SSA/IRS

Reporter

Social Security Administration

Internal Revenue Service

Spring 2013

A Newsletter for Employers

Inside this Issue...

New Health FSA Limit – Employers and Employees Should Plan Now

Employee salary reduction contributions to health Flexible Spending Arrangements (health FSAs) are limited to $2,500 per year for plan years beginning after 2012.

The Affordable Care Act added Code section 125(i), which established the $2,500 limitation. The $2,500 limit will be indexed for inflation for plan years beginning after 2013. As before, an employer may establish its own plan limitation, but, under this provision, an employer's plan limit may not exceed the statutory limit.

The new limit does not affect the limitation on dependent care FSAs, health savings accounts, Archer Medical Savings Accounts, or an employee's contribution for his or her share of health coverage premiums.

What is a health FSA?

A health FSA allows employees to pay for certain health care expenses on a tax-preferred basis. It is a benefit an employer may offer as part of a cafeteria plan under Code section 125, and it is usually funded through an employee's salary reduction contributions. These contributions reduce the amount of wages subject to income and employment taxes. Employees can use the FSA funds to pay for certain health care expenses as the employee incurs the expenses. Additional information about FSAs is in *Publication 969, Health Savings Accounts and Other Tax-Favored Health Plans* (see the section entitled "Flexible Spending Arrangements (FSAs)").

Implementing the new limit

The limit on employee salary reduction contributions to a health FSA applies on an employee-by-employee basis. Therefore, $2,500 is the maximum that an employee may contribute, regardless of the number of individuals, such as spouse or dependents, whose medical expenses may be reimbursed under the plan. If two people are married, and each has the opportunity to participate in a health FSA, whether through the same employer or through different employers, each may contribute up to $2,500.

In the case of a plan providing a grace period (which may be up to two months and 15 days), unused salary reduction contributions to the health FSA that are carried over into the grace period for that plan year will not count against the $2,500 limit for the subsequent plan year.

Employers may amend their plans to reflect the $2,500 limit at any time through the end of calendar year 2014, provided that the health FSA does not exceed the limit in operations for plan years beginning after December 31, 2012. If an employer's plan already has a limit in place before the plan year beginning in 2013 that does not exceed $2,500, generally the employer will not need to amend the plan to reflect the new $2,500 limit.

For more information, see *Notice 2012-40*. The Treasury Department and IRS intend to amend the regulations under section 125, but, until then, taxpayers may rely on the guidance in the Notice. See also *www.irs.gov/uac/Affordable-Care-Act-Tax-Provisions*. IRS

Receive Child Support Withholding Orders Electronically!

Employers who implemented the federal Office of Child Support Enforcement's electronic Income Withholding Order project are not only getting the child support Income Withholding Orders electronically (No Paper!) but they are also saving time, money, and resources. Over 1,200 Federal Employer Identification Number's were added to the project in 2012.

The e-IWO project enables:

- states to transmit income withholding orders electronically to employers; and
- employers to electronically notify states of the IWO's status, including terminations and lump sum payments.

There are two ways employers can implement e-IWO:

- "No Programming Option"—Requires minimal IT resources and the employers can be live on e-IWO in two to four weeks. Employers then receive an image ready Portable Document File of every order along with a prefilled acknowledgement. Employers choosing this option will always receive the incoming IWOs as image ready .PDFs.
- "System to System"—Requires employers to receive and process the e-IWO documents electronically and generate acknowledgements using a flat file or XML schema. Because the e-IWO documents arrive in a flat file or XML schema employers can automatically upload the withholding order information to their payroll system. This option, because of the programming involved, usually requires three to five months to complete. Employers implementing the system to system also have the option to receive the incoming orders as image ready .PDFs.

Twenty-seven states, representing 75 percent of the child support caseload and 3,600 FEINs, are using the e-IWO system as of Feb. 1, 2013. There is NO cost to employers for participating in the e-IWO project!

For more information, visit the *e-IWO Web page* or contact William Stuart at *william.stuart@acf.hhs.gov* or Sherri Grigsby at *sherri.grigsby@acf.hhs.gov* DHHS

The Outreach Corner – a FREE resource for communicators

With nearly 55,000 subscribers, the Outreach Corner on IRS.gov offers a selection of materials with tax information for your employees. Each month, this page is refreshed with new news articles designed to educate people about taxes, including available tax credits, types of contributions for retirement planning, convenient online tax tools and much more. The IRS created the *Outreach Corner on IRS.gov* to make it easier for organizations, especially those with limited resources, to help the people they serve.

The Outreach Corner includes FREE timely material that can be used for websites, newsletters, social media platforms and other communication vehicles. It includes ready-to-use articles written in plain language, IRS audio and video files, widgets, tweets and more. This resource could save a step for employers who are looking for tax information to share quickly with their employees on most tax issues.

The Outreach Corner updates at least once a month. Anyone interested in reaching others with current tax information and products is encouraged to subscribe and take advantage of the available material. Please share this *subscription link* and promote the Outreach Corner as a valuable resource for tax information.

For questions, comments or to learn more about the Outreach Corner send an email to *partner@irs.gov*.

IRS

Are You Hiring?

Employers, please don't forget to report your new hires!

The federally mandated New Hire Reporting program is vital to the success of the child support enforcement program. Employers make a huge difference in ensuring that children receive the financial support they deserve by submitting new hire data to state agencies shortly after the date of hire.

Recent *legislation* requires employers to report the date that an employee first performs services for pay (date of hire). Additionally, employers must report *re-hires*, an individual who was previously employed by the employer but has been separated from such prior employment for at least 60 consecutive days.

This information is stored on the State Directory of New Hires and then forwarded to the National Directory of New Hires. It is matched daily against child support cases to locate parents, establish paternity, establish or modify child support orders, enforce support orders, and obtain health insurance coverage for children.

States also use the new hire information to reduce overpayments in areas of unemployment and disability insurance and workers' compensation benefits. Many states have developed ways to make it easier for employers to report their new hire data, which include internet, phone, and fax. In addition, multistate employers may elect to submit all their new hire reports to one state. If chosen, they must notify the Secretary of the Department of Health and Human Services, Office of Child Support Enforcement, in writing to identify the state where they will report new hires. Notifications may be submitted *online*, fax or mail to:

U.S. Department of Health & Human Services
Office of Child Support Enforcement
Multistate Employer Registration
Box 509
Randallstown, MD 21133
410-277-9479 (for questions)
410-277-9325 (fax)

For more information about New Hire Reporting, including links to each state's reporting requirements, visit the *Federal Office of Child Support Enforcement* Web page.

DHHS

2012 Reporting of 2010 Roth Rollovers and Conversions

In 2010, did you:

- convert (transfer) amounts from a non-Roth IRA to a Roth IRA,
- roll over *eligible distributions* from a retirement plan (other than an IRA-based plan) to a Roth IRA, or
- do an *in-plan Roth rollover* (after September 27, 2010)?

If yes, you were required to report half of the taxable amount of your 2010 Roth rollovers and conversions on your 2011 tax return and now must report the remaining half on your 2012 return, unless you:

- elected to include the entire taxable amount of your rollovers or conversions in your 2010 income by filing a *2010 Form 8606*, *Nondeductible IRAs* (*instructions*) and completing Part II, Part III or both, as applicable, and checking the box on line 19, the box on line 24 or both;
- *recharacterized* your 2010 Roth rollover or conversion (in-plan Roth rollovers can't be recharacterized); or
- received a distribution in 2010 or 2011 of any of the taxable amount of your rollovers or conversions (in which case, you may have to report an amount other than half on your 2012 tax return).

No Distributions in 2010 or 2011

If you didn't receive a distribution in 2010 or 2011 of any amount of your 2010 **conversion** to a Roth IRA, you must report the amount from line 20b of your 2010 Form 8606 on line:

- 15b of your 2012 Form 1040, *U.S. Individual Income Tax Return*;
- 11b of your 2012 Form 1040A, *U.S. Individual Income Tax Return*; or
- 16b of your 2012 Form 1040NR, *U.S. Nonresident Alien Income Tax Return*.

If you didn't receive a distribution in 2010 or 2011 of any amount of your 2010 **rollover** to a Roth IRA or 2010 in-plan Roth rollover, you must report the amount from line 25b of your 2010 Form 8606 on line:

- 16b of your 2012 Form 1040;
- 12b of your 2012 Form 1040A; or
- 17b of your 2012 Form 1040NR.

2010 distributions

If you received a distribution in 2010 of any of your 2010 rolled over or converted amounts, on your 2010 tax return:

- you would have reported the amount of distributions; and
- you may have included the remaining non-distributed amount of your 2010 rollover and conversion in your 2010 gross income if the remaining amount was **less than half** of your total 2010 rolled over and converted amounts.

If, after your 2010 distribution, the remaining non-distributed amount was **not more than half** of your total 2010 rolled over and converted amounts, you:

- would have reported half of the non-distributed amount on your 2011 tax return; and
- must now report the remaining taxable amount of your 2010:
  - o conversions to a Roth IRA on line 15b of your 2012 Form 1040 (line 11b of Form 1040A or line 16b of Form1040NR), and
  - o rollovers to a Roth IRA and in-plan Roth rollovers on line 16b of your 2012 Form 1040 (line 12b of Form 1040A or line 17b of Form 1040NR).

You can use the following worksheets to calculate the amount to report on your 2012 tax return if you had 2010 distributions but no 2011 distributions for:

- Conversions, the 2012 Taxable Amount Due to a 2010 Conversion to a Roth IRA - Worksheet in chapter 2 of the 2012 Publication 590 (to be released soon).
- Rollovers, the 2012 Taxable Amount Due to a 2010 Roth IRA Rollover - Worksheet under *Rollovers in Publication 575*.
- In-plan Roth rollovers, the 2012 Taxable Amount Due to a 2010 In-Plan Roth Rollover - Worksheet under Rollovers in Publication 575.

