using compensation and deferral information for the entire year, and
- There are participants who change their deferral elections throughout the year in such a way that it impacts the match calculation.

As a quick example, assume you provide a match equal to 100% of the first 4% deferred by each participant. Now assume that a participant defers 8% for half the year and 0% for the second half of the year. If the plan says the match is determined each pay period, this participant receives a match on half of his/her deferrals for the first part of the year and no match for the second part of the year. However, this participant only deferred 4% of pay if you look at it over the entire year, so he or she would be due a true-up match at year-end.

For more information on match true-ups, click [here](#).



Compensation

Not only do we see quite a few issues relating to what types of compensation to use when determining plan benefits, this topic also makes the IRS list of common issues they see in voluntary correction filings.

Each plan's document must specify exactly which types of compensation are counted. The default is typically to include gross taxable pay unless the plan specifically carves out certain types such as bonuses or overtime. The challenge is that when a company only pays certain types of pay intermittently, it can be easy to overlook them when it comes to the plan. We also see situations when the codes setup in the payroll system don't necessarily align with the actual types of compensation, resulting in something that should be counted being ignored.

Regardless of the reason, it is important to understand your plan's definition of compensation and make sure that benefits are determined accordingly. This includes withholding 401(k) deferrals. We have three prior QOTWs that address compensation [here](#), [here](#) and [here](#).

Excluding Employees from Your Plan

Similar to the definition of compensation, each plan must also specify which employees are covered and what they must do to become eligible. If the plan document does not exclude certain classes of workers, that means they are covered and must be allowed to participate once they meet the eligibility requirements.

So, you decide to hire some part-time workers to help during the summer time. You might even rehire those same part-timers each year. Your plan only requires an employee to work 6 months before becoming eligible to participate. Are you required to offer plan participation to the part time employees? We've got QOTWs for that – [here](#), [here](#), and [here](#). And, since rehired employees can pose some unique challenges, [here](#) is an additional article from our Knowledge Center.

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