

# WEBINAR TAKEAWAYS:

## IS YOUR 401(K) O(K)?



### What triggers a DOL or IRS audit?

- **Random Selection:** Approximately 3,000 audits per year
- **Identification of abusive or prohibited transaction:** Compliance failure
- **A referral from one agency to the other:** Compliance failure that falls under the jurisdiction of the other agency
- **Participant complaint:** Plan participant files complaint with EBSA

### What to expect if you're audited:

- **IRS:** Primary jurisdiction over the qualified status of 401(k) plans, which includes examining plans.
- **DOL:** Primary jurisdiction over fiduciary standards, reporting and disclosure requirements and other rules not affecting the qualified status of 401(k) plans.
- Letter(s) informing plan sponsor what is being examined and what documents must be made available. (Focus of the audit depends on agency conducting it.)
- Expect onsite audit to last 3-5 business days. All open years will likely be examined (3-6 years).

### How to minimize the prospects of an audit:

#### Be aware of audit triggers, such as failure to:

- Follow the plan's eligibility and enrollment rules
- Make timely and accurate salary deferral deposits
- Monitor and manage participant loans & distributions
- Monitor Covered Service Providers fee and expenses
- Fulfill your ERISA Bond requirements
- Prudently select and monitor Target Date Funds
- Provide timely and accurate participant disclosure notices

#### Eight Keys to Minimizing Audit Risks

- Treat your plan as an operating company: Plan Governance
- Develop a culture of compliance within the organization
- Establish internal controls
- Develop policies, practices, and procedures to prevent errors
- Institute specific checks and balances covering plan governance and plan administration
- Monitor and measure service provider performance, fees and expenses
- Benchmark your plan against your peer group
- Document both the decision process followed and its implementation

### How to prepare for an audit:

#### Get organized:

- Create an internal audit team
- Delegate responsibilities
- Select the primary contact person for examiner
- Determine if ERISA legal counsel should be retained
- Request additional preparation time
- Move ERISA files away from all other company records.

#### During the audit:

- Provide complete information (paper copies + memory stick)
- Be cooperative and helpful
- Answer only the questions being asked. Don't speculate as to an answer to a question.
- Familiarize yourself with the DOL & IRS audit process to develop comfort and confidence.

#### Recommended reading materials include:

- **Employee Plan Examination Process Brochure:** IRS publication
- **401(k) Plan Checklist:** IRS publication
- **401(k) Resource Guide, Plan Sponsors:** What if you are audited? [www.irs.gov/retirement-plans/plan-sponsor/401k-resource-guide-plan-sponsors-what-if-you-are-audited](http://www.irs.gov/retirement-plans/plan-sponsor/401k-resource-guide-plan-sponsors-what-if-you-are-audited)
- **What Should I expect from a Department of Labor Audit?** See [www.shrm.org/resourcesandtools](http://www.shrm.org/resourcesandtools)
- **How to prepare for an IRS Audit:** National Association of Government Defined Contribution Administrators, Inc. publication

### Necessary plan documents include:

- The Plan Trust & Amendments
- Plan Adoption Agreement & Amendments
- IRS Letter regarding plan qualification status
- Adopting Corporate Resolution
- Plan Organizational Chart
- Committee Meeting Minutes
- Tax & Annual Reporting Documents & Financial Statement
- Summary Plan Description & any Summary of Material Modifications
- Summary Annual Reports
- Plan Policy Statements
- Payroll deposits and reconciliation reports
- Schedule of plan assets
- Participant communication & disclosure documents
- Sample participant benefit statement