2011 distributions

If you received a 2011 distribution of any amount of your 2010 Roth rollovers and conversions, you may have included in your 2011 gross income all or some of the taxable amount that you would have otherwise included in your 2012 income. To determine the amount you had to report in 2011, you would have completed the *2011 Form 8606* (*instructions*):

- Part III, line 36, shows the amount you should have reported on your 2011 tax return for distributions from a Roth IRA; and
- Part IV, line 46, shows the amount you should have reported on your 2011 tax return for distributions from a designated Roth account.

You would now determine the remaining taxable amount to report on your 2012 tax return by referring to your 2011 Form 8606:

- Part III, line 38, for 2011 Roth IRA distributions; and
- Part IV, line 48, for 2011 designated Roth account distributions.

You would report the remaining taxable amount of your 2010:

- conversions to a Roth IRA on line 15b of your 2012 Form 1040 (line 11b of Form 1040A or line 16b of Form1040NR); and
- rollovers to a Roth IRA and in-plan Roth rollovers on line 16b of your 2012 Form 1040 (line 12b of Form 1040A or line 17b of Form 1040NR).

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Form 8955-SSA...

Does your retirement plan have participants who have separated from service and have deferred vested benefits? List them on Form 8955-SSA *(Resources)*.

SSA/IRS Reporter

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2012 distributions

Any distributions you received in 2012 from your Roth IRA or designated Roth account don't affect the amount of your 2010 Roth rollovers and conversions that you must report in 2012. To determine the amount and how to report the amount of your 2010 Roth rollovers and conversions on your 2012 return, follow the instructions above depending on whether you:

- didn't receive any 2010 or 2011 distributions;
- received a 2010 distribution; and
- received a 2011 distribution.

If you only received qualified distributions (other than a qualified first-time home buyer distribution from a Roth IRA) in 2012 from your Roth IRA or designated Roth account, you don't have to report these distributions (because they aren't taxable). However, you must still report the remaining taxable amount of your 2010 Roth rollovers and conversions on your 2012 return.

If you received a 2012:

- *Nonqualified distribution from a Roth IRA* (or a qualified first-time home buyer distribution), complete the *2012 Form 8606* and follow the *instructions* to add the taxable portion of your distribution to the remaining taxable amount of your 2010 conversion or rollovers to a Roth IRA and report the total on the appropriate lines of your 2012 income tax return.
- *Nonqualified distribution from a designated Roth account*, add the taxable portion of your distribution to the remaining taxable amount of your 2010 in-plan Roth rollover and report the total amount on line 16b of your 2012 Form 1040 (line 12b of Form 1040A or line 17b of Form 1040NR).

Additional Resources

2011 reporting of 2010 Roth rollovers and conversions
Topic 413 - Rollovers from Retirement Plans
Notice 2009-75, Rollovers from Employer Plans to Roth IRAs
Notice 2010-84, Guidance on In-Plan Roth Rollovers
IRS

Spring Cleaning of Your Payroll Records

After finishing your year-end payroll processes, it is a great time to start thinking about cleaning up your old files. Which records can you destroy, and which records must you retain? The Internal Revenue Code requires all employers that withhold and pay federal income, social security, and Medicare taxes to maintain certain records for each employee. Failure to meet these requirements can result in sizable penalties and large settlement awards if you are unable to provide the required information when requested by IRS or in an employment-related lawsuit.

Income, Social Security, and Medicare Taxes

Employers must keep income, social security, and Medicare tax records for at least four years after the due date of the employee's personal income tax return (generally, April 15) for the year in which the payment was made: For record keeping purpose, below is a checklist you might find helpful.

- The Employer Identification Number (EIN).
- Employee name, address, occupation, and social security number.
- The total amount and date of each payment of compensation and any amount withheld for taxes or otherwise. This should include reported tips and the fair market value of non-cash payments.
- Amount of compensation subject to withholding for federal income, social security, and Medicare taxes, and the corresponding amount withheld for each tax (also the date withheld if withholding occurred on a different day than payment).
- The pay period covered by each payment of compensation.
- If applicable, the reason(s) why the total compensation and the taxable amount for each tax rate are different.
- The Employee's Form W-4, *Employee's Withholding Allowance Certificate*.
- Each employee's beginning and ending dates of employment.
- Any statements provided by the employee reporting tips received.
- Information regarding wage continuation payments made to the employee by an employer or third party under an accident or health plan. This should include the beginning and ending dates of the period of absence from work and the amount and weekly rate of each payment (including payments made by third parties). You also need to keep copies of the employee's Form W-4S, *Request for Federal Income Tax Withholding from Sick Pay*.
- Fringe benefits provided to the employee and any required substantiation.
- Employee requests to use the cumulative method of wage withholding.
- Adjustments or settlements of taxes.
- Copies of returns filed (on paper or electronically), including Forms 941 (with Schedule B, D, and/or R, as applicable), 943, 944, 945, 941-X, W-3, Copy A of Form W-2, and any Forms W-2 sent to employees but returned as undeliverable. If you can electronically reproduce the undeliverable Forms W-2, you may destroy the originals.
- Amounts and dates of tax deposits.

If an employer files a claim for refund, credit, or abatement of withheld income and employment taxes, records related to the claim must be retained for at least four years after the filing date of the claim. Employers must also keep records substantiating any information returns and employer statements to employees regarding tip allocations for at least three years after the due date of the return or statement to which they relate. Employers with a health insurance, cafeteria, educational assistance, adoption assistance, or dependent care assistance plan providing benefits that are exclude from income must also keep whatever records are needed to determine whether the plan meets the requirements for excluding the benefit amounts from income.

Unemployment Tax

Employers subject to the Federal Unemployment Tax Act (FUTA) must also keep records to substantiate the following for at least four years after the due date of Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return, or the date the required FUTA tax was paid, whichever is later:

- The total amount of employee compensation paid during the calendar year.
- The amount of compensation subject to FUTA tax.
- State unemployment contributions made, with separate totals for amounts paid by the employer and amounts withheld from employees' wages. Currently, Alaska, New Jersey, and Pennsylvania require employee contributions.
- All information shown on Form 940 (with Schedule A and/or R as applicable).
- If applicable, the reason why total compensation and the taxable amounts are different.

Department of Labor, State Requirements

There are also record retention requirements set by the *Department of Labor*, as well as wage-hour and unemployment insurance agencies at the state level. You can read the DOL's rules by visiting their site. Links to state agencies can be found by visiting the *APA* website. APA

IRS Wants Your Help to Reduce Taxpayer Burden

Did you know IRS would like your ideas on how to reduce taxpayer burden? Perhaps you have thoughts on how to simplify reporting requirements, streamline IRS procedures or shorten forms – IRS wants to hear them! Use *Form 13285A*, Reducing Tax Burden on America's Taxpayers for ideas that identify meaningful taxpayer burden reduction opportunities affecting a significant number of taxpayers. More information can be found on the Taxpayer Burden Reduction *website* on IRS.gov.

Stay in Compliance with APA's Payroll Tax Forum

Payroll is one of the most regulated aspects of any business. The cost of noncompliance is steep. By attending an American Payroll Association (APA) Payroll Tax Forum, a one-day course offered in 18 cities nationwide, June 11 – 21, 2013, you can avoid penalties by learning about the latest payroll-related changes from Congress and federal agencies such as the IRS, SSA, DOL, and the Department of Homeland Security.

Topics include the effect of the American Taxpayer Relief Act on payroll processing, the 2013 increase in the Medicare withholding tax rate for employees paid more than $200,000, and understanding how the SUTA trust fund balances impact FUTA and SUTA rates.

The class also includes an explanation of the taxation and reporting of some of the most common benefits; review of the annually adjusted wage bases and benefit limits; and discussion of revisions to IRS forms and publications. Most of the one-day classes also include presentations by IRS and/or SSA representatives. Payroll directors and managers, tax and compliance officers, controllers, CFOs, treasurers, and anyone else involved in your organization's payroll should not miss this opportunity. For more information, visit the APA *website*. APA

DHS NEWS

E-Verify Updates

In Fiscal Year 2012, *E-Verify* enrollment increased by more than 111,000 new employers. There are now nearly half a million employers enrolled to use E-Verify at over 1.2 million worksites.

New Avenue to Enrollment

The new *E-Verify enrollment Web page* links employers to resources that answer questions and help employers prepare to enroll. The *How to Enroll in E-Verify* video is an example of the many helpful resources. Whether you are ready to enroll in E-Verify today, or not, you will find useful information.

E-Verify Online Employers Search Tool

In December 2012, U.S. Citizenship and Immigration Services launched a new searchable database of employers enrolled to use E-Verify. The *E-Verify Employers Search Tool*, replaces the lists of E-Verify employers and federal contractors that previously appeared on the E-Verify website. The database allows you to filter, sort, and export results.

Updated E-Verify Questions and Answers

The updated and redesigned *E-Verify Questions and Answers* section has easy-to-find answers to common and complex questions from users and non-users.

Free Webinars

Visit the E-Verify website and click on *Take a Free Webinar* to learn more about E-Verify, *Form I-9*, *Self-Check* and *Employee Rights*. DHS experts deliver more than 25 webinars on these important topics each month.

E-Verify Logo and I E-Verify Seal

Let the public know you use E-Verify! E-Verify participating employers, federal and state agencies, and other eligible associations are encouraged to display the official E-Verify Logo and Seal. Simply fill out and return the *E-Verify Trademark Licensing Agreement* and/or the *Terms of Use for the I E-Verify™ Seal Agreement* today!

Subscribe to the E-Verify Connection e-Newsletter

The best way to stay up to date with the latest *E-Verify*, *Form I-9*, and *Self Check* news is to *subscribe* to the newsletter. Each issue of E-Verify Connection will keep you informed of the latest information related to employment eligibility verification. You can also find *past issues*.

