Pension Plan Fix-It Handbook

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Use IRS Audit FAQs, Agent Training Manuals To Prepare for Potential Examination

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This month we will highlight practical reminders — some old and some new — for plan sponsors.

IRS Updates Employee Plans Team Audit FAQs

IRS recently updated its frequently asked questions page about audits. (See http://www.irs.gov/Retirement-Plans/Retirement-Plans-FAQs-regarding-the-EP-Team-Audit-%28EPTA%29-Program.)

Of note are the following:

- **EPTA audit selection.** In determining which employer retirement plans it will audit, IRS says on the site it looks at a number of items, including undefined "emerging issues;" market segment impact; SEC and other government filings; annual Form 5500 returns (including actuarial schedules); the location of IRS staff; referral information, including that from the U.S. Department of Labor; complaints; field input; tax shelter information; media attention; impact on plan participants; input from the Employee Plans Compliance Unit; and filer withdrawal of Voluntary Correction requests.
- **EPTA versus non-EPTA.** Interestingly, IRS makes a distinction between an EPTA audit and a non-EPTA audit, but indicates that chances are an employer plan would be subject to an EPTA audit. So, what's the difference? The EPTA audit looks first to the employer's internal controls, and believes what is discovered should direct the nature and depth of the remainder of the audit.

  The non-EPTA audit is not a team audit. It focuses on specific qualification issues identified at the beginning of the audit, including things such as the plan sponsor's industry or a specific problem such as defaulted loans or a merger or acquisition involving the plan sponsor.
- **Internal controls.** The EPTA team will gain an understanding of the general operating environment by interviewing key players in the plan's administrative process, including human resources and payroll staff, plan administrators and vendors. The team will try to gain an understanding of how these players interact. The agents will be able discern any potential problem areas that may require heightened focus.

The EPTA website provides sample internal control questions that could be asked in an interview and exam.

The agents will investigate whether what they were told during interviews with the plan sponsor and vendors is what actually happens in operation. If the agents find that what they were told regarding checks and balances exists and is functioning effectively, the focus of the audit could be limited.

See the November 2013 column for more suggestions about preparing for an IRS audit.

Does IRS Audit Training Material Portend Examination Focus?

While we can't answer that question definitively, reviewing the material being used to train IRS agents could prove beneficial, should you be audited.

IRS' Employee Plans Division periodically publishes training materials for the Employee Plans Continuing Professional Education Technical Instruction Program

See *Andersen*, p. 2

Andersen (continued from p. 1)

(see http://www.irs.gov/Retirement-Plans/EP-CPE-Texts for the complete list).

Currently, eight years of training material are available there, up to 2014. As a caution, the website states for each year that the material provided is specifically designed for training purposes, and shouldn't be cited as an authoritative source or be used to support a technical position.

Is there a correlation between the problems IRS says it's found most often in recent EPTA audits and IRS' training priorities? Could be, as you look at the agency's top issues from 2013 versus the list of training material on the IRS website.

The IRS Top 10 EPTA audit issues found in recent examinations:

1) termination or partial termination (see ¶1000) — potential vesting/distribution issues
2) acquisitions
3) deferral percentage tests
4) compensation
5) plan document
6) vesting
7) distributions and loans
8) assets
9) limits
10) miscellaneous, including lack of sufficient internal controls, plan data used to prepare Forms 5500 not matching actual records such as payroll data and incomplete Taxpayer Employee Master Files.

By comparison, the 2014 Continuing Professional Education material includes:

Post-PPA Pension Legislation — explains the provisions of certain post-Pension Protection Act legislation, including Moving Ahead for Progress in the 21st Century Act, which changed calculation of pension plan liabilities and raised U.S. Pension Benefit Guaranty Corp. premiums for defined benefit plan sponsors.

Plan Terminations — provides an overview of plan terminations and potential related issues.

Defined Benefit Plans – Schedule SB (Form 5500) and Related Schedules — describes potential audit issues that may be detected during the analysis of the Schedule SB (Form 5500).

The 2013 CPE material includes:

Overview of Hybrid Plans (Cash Balance and Pension Equity Plans) — gives an overview of cash balance and other hybrid plans and guidance for identifying potential issues.

Defined Benefit Floor-Offset Arrangements and Other Plan Designs — explains plan language requirements, coverage and benefit requirements and how floor-offset plans operate.

Compensation — describes and compares the different definitions of compensation that are required or permitted to be used for various plan purposes.

Section 401(k)/(m) – ADP/ACP Tests – Correction Methods under EPCRS — covers 401(k) and (m) corrections methods under IRS' Employee Plans Compliance Resolution System.

Reviewing this training material may give you and your plan an edge when anticipating or preparing for your own audit.

One Fewer Filing to PBGC

If you are a large employer with a DB plan, you may have noticed that you had one fewer filing to submit in February. In January, the PBGC issued a final regulation that eliminated the estimated flat-rate premium requirement for large plans. The change is only one aspect of overall proposed PBGC regulations because it was the most time-sensitive; the remaining changes take effect April 10, according to a *Federal Register* posting on March 11. PBGC issued the proposed regulations in July 2013, designed to simplify existing rules, provide penalty relief and generally make the system work better.

There are two types of annual PBGC premiums: the flat-rate premium and the variable-rate premium. Only single-employer plans are subject to the variable-rate premium, which is based on a plan's unfunded vested benefits. The goal of the proposed regulations is to:

- replace three premium due dates with a single one corresponding to the extended due date for filing the annual Form 5500;

See *Andersen*, p. 3

Andersen (continued from p. 2)

- coordinate the due date for terminating plans with the termination process;
- clarify changes to the variable-rate premiums; and
- provide penalty relief, among other changes.

Premium due dates for calendar-year plans are to be based on plan size and type of premium, as follows:

Large plan sponsors often estimated the flat-rate premium and “trued-up” the count when filing the variable-rate premium. Underestimating the flat-rate premium resulted in penalties and interest charges. The penalties for underestimating were often waived, but the interest charges were not. Eliminating the flat-rate payment could potentially do away with more than one filing (in other words, those for the estimate, the balance due and the interest charge). Reducing the number of PBGC due dates simplifies the process for all parties. ❖

	Large Plans (more than 500 participants)		Midsize Plans (100-499)	Small Plans (less than 100)
	Flat-rate Premium	**Variable-rate Premium**	**Flat-rate and Variable-rate Premium**	**Flat-rate and Variable-rate Premium**
Before the final regulations	2/28/2014	10/15/2014	10/15/2014	4/30/2015
After the final regulations	10/15/2014	10/15/2014	10/15/2014	No change

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This article originally appeared in the *Pension Plan Fix-It Handbook*. Go to http://www.thompson.com/public/offerpage.jsp?prod=mend for more information.