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## Employers Should Be on the Lookout for Common Retirement Plan Errors

The Internal Revenue Service recently published a list of common recurring mistakes it sees in large case audits of qualified retirement plans and in submissions under its Voluntary Correction Program. This list provides employers with a useful checklist for reviewing the operations of their qualified retirement plans.

A number of these errors result from the actions of the third party administrator (TPA). Often the TPA's errors result from the employer's failure either to provide current and accurate information regarding eligible employees and eligible compensation or to properly review and monitor the actions of the TPA.

### I. Common Mistakes Across All Plan Types

The following are the common problems identified by the IRS that are encountered by both defined contribution and defined benefit plans:

- A. Failure to timely amend the plan document for changes in the law;
- B. Failure to follow the plan's definition of and limits on compensation for contribution purposes;
- C. Failure to enroll eligible employees and/or to exclude ineligible employees;
- D. Failure to meet the legally-required minimum distribution provisions in the plan;
- E. Failure to follow the in-service distribution provisions in the plan;
- F. Failure to use correct distribution forms, make timely distributions and file correct tax reporting on distributions;
- G. Failure to follow the plan's vesting schedule;
- H. Failure to retain records and maintain internal controls regarding administration of the plan;
- I. Failure to follow the terms of a qualified domestic relations order (QDRO); and
- J. Exceeding the legal maximums on contributions and benefits under the plan.

### II. Common Mistakes for 401(k) Plans

The common mistakes encountered by 401(k) plans typically involve contribution issues, including:

- A. Failure to correct ADP/ACP nondiscrimination violations;
- B. Failure to calculate matching contributions in accordance with the plan's formula;
- C. Failure to limit deferrals to the plan's maximums; and
- D. Failure to comply with the automatic enrollment provisions in the plan.

### III. Common Mistakes for Defined Benefit Plans

The mistakes commonly encountered in defined benefit plans typically involve the benefits payable from those plans, including:

- A. Benefit calculations based on inaccurate data;
- B. Failure to provide the required notice when benefits are suspended; and
- C. Premature or delinquent commencement of benefits.

The IRS has provided detailed information on finding, fixing and avoiding these errors. If you have any questions or would like to discuss the actions that should be taken to discover and correct errors in the administration of your qualified retirement plans, please contact one of the attorneys listed below.

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