Visit *www.dhs.gov/e-verify* to learn more about E-Verify. For Form I-9 information, visit I-9 Central. DHS

Excess Contributions and Required Minimum Distributions for IRAs may be Subject to Excise Taxes

The IRS is expanding education and outreach efforts to reduce non-compliance with IRA excess contributions and required minimum distributions. If you are an individual with an IRA or more than one IRA be aware of the rules that apply. You could be subject to excise taxes if you make any excess contributions to your IRA and you are not taking your required minimum distributions.

For 2013, if you are younger than age 70 1/2 you can contribute the smaller of up to $5,500 ($6,500 between age 50 and 70 1/2) or your taxable compensation for the year to a traditional or Roth IRA. Any amount contributed for the year that exceeds the limit, or is contributed by an individual age 70 ½ or older is considered an excess contribution. There is a 6 percent excise tax on excess contributions.

When an individual reaches 70 ½, the individual can no longer contribute to a traditional IRA and must begin taking required yearly minimum distributions. Not taking the required minimum distribution could result in a 50 percent excise tax.

Your IRA Custodians report IRA contributions to the IRS using Form 5498 IRA Contribution Information and they will send you a copy. If you have more than one IRA, you should receive a separate Form 5498 that is filed for each IRA you hold. Distributions from IRA accounts are reported by custodians on Form 1099-R.

There are several resources about excess contributions and required minimum distributions on IRS.gov. APA

Traditional and Roth IRAs

Traditional and Roth IRAs allow you to save money for retirement. This chart highlights some of their similarities and differences.

Features	Traditional IRA	Roth IRA
Who can contribute?	You can contribute if you (or your spouse if filing jointly) have taxable compensation but not after you are age 70½ or older.	You can contribute at any age if you (or your spouse if filing jointly) have taxable compensation and your modified adjusted gross income is below certain amounts (see *2012* and *2013* limits).
Are my contributions deductible?	You can deduct your contributions if you qualify.	Your contributions aren't deductible.
How much can I contribute?	The most you can contribute to all of your traditional and Roth IRAs is the smaller of: for 2012, $5,000, or $6,000 if you're age 50 or older by the end of the year ($5,500 or $6,500 for 2013); or your taxable compensation for the year.	
What is the deadline to make contributions?	Your tax return filing deadline (not including extensions). For example, you have until April 15, 2013, to make your 2012 contribution.	
When can I withdraw money?	You can withdraw money anytime.	
Do I have to take required minimum distributions?	You must start taking distributions by April 1 following the year in which you turn age 70½ and by December 31 of later years.	Not required if you are the original owner.
Are my withdrawals and distributions taxable?	Any deductible contributions and earnings you withdraw or that are distributed from your traditional IRA are taxable. Also, if you are under age 59 ½ you may have to pay an additional 10% tax for early withdrawals unless you qualify for an exception.	None if it's a qualified distribution (or a withdrawal that is a qualified distribution). Otherwise, part of the distribution or withdrawal may be taxable. If you are under age 59 ½, you may also have to pay an additional 10% tax for early withdrawals unless you qualify for an exception.

Additional Resources:

Publication 590, Individual Retirement Arrangements (IRAs)
Individual Retirement Arrangements Web pages
Required Minimum Distributions Web pages
FAQs: *Traditional and Roth IRAs* IRS

Use Voluntary Program to Reclassify Workers Going Forward

If you're an employer and you don't know if you are classifying your workers correctly, the IRS Voluntary Classification Settlement Program may be able to help.

The VCSP is a voluntary program that provides an opportunity for taxpayers to reclassify their workers as employees, for employment tax purposes, for future tax periods with partial relief from federal employment taxes. To participate, you must meet certain eligibility requirements and apply by filing *Form 8952, Application for Voluntary Classification Settlement Program (VCSP)*, and enter into a closing agreement with the IRS.

The IRS recently modified the existing VCSP via *Announcement 2012-45* to:

- Permit a taxpayer under IRS audit, other than an employment tax audit, to be eligible to participate in the VCSP;
- Clarify the current eligibility requirement that a taxpayer who is a member of an affiliated group within the meaning of section 1504(a) is not eligible to participate if any member of the affiliated group is under employment tax audit;
- Clarify that a taxpayer is not eligible to participate if the taxpayer is contesting in court the classification of the class or classes of workers from a previous audit by the IRS or Department of Labor; and
- Eliminate the requirement that a taxpayer agree to extend the period of limitations on assessment of employment taxes as part of the VCSP closing agreement.

Temporary Eligibility Expansion

The IRS also announced the VCSP TEE, or temporary eligibility expansion, that will only be available through June 30, 2013. The temporary eligibility expansion makes a modified VCSP available to taxpayers who would otherwise be eligible for the current VCSP, but who have not filed all required Forms 1099 for the previous three years with respect to the workers to be reclassified. VCSP TEE is described in *Announcement 2012-46*.

Like the VCSP, the VCSP TEE permits eligible taxpayers to voluntarily reclassify their workers as employees for federal employment tax purposes and obtain relief similar to that obtained through the current *Classification Settlement Program*. Payment due under the VCSP TEE is higher than the payment under the VCSP, but the benefits are otherwise the same for taxpayers who participate.

Eligible taxpayers who want to participate in the VCSP TEE must submit *Form 8952, Application for Voluntary Classification Settlement Program (VCSP)*, on or before June 30, 2013. When applying for the VCSP TEE, applicants must:

- Write "VCSP Temporary Eligibility Expansion" at the top of Form 8952;
- Put a line through Part V, Line A3, to indicate that the applicant has not satisfied all Form 1099 requirements for each of the workers for the three preceding calendar years ending before the date of the application; and
- Not complete Part IV, Payment Calculation. Instead, taxpayers should complete and attach the worksheet provided in Announcement 2012-46 to calculate their payment under the VCSP TEE.

For more VCSP and VCSP TEE information, including the payment due and how to apply, visit IRS.gov for:

Voluntary Classification Settlement Program

VCSP Frequently Asked Questions IRS

Is It That Time Again?! Renewing the Income Withholding for Support (IWO)

The Office of Management and Budget requires the review of federal forms every three years and the Income Withholding for Support (IWO) must be renewed by May 31, 2014. That means the federal Office of Child Support Enforcement is beginning the renewal process!

Input on potential form changes from all users is critical. This includes state and tribal child support agencies, employers, courts, attorneys, and other entities. Below are a few suggestions for potential updates to the form we received from users.

- **Add language to clarify that the Consumer Credit Protection Act maximum withholding limits do not apply to independent contractors.**
- **Return to the pre-2007 standard requiring the case identifier and the remittance identifier be the same. Remove the court block (empty box) on page one if courts do not use it.**
- **Change title of the form to Income Withholding Order/Notice.**
- **Since the form is designed for all entities that issue IWOs, we would like to keep the form as concise as possible while making it relevant to all users.**

We will notify all stakeholders including state and tribal child support agencies, the judicial community, and employers when notice is published in the Federal Register seeking comments on renewal of the IWO. The OMB approved IWO form was published in Action Transmittal 11-05 and may be found –on the *Revised Income Withholding for Support* Web page.

If you have questions about the IWO form, who must use it, or would like to discuss this further, please contact Cindy Holdren at *cynthia.holdren@acf.hhs.gov* or 240- 676-2808. DHHS

Social Security Administration

Internal Revenue Service

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Reporter

Summer 2013

A Newsletter for Employers

Inside this Issue...

Correct Your Retirement Plan Errors

A retirement plan helps you and your employees save money for retirement. However, plan errors can jeopardize your plan's tax-favored status. Here are a few things you should know:

1. How do plan errors happen?
2. Why should I correct plan errors?
3. How can I correct plan errors?
4. Are there any resources to help me correct plan errors?

How do plan errors happen?

Despite your best intentions, different plan errors may happen. For example:

- You don't allow eligible employees to participate in the plan on time.
- You don't use the correct plan definition of compensation for certain plan operations (for example, contributions and nondiscrimination testing).
- You miss the deadline to amend your written plan document for tax law changes.

To reduce the likelihood of plan errors, your plan should have *internal controls*.

Why should I correct plan errors?

Correct plan errors for you and your employees to continue to receive the tax benefits of having a qualified retirement plan, including:

- Your deduction (up to certain limits) for plan contributions
- Your employees' tax deferral of their pre-tax contributions and earnings until distribution

See *Tax Consequences of Plan Disqualification* for additional information.

How can I correct plan errors?

Generally, there are two ways you can correct plan errors if your plan isn't being audited and you've discovered the error on your own.

- Use the *Self-Correction Program* without paying any fee or notifying the IRS if:
  - o your plan has sufficient compliance practices and procedures to avoid errors, and
  - o the plan errors are insignificant operational mistakes, or significant operational mistakes that you correct within an IRS specified timeframe.
- For any errors you can't or don't wish to correct under the Self-Correction Program, you can use the *Voluntary Correction Program*, which allows you to:
  - o correct qualification failures (errors that affect your plan's tax favored status) with IRS approval, and pay a fee based on the number of plan participants.
  - o Are there any resources to help me correct plan errors?

You can use the *Fix-It Guides* to help you find, fix and avoid common mistakes in the following plan types:

- 401(k)
- 403(b)
- SARSEP
- SEP
- SIMPLE IRA

You should also review:

- *Fixing Common Plan Mistakes* - articles that describe how to spot problems in your plan and correct mistakes.
- *A Guide to Common Qualified Plan Requirements* - list of some important plan requirements to help you apply practices, procedures and internal controls to monitor your plan operations. IRS

OIC Pre-Qualifier Tool

We've all seen the ads from companies saying they can settle your IRS tax debt. It sounds good, but there are some things you should know.

These ads are referring to the IRS' Offer-in-Compromise program. An Offer-in-Compromise allows you to settle your federal tax debt for less than the full amount. But the offer program is not for everyone. The IRS will not accept an Offer-in-Compromise if we believe you can pay the amount owed. So you should explore all your *other options* first including borrowing or a monthly *payment plan*.

