

Staying Up to Date with Regulations and Best Practices Relieves Employee Benefits Headaches

By Jack Curley

Say you're responsible for employee benefits at your company. You learn that your rank-and-file employees have contributed so little to your 401(k) plan that it would be deemed "top-heavy" by the US Department of Labor. You have to tell highly compensated senior managers at your company they can't make a full contribution to the plan this year—or that they even have to give back some of their contributions. Ouch!

Managing employee benefits today takes up-to-date knowledge. On the one hand, you have to comply with an alphabet soup of laws and regulatory agencies: DOL, IRS, COBRA, ERISA, FMLA, ERISA, HIPAA and PPACA (federal healthcare reform). Failure to do so can result in nasty letters and government fines.

On the other, following best practices not only lessens benefits headaches—it also enables you to run topnotch healthcare and retirement plans that help retain current employees and attract new hires.

The New England Employee Benefits Council periodically runs seminars on regulatory compliance. Whenever we have such a program, we always find a couple of people in the room who realize that they've been doing something wrong with their plan administration all along. Fortunately, correction programs are

ofttimes available that allow you to voluntarily tell the government about your "sins" and receive a lesser penalty.

Whenever we have an attorney who's expert in ERISA as a speaker, after the session at least one person will get in an intense conversation with him or her. "We've never filed that way," they protest. "We've always done it this way." But the lawyer always turns out to be right. It's easy to fall into old practices and habits.

Form 5500, a form covering retirement plans and health and welfare plans, must be filed yearly with the US DOL. Filling it out is a headache, and it's often delegated to a junior person who dumps it on someone else's lap when he or she is promoted. The form changes periodically, so you need to make sure whoever's doing it is prepared and up to date. Failure to dot all your i's and cross all your t's can cause real trouble.

A recent federal law requires disclosure of fees in 401(k) and 403(b) plans. Later this year, employers are required to communicate that information to employees. Failure to follow the rules can result in fines.

In June the US Supreme Court is expected to decide the fate of the Patient Protection and Affordable Care Act (PPACA). Employers must



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be prepared to react, no matter which way the court goes.

Headaches can go beyond government fines. An organization can quickly lose faith with its employees if they hear bad news about their healthcare or retirement plan.

What can you do to stay up to date?

The IRS and DOL websites are good places to start. Both have lots of solid information that's easy to find.

Attend seminars, both in-person and on the web. NEEBC and other organizations hold regular meetings where experts and employers cover topics that range from administering the Family and Medical Leave Act (FMLA) to healthcare and retirement programs. Besides offering the latest updates from experts, meetings give benefits professionals a chance to share tips, best practices and war stories.