QPN Highlights

Action required: None. This QPN is for information purposes only.

- The Internal Revenue Service (IRS) has released a detailed Final Report of findings generated from the 401(k) Compliance Check Questionnaire it distributed to a randomly selected group of 1200 401(k) plan sponsors in 2010.

- The Final Report explains the sample selection and analysis methods and provides the response to each question by percentage of plans, plan sponsors, or participants. It also includes stratified data based on plan size and a section on Automatic Contribution Arrangements.

- The findings will be used to gain a better understanding of the health and compliance behaviors of 401(k) plans and to better allocate IRS resources to foster voluntary 401(k) plan compliance.

- The IRS states that 401(k) plan compliance will be a priority in 2013 and will be a critical focus area in the future.

Background - According to the IRS, 401(k) plans now make up the largest segment of the retirement plan universe with more than 500,000 existing 401(k) plans in the United States covering approximately 60 million Americans. However, based on a previous baseline study, 401(k) plans are the most non-compliant plan type. As a result the IRS developed a Questionnaire to further gauge the level of compliance in these plans. In 2010 the IRS contacted a random sample of 1,200 401(k) plans, that filed a Form 5500 for the 2007 plan year, and directed them to complete a 401(k) Questionnaire that requested information pertaining to plan years 2006 through 2008 relating to the form, features and operations of existing 401(k) plans. The Questionnaire covered a variety of topics such as plan type, contribution types, nondiscrimination testing, distributions and plan administration. The plan sponsors were asked to complete the 401(k) Questionnaire via a secure website.

The key objectives of the questionnaire were to:
- Measure the overall compliance levels of 401(k) plans,
- Better understand compliance issues relating to 401(k) plans,
- Evaluate the effectiveness of Employee Plans voluntary compliance programs and tools, and
- Determine how the IRS can foster greater compliance.
Final Report - The IRS has now released the final report summarizing the result of the 401(k) Compliance Check Questionnaire. The final report explains the sample selection and analysis methods and covers the following topics: employer and employee contributions; automatic contribution arrangements; nondiscrimination testing; SIMPLE 401(k) plans; distributions and plan loans; trust assets; IRS correction, determination letter and education programs; and plan administration. The final report also includes stratified data highlighting differences in the results based on plan size or the number of participants. The four strata in the report include plans with 0-5 participants (small); 6-100 participants (medium); 101-2,500 participants (large); and 2501 and more (very large). There is also a section on Automatic Contribution Arrangements. The responses are as self-reported by the plan sponsors and have not been verified by the IRS. The table below provides a small sample of some of the findings.

Sample of the Findings

<table>
<thead>
<tr>
<th>Response</th>
<th>% of Plans, Plan Sponsors, or Participants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plans that are a safe harbor 401(k)</td>
<td>43%</td>
</tr>
<tr>
<td>Plans that use a pre-approved plan document</td>
<td>86%</td>
</tr>
<tr>
<td>Plans that included an automatic contribution arrangement</td>
<td>5%</td>
</tr>
<tr>
<td>Plans where designated Roth contributions allowed</td>
<td>22%</td>
</tr>
<tr>
<td>Plans that provide matching contributions</td>
<td>68%</td>
</tr>
<tr>
<td>Plans that are aware of the Employee Plans Compliance Resolution System</td>
<td>65%</td>
</tr>
</tbody>
</table>

Next Steps - It is the intent of the IRS to use the findings from the Questionnaire to gain a better understanding of the health and compliance behaviors of 401(k) plans. It also intends to use the findings to better allocate its resources to foster voluntary compliance in 401(k) plans. More specifically the IRS will use the Final Report findings to:

- Modify and improve IRS 401(k) plan compliance tools,
- Produce outreach materials,
- Improve voluntary compliance programs,
- Assess the need for additional guidance, and
- Define upcoming projects and enforcement activities.

The Final Report also states that 401(k) plan compliance will be a priority for the IRS in 2013 and will be a critical focus area in the future.

IRS Web Site Information - The IRS Web Site includes a page dedicated to the Questionnaire (http://www.irs.gov/Retirement-Plans/401(k)-Compliance-Check-Questionnaire-Interim-Report) including highlights of the Questionnaire findings, a copy of the Final Report, Frequently Asked Questions and Next Steps and Web Resources. In addition, on the web site the IRS suggests that plan sponsors can use the Questionnaire and the findings to assess and strengthen their own internal plan controls.

IRS Circular 230 Disclosure

Any tax discussion contained in this communication was not intended or written to be used, and cannot be used by the recipient or any other person, for the purpose of avoiding any Internal Revenue Code penalties that may be imposed on such person. Any tax discussion contained in this communication was written to support the promotion or marketing of the transactions or matter discussed herein. Any taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.

Neither Voya Financial® or its affiliated companies or representatives offer legal or tax advice. Please seek the advice of a tax attorney or tax advisor prior to making a tax-related insurance/investment decision.