Before you apply for an Offer-in-Compromise you must file all required tax returns and take steps to make sure you will not owe more federal taxes in the future. Those steps may include adjusting your *withholding*, making your quarterly *estimated tax* payments, or, for businesses, making your *payroll tax* deposits.

You should also know that the IRS cannot accept an offer if you are in an open bankruptcy case. And, unless you qualify for a waiver, you must include the $150 application fee and a non-refundable down payment with your application.

So, when will the IRS consider an Offer-in-Compromise? When there is legitimate doubt that you will be able to pay the full amount you owe. How do you know whether you are eligible to apply for an offer and what an acceptable offer amount might be? We have an app for that. It's called the Offer-in-Compromise Pre-Qualifier tool.

The Pre-Qualifier tool is a five step process that, if you qualify, leads to a proposed offer amount. The steps are:

Status helps you determine whether you are eligible to apply for an offer. Basic information includes your state, county and zip code, how many people in your household, and, the taxes you owe. Then you enter information about your assets, income and expenses. And if it looks like you are a good candidate for an offer, the tool provides a proposal for what an acceptable offer amount might be.

If you've explored your other options and think an Offer-in-Compromise may be right for you, use our *Pre-Qualifier tool* to be sure you qualify and to get a realistic idea of what an acceptable offer amount might be. Then prepare and submit your written application. You'll find everything you need at *IRS.gov* keyword "offer." IRS

New Employment Eligibility Verification Form I-9 from USCIS

On March 8, 2013, U.S. Citizenship and Immigration Services published a revised *Employment Eligibility Verification Form I-9.* Employers have been required by law to complete the *Form I-9* for every person hired since November 1986. You can find the new *Form I-9* and instructions online at *www.uscis.gov/I-9Central*.

What Version of Form I-9 Should You Use?

Effective May 7, 2013, you must only use the latest version of the *Form I-9* (revised 03/08/13). The Federal Register notice published with the release of the revised form allowed employers a sixty-day period to transition to the new version. All previous versions of the form are now invalid and must not be used. You can easily check that you are using the correct version of the Form I-9 by confirming that the revision date located on the lower left reads '*Form I-9* 03/08/13 N.'

Is There A Spanish Version?

A Spanish version of *Form I-9* (revised 03/08/13) is available on the USCIS website for use in Puerto Rico only. Outside of Puerto Rico, Spanish-speaking employers and employees may use the Spanish version for reference, but must complete the English version of the form. Visit Central I-9 (*www.uscis.gov/I-9Central/Espanol*) for more information about the Spanish version of the form.

What Changes Were Made to Form I-9?

Improvements to *Form I-9* include reformatting to reduce errors, new fields, and clearer instructions to both employers and employees. Below are highlights of some of the changes.

***New Layout*: Form I-9 has gone from one to two pages to allow users more space to enter information clearly and to accommodate changes made to Section 1. In addition, USCIS redesigned Form I-9 to be in line with current USCIS design standards, so you may notice that the font is different and the instructions are now in a one-column format.**

***New fields*: Form I-9 now features new e-mail address and phone number fields. Completing these fields is optional.**

***Expanded Instructions:* USCIS expanded the Form I-9 instructions from three to six pages. The revised instructions clearly describe the information employees must enter in Section 1, and employer's responsibilities in Sections 2 and 3, including when reverification is necessary. There are also expanded instructions on acceptable receipts.**

More information about the new Form I-9 is available online on I-9 Central, www.uscis.gov/I-9Central. The *Handbook for Employers, Guidance for Completing Form I-9 (M-274)* has also been updated to include information about the revised form and helpful new images. In addition, USCIS offers free live *webinars* about Form I-9 throughout the month.

American Taxpayer Relief Act of 2012 Extends the Work Opportunity Tax Credit

Recent legislation extended the *Work Opportunity Tax Credit* through Dec. 31, 2013.

Taxable employers can claim the WOTC retroactively for all targeted group employee categories hired on or after Jan. 1, 2011, and before Dec. 31, 2013. *Form 5884*, Work Opportunity Credit, lists the targeted group categories.

The legislation also extends the expanded WOTC for hiring qualified veterans through Dec. 31, 2013, for both taxable and tax-exempt employers.

Pre-screening and Certification Requirements

Before claiming the credit, an eligible employer must file *Form 8850*, Pre-Screening Notice and Certification Request for the Work Opportunity Credit, with their respective state workforce agency within 28 days after the eligible worker begins work. However, in *Notice 2013-14*, the IRS issued transition relief rules for employers who hire employees from one of the targeted group categories, other than qualified veterans, during 2012.

Are You an Ineligible 403(b) Plan Sponsor?

If your organization was never eligible to sponsor its 403(b) retirement plan, use the IRS *Employee Plans Compliance Resolution System's* Voluntary Correction Program (VCP) to resolve this failure.

Who may sponsor a 403(b) plan?

"Eligible employers" that may sponsor a 403(b) plan are:

- 501(c)(3) tax-exempt organizations,
- public education organizations (Internal Revenue Code Section 170(b)(1)(A)(ii)),
- ministers (defined by IRC Section 414(e)(5)(A)), and
- a state, including a political subdivision of a state, or any agency or instrumentality of a state for its public school employees (IRC Section 170(b)(1)(A)(ii)). (An Indian tribal government is treated as a state (IRC Section 7871(a)(6)(B)).

See:

- Treas. Reg. Section *1.403(b)-2* for details about employers eligible to sponsor 403(b) plans.
- "*Are you a 403(b) plan sponsor that has lost your tax-exempt status*?" if you've become ineligible because you lost your tax-exempt status.

Consequences of an ineligible employer adopting a 403(b) plan

If your organization was never eligible to sponsor a 403(b) plan and you don't submit this error under the VCP:

- your organization has to withhold and pay payroll taxes from the contributions to the plan, and
- plan participants are liable for additional income tax because the contributions aren't tax-deferred.

Voluntary Correction Program

Eligibility - you can use VCP if:

- your organization or 403(b) plan is not "under examination" by the IRS (see Revenue Procedure 2013-12 Section 5.09), and
- you immediately stop making salary reduction and employer contributions to the 403(b) plan. Be sure you've complied with all other 403(b) plan rules, including the written plan requirement, universal availability, 403(b) distribution rules and any other requirement under Internal Revenue Code section 403(b) (*Revenue Procedure 2013-12* Section 6.03).
- you keep the 403(b) assets in the issued annuity contracts or custodial accounts and don't distribute them before one of the distributable events in IRC Section 403(b).

Benefits - making a VCP submission benefits your organization and your 403(b) plan participants because:

- contributions can remain in the 403(b) annuities or custodial accounts,
- participants' 403(b) annuities and custodial accounts retain their tax favored status, and
- your organization avoids penalties.

Make a VCP submission

- file under the VCP, using *Appendix C part 1 Model Compliance Statement*, Schedule 6 and *Form 8950*, *Application for Voluntary Correction Program (VCP)*, and *Form 8951*, Compliance Fee for Application for Voluntary Correction Program (VCP)
- pay a compliance fee to the IRS based upon the number of employees eligible to participate in the plan
- mail completed documents and any other required documents to:

  First class mail:
  Internal Revenue Service
  P.O. Box 12192
  Covington, KY 41012-0192

  Express mail or private delivery service:
  201 West Rivercenter Blvd.
  Attn: Extracting Stop 312
  Covington, KY 41011

Additional Resources

- *403(b) Plan Fix-It Guide*
- *403(b) plans home page*
- *Publication 4483*, 403(b) Tax-Sheltered Annuity Plan for Sponsor IRS

Form 8955-SSA...

Does your retirement plan have participants who have separated from service and have deferred vested benefits? List them on Form 8955-SSA *(Resources)*.

Reporter

SSA/IRS Reporter is published quarterly, Spring (March), Summer (June), Fall (Sept.), and Winter (Dec.) by the IRS Small Business/Self-Employed Communications Office.

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e-mail: *SSA.IRS.REPORTER@irs.gov*

Deposit Withheld Income and Employment Taxes Correctly or Risk Being Penalized

The payment of withheld federal income, social security, and Medicare taxes, as well as the employer's share of social security and Medicare taxes and FUTA tax, is handled differently from the payment of other federal taxes. Rather than paying the taxes when filing a return, employers generally must deposit the taxes electronically through the Electronic Federal Tax Payment System (EFTPS), unless the amounts are very small (e.g., a FUTA tax liability of less than $500 at the end of the year may be paid with the Form 940).

Payroll Tax Deposit Rules

Employers that file Form 941, Employer's Quarterly Federal Tax Return, are assigned one of two depositor status classifications under the deposit rules: monthly or semiweekly. The determination is based on the employer's total liability for federal income, social security, and Medicare taxes during a "lookback period" and generally lasts for an entire calendar year. The lookback period is the 12-month period ending the preceding June 30.

If an employer's four quarterly Forms 941 during the lookback period show a total federal income, social security, and Medicare tax liability of $50,000 or less, the employer is a monthly depositor for the upcoming year. If the total liability exceeds $50,000, the employer is a semiweekly depositor. Although the depositor status determination generally lasts for an entire year, there are exceptions for employers with less than $1,000 of annual tax liability, less than $2,500 of quarterly tax liability, or more than $100,000 of accumulated tax liability.

Monthly depositors must deposit their accumulated tax liability for each calendar month by the 15th of the following month. Semiweekly depositors must deposit employment taxes for wages paid on Wednesday, Thursday, and Friday by the following Wednesday. Employment taxes for wages paid on Saturday, Sunday, Monday, and Tuesday must be deposited by the following Friday.

Some special rules also apply for employers with varying tax liabilities. First, if an employer's accumulated tax liability reaches $100,000 on any day during a monthly or semiweekly deposit period, the taxes must be deposited by the close of the next business day. Next, employers with an accumulated tax liability of less than $2,500 for any quarter can deposit the liability according to their monthly or semiweekly depositor status or pay it with their Form 941 quarterly return. This rule also applies if the employer's employment tax liability was less than $2,500 for the immediately preceding quarter. Third, the IRS allows a safe harbor shortfall so employers are not penalized for depositing a small amount less than the entire amount of their deposit obligation. An employer satisfies its deposit obligation if the amount of the shortfall is no more than the greater or $100 or 2% of the entire amount due, so long as the original deposit is made timely and the shortfall is deposited by the appropriate "make-up" date.

