



Are You In Compliance?
**Review Your Retirement Plan Now To Avoid Problems
Later**

Here's some heartening news: Employees at nonprofits are more likely to have pensions than their for-profit counterparts.

Now, here's the sobering news: These employee benefit plans can be extremely complicated, and maintaining compliance can be a challenge. Noncompliance can result in hefty fines and, in extreme cases, disqualification.

So, if an IRS auditor showed up in your office today, would your plan be in compliance with current Employee Retirement Income Security Act (ERISA) standards?

The auditor would want to ensure that:

- The plan is up-to-date with tax laws.
- Contribution limits are calculated properly.
- Minimum distributions are being made in a timely manner.
- Every participant has a signed election on file.
- No ineligible employees are participating in the plan.

Breathe Easy

If you're not sure you could survive such an audit, it may be time to consider a compliance review of your organization's retirement plan. A basic compliance review will identify and assess the areas of exposure and provide recommendations for reducing or eliminating them.

Who could benefit from such a review? The quick answer is everyone. If a qualified retirement plan has more than 100 participants, it must be audited each year and the results returned with the organization's IRS Form 5500. But even an audited plan could benefit from a regular compliance review. And, certainly, unaudited plans of fewer than 100 participants could benefit as well.

Know What Can Go Wrong

Among nonprofits, common retirement plan mistakes include:

- Not filing Form 5500, or making an incomplete filing.
- Failing to properly determine when employees are eligible to participate in a qualified retirement plan.
- Incorrectly calculating vesting percentages based on years of plan participation rather than on total years of service.
- For plans that require annuities as the form of distribution, failing to provide plan participants between the ages of 32 and 35 with election forms to waive the pre-retirement survivor annuities in favor of an alternate form of distribution.
- Not providing the appropriate notices or not obtaining employee election forms when employees receive retirement plan distributions.
- Excluding part-time employees from plan participation.
- Allowing highly paid employees to direct the investment of their retirement plan account balances without allowing all employees to similarly direct the investment of their retirement plan account balances.
- Failing to properly compute the maximum annual limitations on contributions or calculate the deductible contribution for the plan year.
- Failing to amend qualified retirement plans for all current laws.

- For 401(k) plans, incorrectly calculating the Average Deferral Percentage Test and the Average Contribution Percentage Test, and failing to make timely corrective distributions.

Noncompliance Can Hurt

If problems such as the ones listed above are discovered in an IRS or Department of Labor audit, the penalties can be severe. For example, IRS penalties are \$25 per day, and Department of Labor penalties are \$1,000 per day for not filing Form 5500 or making an incomplete filing.

In extreme cases, the plan may be disqualified. However, if the problems are uncovered in the course of a compliance audit, corrections can be implemented that will preserve the qualified status of the plan without penalties being assessed. Programs for voluntary correction sponsored by the IRS are available that will not result in sanctions or penalties to plans not currently under IRS audit.

Retirement plan rules are complicated and deadlines are easy to overlook. Our professionals can help provide the assurance and confidence that your plan is being operated correctly. To discuss a compliance audit or seek guidance on retirement plan regulations, please call our office.