How to Deposit Payroll Taxes

IRS regulations require the use of EFTPS for all federal tax deposits made on or after January 1, 2011. Other than withheld federal income tax and the employer's and employee's share of social security and Medicare taxes, these taxes include corporate income, estimated income, and excise taxes, federal unemployment (FUTA) tax, tax withheld from nonresident aliens and foreign corporations, and estimated taxes paid by certain trusts. If employers are unwilling or unable to use EFTPS, they can arrange for a tax professional, financial institution, payroll service provider, or other third party to make a deposit on their behalf using a master account. Employers can also arrange for their financial institution to make a same-day wire payment on their behalf.

The requirement to use EFTPS does not apply to employers that are not required to make deposits under the current rules. This means that employers who have a total employment tax liability of less than $2,500 in the current or preceding quarter can continue to pay their taxes with their Form 941. The same is true for monthly depositors who are paying a lawful deposit shortfall under the safe-harbor rules with their Form 941. Employers who file Form 944 because they have an annual employment tax liability under $1,000 can also pay their taxes with Form 944.

Penalties for Failure to Deposit on Time

Depositors that fail to deposit the entire amount of tax required by the due date (taking into consideration the safe-harbor rule) without reasonable cause are subject to the following penalties:

- 2 percent of the undeposited amount if it is deposited within 5 days of the due date;
- 5 percent of the undeposited amount if it is deposited within 6-15 days of the due date;
- 10 percent of the undeposited amount if it is deposited more than 15 days after the due date (also applies to amounts paid to the IRS within 10 days after receipt of the first IRS delinquency notice or not made electronically); or
- 15% of the undeposited amount if it is not paid within 10 days after the employer receives its first IRS delinquency notice or on the same day a notice and demand for payment is received.

In advice to its field agents, the IRS said that employers that contracted with a payroll service provider to submit employment tax returns and make tax deposits were liable for penalties when the provider failed to submit the returns or make the deposits. It did not matter that the employers delegated their employment tax responsibilities to an agent.

In 2012, the IRS issued a revenue procedure updating the requirements for completing and submitting Form 8655, Reporting Agent Authorization. It also expressly states that Form 8655 does not relieve the client employer of the responsibility (or from liability for failing) to ensure that all tax returns are filed timely and that all federal tax deposits are made timely.

A reporting agent must provide the employer with a written statement that:

- advises the employer of its responsibility to timely file the returns listed on Form 8655 and make federal tax deposits,
- advises the employer that authorizing a reporting agent to perform any of these obligations does not relieve the employer from any liabilities resulting from the reporting agent's failure to perform these obligations,
- recommends that the employer enroll in and use EFTPS to ascertain whether the reporting agent has timely made all required federal tax deposits, and
- advises the employer that state-level tax verification programs may be available.

The reporting agent must provide the employer with a disclosure statement when it enters into a contract for services with the employer and at least quarterly after that for as long as the reporting agent provides services to the employer. See *Rev. Proc. 2012-32* for suggested disclosure statement language. The statement may be provided on paper or electronically and may be provided as a stand-alone communication or as a conspicuous element of other communications.

APA

Additional Medicare Tax Withholding Begins in 2013

New for 2013: employers must report Additional Medicare Tax withholding on Line 5(d) of *Form 941*, Employer's QUARTERLY Federal Tax Return.

Beginning January 1, 2013, employers are required to withhold 0.9 percent Additional Medicare Tax from wages paid to an employee that exceeds $200,000 in a calendar year. There is no employer share for Additional Medicare Tax.

Employers are required to *begin* withholding Additional Medicare Tax in the pay period in which the wages paid to an employee exceeds $200,000. Employers must continue to withhold Additional Medicare Tax in each pay period until the end of the calendar year.

Employers will report Additional Medicare Tax withholding to employees in Box 6 of Form W-2 along with regular Medicare tax.

For additional information on the Additional Medicare Tax, see the *questions and answers* posted on IRS.gov.

IRS

Small Business Taxes: The Virtual Workshop

Get help understanding and fulfilling your federal tax responsibilities

Learn about:

- Completing Schedule C and other tax forms
- Filing and paying your taxes using a computer
- Running a business out of your home
- Hiring employees/contractors
- Setting up a retirement plan for yourself and your employees
- Making tax deposits and filing your payroll taxes using a computer
- Hiring of non-U.S. citizens living in the United States
- Managing payroll and withholding the right amount of tax from employees' wages

Use convenient features:

- Select and view lessons in any sequence
- View outlines or complete transcripts of each lesson
- Access links to reference materials
- Bookmark, share and like the lessons

This free workshop contains accessible content and is available 24/7 at your convenience. Search "virtual workshop" on www.irsvideos.gov IRS

Reduced Fee for Correcting a Failure to Adopt a Written 403(b) Plan

If you failed to adopt a written plan reflecting a good faith attempt to comply with Internal Revenue Code Section 403(b) and the *403(b)* final regulations by December 31, 2009, your 403(b) plan is no longer a qualified tax-deferred retirement plan as of January 1, 2009.

Reduced compliance fee

To encourage 403(b) plan sponsors to correct this failure voluntarily, we're reducing the Voluntary Correction Program compliance fee by 50% if you mail your VCP submission to IRS by December 31, 2013. For example, you pay $2,500 instead of $5,000 if your plan has 101-500 participants.

Voluntary Correction Program submission

You may correct this error under the IRS's VCP if your organization or 403(b) plan is not under audit (*Revenue Procedure 2013-12* Section 5.09). Your organization must:

- Adopt a written plan that complies with Treas. Reg. Section 1.403(b)-3(a)(3) (consult your organization's benefits adviser if necessary),
- Make a VCP submission to the IRS (you may use the *403(b) VCP Submission Kit*), and
- Pay a compliance fee based on the number of employees eligible to participate in the plan.

As part of your VCP submission, complete and mail:

- Form 8950, Application for Voluntary Correction Program (VCP) (instructions)
- Form 8951, Compliance Fee for Application for Voluntary Correction Program (VCP)
- Appendix C - Part 1 Model Compliance Statement
- Appendix F - Schedule 2, Nonamender Failures (other than those to which Schedule 1 applies)
- Copy of signed and dated written 403(b) plan
- Required 403(b) statements
- Any other attachments
- Benefits of correcting the failure
- All money that has been contributed to the 403(b) plan will remain tax-deferred.
- Plan participants' annuity contracts and custodial accounts will retain their tax-favored status (Revenue Procedure 2013-12 Section 6.10).

Consequences of not correcting

Unless you correct this error under VCP:

- The organization has to withhold and pay payroll taxes from any plan contributions made after January 1, 2009, and
- Plan participants are liable for additional income tax because the funds in the 403(b) plan are generally not tax-deferred and don't receive favorable tax treatment under the Internal Revenue Code.

Additional resources

- 403(b) Plan Fix-It Guide
- 403(b) plans home page

IRS

National Taxpayer Advocate's Report Targets Payroll Problems

National Taxpayer Advocate Nina E. Olson has released her *Annual Report to Congress*, identifying the need for tax reform as the top priority in tax administration and designating the complexity of the tax code as the most serious problem facing taxpayers.

"The existing tax code makes compliance difficult, requiring taxpayers to devote excessive time to preparing and filing their returns," Olson wrote. "It obscures comprehension, leaving many taxpayers unaware how their taxes are computed and what rate of tax they pay; it facilitates tax avoidance by enabling sophisticated taxpayers to reduce their tax liabilities and provides criminals with opportunities to commit tax fraud; and it undermines trust in the system by creating an impression that many taxpayers are not compliant, thereby reducing the incentives that honest taxpayers feel to comply."

The problems discussed in the report include the consequences employers face when the payroll service providers (PSPs) they engage to handle their payroll taxes *go out of business or misappropriate clients' funds*. About 41 percent of small businesses used PSPs to handle their payroll taxes in 2012.

The report notes that while most providers are "legitimate and trustworthy" and the IRS has made significant progress in addressing failures by third-party payers, the IRS can and should do more. "Because the victims of defunct PSPs will have to pay the amount of tax twice – once to the PSP, and again to the IRS – some will go out of business, leaving their employees without jobs and often leaving the IRS with scarce assets from which to collect," Olson wrote. "Each PSP failure can affect thousands of employers and millions of dollars in unpaid payroll taxes."

The National Taxpayer Advocate recommended that Congress *amend the tax code* to require third-party payers to furnish a performance bond guaranteeing payment of federal payroll taxes.

The report also discusses continuing problems in the *Combined Annual Wage Reporting (CAWR) program*, including untimely IRS replies to correspondence and a low response rate from employers.

About the Taxpayer Advocate Service

The Taxpayer Advocate Service is your voice at the IRS. TAS employees help taxpayers who are experiencing financial difficulties, who are seeking help in resolving problems with the IRS, or who believe an IRS system or procedure isn't working as it should. For more information on how TAS may be able to help you, go to *www.TaxpayerAdvocate.irs.gov* or *www.irs.gov/advocate*. IRS

What Employers Should Know When Working with Tribes

To help understand your child support responsibilities when interacting with tribes, the federal Office of Child Support Enforcement prepared: What Employers Should Know When Working with Tribes.

There are more than 560 federally recognized American Indian/Alaska Native tribes in the U.S. According to the 2000 census, more than 30 percent of all Native American children under the age of 18 live with one parent. The following frequently asked questions include:

Do tribes have their own child support programs?

Forty-seven tribes operate federally funded child support programs with 11 more in the development stage. We call these tribal child support (sometimes called "IV-D") agencies. "IV-D" refers to the section of the Social Security Act that authorized federal funding for the child support program in 1975.

Do tribes have their own laws?

Yes. Tribes are sovereign nations and have their own governments with the authority to make and enforce laws, to adjudicate civil and criminal disputes, and to tax and license. A tribal child support agency has similar enforcement authority as a state child support agency and should be responded to accordingly.

Do tribal child support agencies use the OMB-approved Income Withholding for Support Order (IWO) form?

Yes. Tribal child support agencies are required to use the IWO form approved by OMB.

Must I honor an IWO from a tribe if I am not a tribal employer or located on tribal land?

Yes. You are required to honor an IWO from a tribal child support agency just as you would honor one from a state child support agency.

Where should I send payments for an IWO that comes from a tribe?

Send payments to the address indicated on the IWO. This may be the tribe's accounting office, the tribal court, or it may be the tribal child support agency.

Must I honor a request for verification of employment (VOE) from a tribe if I am not a tribal employer or located on tribal land?

Yes. Please complete all VOEs sent by a state or tribal child support agency.

If a noncustodial parent/employee leaves my employment, where should I send the notification of termination?

Send it to the address on the order.

Should I expect to receive a National Medical Support Notice (NMSN) from a tribe?

Probably not. Although a tribe can use the NMSN to seek health coverage for a child, tribes are not required to seek health insurance for tribal children.

Questions? Contact Paige Hausburg, Tribal coordinator, federal Office of Child Support Enforcement at paige.hausburg@acf.hhs.gov or 202-401-5635. Thank you for helping tribal children! HHS

SSA/IRS

Reporter

Fall 2013

A Newsletter for Employers

Social Security Administration

Internal Revenue Service

Inside this Issue...

National Taxpayer Advocate Voices Concern About IRS Funding

National Taxpayer Advocate Nina E. Olson has released her mid-year report to Congress, expressing concern about IRS budget cuts, the IRS's unwillingness to issue full refunds to victims of tax return preparer fraud, and problems in procedures for assisting victims of tax-related identity theft.

In addition, Olson released a special report examining the IRS's use of questionable criteria to screen applicants for tax-exempt status, analyzing the sources of the problem and recommending steps to address them. "Today, the IRS is an institution in crisis," Olson wrote. "In my view, however, the real crisis is not the one generating headlines.

"The real crisis facing the IRS — and therefore taxpayers — is a radically transformed mission coupled with inadequate funding to accomplish that mission. As a consequence of this crisis, the IRS gives limited consideration to taxpayer rights or fundamental tax administration principles as it struggles to get its job done."

The report identifies the priority issues on which the Office of the Taxpayer Advocate will focus during the 2014 fiscal year, including the impact of budget reductions on taxpayer service, taxpayer rights, and revenue collection. Olson recommends that Congress provide sufficient funding for the IRS to meet taxpayer needs and to restore funds for employee training, which has been cut by 83 percent since fiscal year 2010. "The last thing a financially struggling taxpayer should have to face is an under-trained IRS collection apparatus," she wrote.

Olson also recommends that Congress enact a Taxpayer Bill of Rights. In her preface to the report, she details how the IRS's delays in processing applications for tax-exempt status violated eight of those ten rights.

Other key issues for the IRS include:

- Conducting education and outreach to taxpayers about their responsibilities under the Affordable Care Act; and
- Establishing less draconian and more reasonable "settlement initiatives" for millions of taxpayers who have legitimate reasons for overseas bank and financial accounts.

The Taxpayer Advocate Service (TAS) is your voice at the IRS. We help taxpayers whose problems with the IRS are causing financial difficulties; who have tried but haven't been able to resolve their problems with the IRS; and those who believe an IRS system or procedure isn't working as it should. If you believe you're eligible for TAS assistance, call us toll-free at 1–877–777–4778. For more information, go to www.irs.gov/advocate. IRS

APA Seminar/Webinar: Year-End Compliance and New Rules for 2014

The American Payroll Association's Preparing for Year-End and 2014 provides updates on the latest changes in legislation and regulations that affect the close of 2013 and the first payroll of 2014, including:

- Learning how to determine full-time employee status in preparing to meet health insurance reporting requirements
- Developing an effective and efficient year-end processing plan
- Learning how the prospect of more than 15 credit reduction states will impact Form 940 processing for 2013
- Understanding how fringe benefit taxation will impact W-2 and 941 reporting

Any of the one-day seminars can be attended at locations around the country. If you cannot get out of the office, all four segments of the class are offered as webinars online, both live and on demand. Other seminars/webinars are offered by the APA that have been customized for public sector payrolls, Canadian payrolls, and accounts payable professionals.

There is also a four-segment webinar covering advanced year-end issues, including complex fringe benefit taxation and reporting requirements.

For more information, visit APA's website and look under the Specialty Seminars or Webinar headings for the version of Preparing for Year-End and 2014 that suits your needs.

Editor's Note: The American Payroll Association's strong partnership with the IRS and SSA allows it to prepare its classes and publications, such as The Payroll Source®, with the most accurate and up-to-date information to educate employers. More APA information is available at www.americanpayroll.org. APA

Fast Track Settlement Program: A Nationwide, Time-Saving Option for Small Businesses Under Audit

The Internal Revenue Service is pleased to announce the nationwide rollout of a streamlined program designed to enable small businesses under audit to more quickly settle their differences with the IRS – the Fast Track Settlement program.

The Fast Track Settlement program is designed to help small businesses and self-employed individuals who are under examination by the Small Business/Self Employed division of the IRS.

FTS uses alternative dispute resolution techniques to help taxpayers save time and avoid a formal administrative appeal or lengthy litigation. As a result, audit issues can usually be resolved within 60 days, rather than months or years. Plus, taxpayers choosing this option lose none of their rights because they still have the right to appeal even if the FTS process is unsuccessful.

Jointly administered by SB/SE and the IRS Appeals office, FTS is designed to expedite case resolution. Under FTS, taxpayers with examination issues in dispute work directly with IRS representatives from SB/SE's Examination division and Appeals to resolve those issues. The Appeals representative typically serves as mediator.

The taxpayer or the IRS examination representative may initiate Fast Track for eligible cases, usually before a 30-day letter is issued. The goal is to complete cases within 60 days of acceptance of the application in Appeals.

For business owners wanting more information on taking advantage of the Fast Track Settlement program, please view the short FTS video and visit the Alternative Dispute Resolution Web page on IRS.gov.

IRS

Become a Tax Volunteer — Learn to Prepare Taxes and Help Others

Ever thought about volunteering to help people with their tax returns? With more than 13,000 volunteer tax help sites nationwide, you can touch lives as a volunteer. Volunteering in either the Volunteer Income Tax Assistance or Tax Counseling for the Elderly program can be rewarding while serving a vital role in your local community.

The VITA and TCE programs generally offer free tax help to people with low-to-moderate income who need assistance in preparing their own tax returns. This includes people with disabilities and those for whom English is a second language.

These programs are always looking for volunteers during the tax filing season. Volunteering can be exciting, educational and enjoyable. As a volunteer, you'll be assigned to work with a sponsoring organization in your area that will ensure you have everything you need. Free training is offered both online and in the classroom. You can also choose your volunteer position. Duties include being a greeter, a reviewer, a tax preparer and more. Tax sites are generally open days, nights and weekends and the hours are flexible and the time commitment is minimal.

In addition to traditional face-to-face tax preparation, the IRS is now offering a self-assistance service at many VITA and TCE locations. If individuals have a simple tax return and need a little help or do not have access to a computer, they can visit one of these participating tax preparation sites and you can be that IRS-certified volunteer to simply guide them through the process. In this capacity you are not actually preparing the return but just simply providing guidance through the process.

Taxpayers rely on volunteers for free quality tax return preparation and assistance each year. Last year, over 90,000 volunteers at thousands of sites nation-wide helped more than 3.3 million taxpayers. To learn more, check out http://www.irs.gov/uac/Newsroom/Six-Good-Reasons-Why-You-Should-Become-a-Tax-Volunteer or if you are ready to sign up now just complete and email the Form 14310, VITA/TCE Volunteer Sign Up to TaxVolunteer@irs.gov.

Make sure to include all your contact information along with the city and state where you want to volunteer. A local IRS representative will direct you to the nearest organizations offering free tax help. Become a volunteer and see what a difference it can make in your life and the lives of others - http://www.irs.gov/Individuals/IRS-Tax-Volunteers.

IRS

Hardship Distributions from Retirement Plans

When we at IRS Employee Plans audit retirement plans, we find errors in the way plan administrators apply the hardship distribution rules. These errors include not following the plan terms and not ensuring that hardship distributions meet the Internal Revenue Code requirements. Here are some questions and answers, as well as tips to help you make sure your plan follows the rules.

What types of plans may allow participants to take hardship distributions?

A retirement plan (that isn't an IRA-based plan) may, but isn't required to, provide hardship distributions. Many plans that permit elective deferrals (for example, 401(k) and 403(b) plans) allow hardship distributions.

What are the most common hardship distribution errors that we find during plan audits?

Often we find that the plan made hardship distributions to participants, even though the plan document didn't permit these distributions.

We also find plan documents that allow hardship distributions, but the plan sponsors don't follow the document's specific hardship criteria and distributed the money for another reason.

For example, if the plan states hardships distributions can only be made to pay tuition, then the sponsor can't permit a hardship distribution for any other reason, such as a home purchase.

Tips:

- Read the plan document to ensure the plan allows hardship distributions. If the plan doesn't allow them, then the plan must be amended. Fortunately, a retroactive amendment is permitted under the Self-Correction Program if a plan made hardship distributions but didn't have provisions authorizing them. Review the plan terms including:
  - whether the plan allows hardship distributions;
  - the procedures the employee must follow to request a hardship distribution;
  - the plan's definition of a hardship; and
  - any limits on the amount and type of funds that can be distributed for a hardship from an employee's accounts.
- If plan language allows hardship distributions only under specific circumstances, the plan can't be more liberal in its operation. For example, while the law permits hardships for funeral expenses, a plan can't distribute for these expenses unless the plan has payment of funeral expenses as a stated hardship. Again, if a plan sponsor decides to be more liberal in the definition of a hardship, they must amend their plan.
- Keep records of information used to determine a participant's eligibility for a hardship distribution.
- Remember, you should only make a hardship distribution because of a participant's (employee, employee's spouse, dependent or the employee's beneficiary) immediate and heavy financial need, and the amount should be only an amount necessary to satisfy that need. A distribution won't be considered necessary to satisfy an immediate and heavy financial need if:
- it exceeds the amount needed to relieve the person's financial need, or
- the participant can obtain money from other reasonably available resources.

If a plan allows loans, what are the required steps before granting a hardship distribution?

If the plan allows loans, it may require you to document that the employee has exhausted any loans or distributions, other than hardship distributions, that are available under the plan or any other plan of the employer in which the employee participates.

Tip: The plan sponsor should have procedures in place to review hardship applications and loans.

What do we look for when we audit a plan's hardship distributions?

We examine hardship distributions to confirm they comply with the plan language and the law.

Tips:

- Good internal controls – will reduce or eliminate hardship distribution errors. When a plan has a strong internal control system, we'll usually check a sample of the plan's hardship distributions and move on to another area if we don't find errors. Good internal controls lead to a smoother and more efficient overall audit.
- Recordkeeping – The plan sponsor, not the plan participant, is responsible for verifying hardship requests and making hardship distributions only if these satisfy the plan rules and the law. For example, we'll look for documentation that the:
  - plan sponsor confirmed that the employee requesting the hardship had exhausted other permitted plan distributions, such as loans.
  - hardship distribution amount didn't exceed the amount necessary to satisfy the participant's immediate and heavy financial need.
- Electronic hardship application – There's a growing trend for plans to grant hardships to participants who electronically apply for them. Participants use their PIN and self-certify that they meet the hardship criteria. While this seems to be an easy process for the participant, enabling them to quickly receive their distribution, this process doesn't relieve the plan sponsor's need for verification and recordkeeping. We'll still look for the same documentation mentioned above to ensure that the plan made hardship distributions according to its terms and the law.

We commonly see hardship distribution errors. However, a plan sponsor may reduce or even eliminate these errors by reading the plan, maintaining strong internal controls and having the proper documentation.

Additional resources:

- Retirement Topics - *Hardship Distributions*
- *Retirement Plans FAQs regarding Hardship Distributions*
- *Do's and Don'ts of Hardship Distributions*

IRS

SEP Plan Eligibility Requirements

Which employees must participate in my company's SEP plan?

Check your SEP plan document for your plan's specific eligibility requirements.

If your SEP plan has the most restrictive eligibility requirements the law permits, your company would only make a plan contribution for employees who have:

- reached age 21,
- worked for your company in at least 3 of the last 5 years, and
- received at least $550 in compensation from your company for the year (subject to annual cost-of-living adjustments in later years).

However, your SEP plan may use less restrictive requirements. For example, you could allow employees to participate who:

- are at least age 18, and
- earn at least $550 for the year.

What is the 3-of-5 eligibility rule?

The 3-of-5 eligibility rule means you must include any employee in your plan who has worked for you in any 3 of the last 5 years. SEP plans can choose not to use the 3-of-5 eligibility rule. Instead, your SEP plan may allow employees to participate immediately or after a shorter period of employment (for example, after working for only 1 year). If you use this 3-of-5 eligibility rule, you must count any service, no matter how little, in the 5 years immediately before the current year.

Example: If your SEP plan uses the 3-of-5 eligibility rule and has no other conditions for participation, you must make a 2013 plan contribution for an employee who has worked for you for any length of time in any 3 years from 2008 to 2012.

If we use the 3-of-5 eligibility rule, do we have to make a 2013 SEP plan contribution for an employee who reached his 3-year employment anniversary on March 15, 2013?

No. If your SEP plan uses the 3-of-5 eligibility rule, a SEP contribution isn't required for the employee until the year that contains his 4-year anniversary of employment with your company. For the 3-of-5 eligibility rule, only plan years are counted, not years based on the date the employee started working for you.

If this employee performed any service in any 3 years from 2009 through 2013, and meets any other plan eligibility requirements in 2014 (for example, age or compensation requirements), you must make a 2014 SEP contribution for the employee.

If our SEP plan's only eligibility requirement is age 21, can we prorate an employee's compensation from the date he turns 21 in 2013 for his 2013 SEP contribution?

No. You must base your 2013 SEP plan contribution for the employee on his entire 2013 plan-year compensation.

Our SEP plan requires employees to earn at least $550 in compensation for 2013 to participate in the plan. Can we prorate an employee's compensation from the date he earns more than $550 in 2013 for his 2013 SEP contribution?

No. Once the employee earns at least $550 in 2013 and meets any other plan eligibility requirements, you must base his 2013 SEP plan contribution on his entire plan-year compensation.

Are the eligibility requirements the same for all employees in a SEP plan, including owners?

Yes. The eligibility provisions stated in the SEP plan document must apply equally to owners and employees.

If my spouse and I own the business we work for, must we both meet the SEP plan's eligibility requirements to receive a plan contribution?

Yes. Each of you must meet the plan's eligibility requirements to participate in the plan. For example, if your plan uses the 3-of-5 eligibility rule, even if you're eligible for a 2013 SEP contribution, your wife isn't eligible if she only worked in 2011 and 2012 for the business because she didn't meet the 3-of-5 eligibility rule.

Is my new employee eligible to participate in our SEP plan immediately?

Maybe, if your SEP has no service requirement and the employee meets any other eligibility requirements stated in your SEP plan document. Review your plan document to determine the plan's eligibility requirements.

I'd like to establish a SEP plan that allows me to participate immediately. Can I establish different SEP plan eligibility requirements for future employees?

Yes. You can initially establish the SEP plan so that you are immediately eligible to participate in the plan. Later, you can amend the plan to have more restrictive eligibility requirements, but you must also meet the new eligibility requirements to participate in the plan.

Additional Resources:

- SEP homepage
- FAQ - SEPs
- Retirement Topics - Who Can Participate in a SEP or SARSEP Plan?
- Pub 560, *Retirement Plans for Small Business (SEP, SIMPLE, and Qualified Plans), chapter 2 Simplified Employee Pension* (SEP)
- Pub 4333, SEP Retirement Plans for Small Businesses
- Publication 4285, SEP Checklist IRS

Form 8955-SSA...

Does your retirement plan have participants who have separated from service and have deferred vested benefits? List them on Form 8955-SSA *(Resources)*.

SSA/IRS Reporter

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Tips for Employers Who Outsource Payroll Duties

Many employers outsource their payroll and related tax duties to third-party payers such as payroll service providers and reporting agents. Reputable third-party payers can help employers streamline their business operations by collecting and timely depositing payroll taxes on the employer's behalf and filing required payroll tax returns with state and federal authorities.

Though most of these businesses provide very good service, there are, unfortunately, some who do not have their clients' best interests at heart. Over the past few months, a number of these individuals and companies around the country have been prosecuted for stealing funds intended for the payment of payroll taxes. Examples of these successful prosecutions can be found on IRS.gov.

Like employers who handle their own payroll duties, employers who outsource this function are still legally responsible for any and all payroll taxes due. This includes any federal income taxes withheld as well as both the employer and employee's share of social security and Medicare taxes. This is true even if the employer forwards tax amounts to a payroll service provider or reporting agent to make the required deposits or payments. For an overview of how the duties and obligations of agents, RAs and PSPs differ from one another, see the Third Party Arrangement Chart on IRS.gov.

Here are some steps employers can take to protect themselves from unscrupulous third-party payers.

- Enroll in the Electronic Federal Tax Payment System and make sure the PSP or RA uses EFTPS to make tax deposits. Available free from the Treasury Department, EFTPS gives employers safe and easy online access to their payment history when deposits are made under their Employer Identification Number, enabling them to monitor whether their third-party payer is properly carrying out their tax deposit responsibilities. It also gives them the option of making any missed deposits themselves, as well as paying other individual and business taxes electronically, either online or by phone. To enroll or for more information, call toll-free 800-555-4477or visit www.eftps.gov.
- Refrain from substituting the third-party's address for the employer's address. Though employers are allowed to and have the option of making or agreeing to such a change, the IRS recommends that employer's continue to use their own address as the address on record with the tax agency. Doing so ensures that the employer will continue to receive bills, notices and other account-related correspondence from the IRS. It also gives employers a way to monitor the third-party payer and easily spot any improper diversion of funds.
- Contact the IRS about any bills or notices and do so as soon as possible. This is especially important if it involves a payment that the employer believes was made or should have been made by a third-party payer. Call the number on the bill, write to the IRS office that sent the bill, contact the IRS business tax hotline at 800-829-4933 or visit a local IRS office. See Receiving a Bill from the IRS on IRS.gov for more information.
- For employers who choose to use a reporting agent, be aware of the special rules that apply to RAs. Among other things, reporting agents are generally required to use EFTPS and file payroll tax returns electronically. They are also required to provide employers with a written statement detailing the employer's responsibilities including a reminder that the employer, not the reporting agent, is still legally required to timely file returns and pay any tax due. This statement must be provided upon entering into a contract with the employer and at least quarterly after that. See Reporting Agents File on IRS.gov for more information.
- Become familiar with the tax due dates that apply to employers, and use the Small Business Tax Calendar to keep track of these key dates. IRS

Back-to-School Tax Tips for Students and Parents

Going to college can be a stressful time for students and parents. The IRS offers these tips about education tax benefits that can help offset some college costs and maybe relieve some of that stress.

- *American Opportunity Tax Credit.* This credit can be up to $2,500 per eligible student. The AOTC is available for the first four years of post secondary education. Forty percent of the credit is refundable. That means that you may be able to receive up to $1,000 of the credit as a refund, even if you don't owe any taxes. Qualified expenses include tuition and fees, course related books, supplies and equipment. A recent law extended the AOTC through the end of Dec. 2017.
- *Lifetime Learning Credit.* With the LLC, you may be able to claim up to $2,000 for qualified education expenses on your federal tax return. There is no limit on the number of years you can claim this credit for an eligible student.

You can claim only one type of education credit per student on your federal tax return each year. If you pay college expenses for more than one student in the same year, you can claim credits on a per-student, per-year basis. For example, you can claim the AOTC for one student and the LLC for the other student.

You can use the IRS's Interactive Tax Assistant tool to help determine if you're eligible for these important education credits.

- Student loan interest deduction. Other than home mortgage interest, you generally can't deduct the interest you pay. However, you may be able to deduct interest you pay on a qualified student loan. The deduction can reduce your taxable income by up to $2,500. You don't need to itemize deductions to claim it.

These education benefits are subject to income limitations and may be reduced or eliminated depending on your income. For more information, visit the Tax Benefits for Education Information Center at IRS.gov. Also check Publication 970, Tax Benefits for Education. The booklet's also available at IRS.gov or by calling 800-TAX-FORM (800-829-3676). IRS

Making Adjustments, Correcting Returns, and Obtaining Refunds and Credits When Employers Over Collect Taxes

When errors are made in withholding or reporting federal income, social security, and Medicare taxes, employers must follow procedures set forth in IRS regulations to correct the errors and pay the proper amount of taxes. The method of correction depends on the type of tax involved, whether the employer withheld or reported too little or too much, and when the error was made and discovered. The following details the adjustment procedures for when an employer over collects federal income, social security, or Medicare tax.

Federal income, social security, or Medicare tax over collected – discovered before Form 941 is filed

If an employer withholds too much from its employees' wages for federal income, social security or Medicare tax, and discovers the error before filing Form 941 for the quarter during which the error was made, it does not have to report the over withheld amount if it repays that amount by the due date of the Form 941 and keeps in its records a receipt from the employee showing the date and amount of payment.

Social security or Medicare tax over collected – discovered after Form 941 is filed

If an employer withholds too much from its employees' wages for social security or Medicare tax, and discovers the error after filing Form 941 for the quarter during which the error was made and within the period of limitation on credit or refund, the employer must repay the over withheld amount or reimburse the employees by withholding less from their future wages before the period of limitations expires.

If repayment is made in a year after the year the error was made, the employee must be issued a Form W-2c.

If the employer repays the employee, the employer must keep as part of its records a receipt from the employee showing the date of the repayment and the amount repaid (e.g., a canceled check). If the employer reimburses the employee by withholding less social security and Medicare taxes from future wages, the employer must keep evidence of the reimbursement as part of its records.

If the amount over collected from the employee is more than the social security and Medicare taxes on the employee's future wages, the employer must repay the employee the excess amount. If the repayment takes place after the year during which the error occurred, the employer must also keep as part of its records a statement provided by the employee saying that the employee has not and will not seek a refund or credit for the over collected amount from the IRS, or any refund or credit already sought has been rejected.

Federal income tax over collected – discovered after Form 941 is filed

If an employer over withholds federal income tax from its employees' wages and discovers the error after filing Form 941 for the quarter during which the error was made, but before the end of the calendar year, the employer also can either repay or reimburse the employee for the over withheld amount.

However, the employer must repay the over withheld amount before the end of the calendar year during which the error was made, as well as keep the employee's written statement as to the date and amount repaid.

Employers that reimburse employees for over withheld amounts by reducing future withheld taxes can do so only during the same calendar year that the error occurred, and they must keep evidence of the reimbursement as part of their records. Any over collections that exceed the amount reimbursed must be repaid to the employee.

Requirements for interest-free adjustments of overpayments

Once an employer repays or reimburses an employee, the employer may report both the employee and employer portions of social security and Medicare taxes as an overpayment on the Form 941-X.

The employer must certify on the form that it has repaid or reimbursed its employees. The reporting of the overpayment constitutes an interest-free adjustment if it is reported on an adjusted return before the 90th day prior to the expiration of the period of limitations on credit or refund.

Similar rules apply for making interest-free adjustments for overpayments of federal income tax, except that such adjustments may be made only if the employer discovers the error and repays or reimburses its employees within the same calendar year that the wages were paid and reports the adjustment on Form 941-X.

Refunds of overpayments

Instead of making an interest-free adjustment for an overpayment, employers may file a claim for refund of the amount of the overpayment.

If an employer cannot make an interest-free adjustment with respect to an overpayment because the period of limitations for claiming a credit or refund will expire within 90 days or the IRS has otherwise notified the employer that it is not entitled to the adjustment, the employer may recover the overpayment only by filing a claim for refund. An employer can only file a claim for refund for federal income tax that was overpaid to the IRS but not withheld from the employee.

Prior to filing a claim for social security and Medicare taxes, employers must either repay or reimburse the employee or obtain the employee's consent to the allowance of the refund, except to the extent that the overpayment does not include taxes withheld from the employee or, after reasonable efforts, the employer cannot locate the employee or the employee will not provide the requested consent.

If the employer is filing a claim for the employee's share of social security and Medicare taxes over withheld in a year earlier than the year in which the claim is filed, the employer must also certify that it has obtained the employee's written statement that the employee has not claimed a refund or credit of the amount over withheld, or if such a claim has been filed, it was rejected and the employee will not file a subsequent claim for the same amount. The employer must certify that it has either repaid or reimbursed the employee or obtained the employee's consent to the extent required. APA

Taxpayers Can Customize Electronic Tax Calendar

Business owners can now have deposit dates readily available.

The simple customizing options available on the IRS CalendarConnector and Online Tax Calendar are designed to help customers remember important due dates. Small business customers can search IRS.gov using keywords "business tax calendar" or "Tax Calendar for Small Business" to access the online calendar. Available in English and Spanish, customers can view monthly due dates including those for monthly and semiweekly employment and excise tax deposits.

The IRS CalendarConnector is another tool available. It gives the customer access to tax dates right from their desktop even when offline. New requirements are automatically updated. IRS CalendarConnector is accessible on the computer screen but consumes screen space only when the user is reading it.

Smartphone users can also check tax dates and access the small business calendar via IRS.gov through their phone browser. Type in "Business Tax Calendar" in the search box (upper right hand corner); tap the "Tax Calendar for Small Business ..." link; and tap the "view online tax calendar" link. IRS

Small Business Taxes: The Virtual Workshop

Get help understanding and fulfilling your federal tax responsibilities.

Learn about:

- Completing Schedule C and other tax forms
- Filing and paying your taxes using a computer
- Running a business out of your home
- Hiring employees/contractors
- Setting up a retirement plan for yourself and your employees
- Making tax deposits and filing your payroll taxes using a computer
- Hiring of non-U.S. citizens living in the United States
- Managing payroll and withholding the right amount of tax from employees' wages

Use convenient features:

- Select and view lessons in any sequence
- View outlines or complete transcripts of each lesson
- Access links to reference materials
- Bookmark, share and like the lessons

This free workshop contains accessible content and is available 24/7 at your convenience. Search "virtual workshop" on www.irsvideos.gov IRS

Internal Controls Protect Your Retirement Plan

As the sponsor of a retirement plan, you don't want to endanger your plan's tax-favored status by making mistakes administering your plan. Having formal procedures, known as internal controls, in place to review your plan will help you find and prevent errors in your retirement plan.

What are internal controls?

The exact procedures depend on your organization, your plan type and its features, but involve regularly reviewing your plan document and operations. Your internal controls should include procedures that:

- review your plan document for updates as necessary for new law changes, and
- verify that you operate your plan consistently with your plan document terms.

For example, you should periodically:

- Compare your plan eligibility requirements with employment records to ensure that employees joined the plan once they met the eligibility requirements.
- Compare your employees' salary deferral election forms with the amounts deducted as plan contributions from their wages.
- Verify your plan is using the correct definition of employee compensation for each plan purpose.
- Ensure that you've transmitted accurate employee compensation records to your payroll processor and plan administrator.
- Monitor annual contribution and compensation limits.
- Compare terminated participants' vesting years of service to the plan vesting schedule.
- Secure participant and applicable spousal consent for plan distributions over $5,000.
- Monitor participants' ages to ensure that you make required minimum distributions.

Does the IRS have any tools or resources on internal controls?

- Fix-It Guides – information, including examples on how to find and fix common plan errors and suggestions on how to avoid these errors in the future.
- A Guide to Common Qualified Plan Requirements – a list of important retirement plan requirements to help you implement practices, procedures and internal controls to monitor your plan operation.
- Avoid Plan Errors Web page – checklists, tips and articles on how to avoid common errors.
- A Plan Sponsor's Responsibilities – tips to keep your plan running smoothly.

How often should I check for law changes to my plan?

At least once a year, you should check with your benefits advisor to see if you must amend your plan for law changes. Usually you have a set deadline to update your plan for these changes. It's especially important to check for any updates a few months before the end of the calendar year or the beginning of your next plan year.

What if I miss the deadline for updating my plan document?

If you miss the deadline, you must still update your plan document and can correct the failure to meet the deadline by using the Voluntary Correction Program.

How often should I check whether my plan is operating according to the terms of the plan document?

You should have a periodic review of your plan operation throughout the year to ensure you're following its terms. By doing this, you can more quickly detect and correct any mistakes.

What if I made a mistake and didn't operate the plan according to its terms?

You may correct:

- insignificant operational failures and even some significant operational failures through the Self-Correction Program without paying any fees or even notifying the IRS if your plan had internal controls, or
- most significant operational failures through the Voluntary Correction Program.

What if I don't correct the failure to update my plan by the required deadline or the failure to operate it according to its terms?

Your plan may become disqualified and lose its tax-deferred status resulting in negative tax consequences for you and your employees.

Additional resources

- Internal Controls phone forum (forum presentation and transcript)
- Internal Controls are Essential in Retirement Plans
- Compliance Trends and Tips
- Correcting plan errors

IRS