



IRS EP Examination Update

SPEAKERS



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Agenda

- International Program
 - Overview
 - Facts and Findings
 - Large Case (EPTA) Program
 - Issues Found on Examinations
- 401(k) Interim Report & General Findings
- Other Exam Priorities
- Employee Plans Compliance Unit (EPCU)
- Tips & Tools Available for Plan Sponsors

Our Mission: Protect...

- US Retirement Assets: **\$17.9 trillion**
 - DC plans: \$4.5 trillion
 - 401(k): \$3.1 trillion
 - IRAs: \$4.9 trillion
 - \$266 billion in Roth IRAs

Service-wide International Focus Background Highlights

- International issues = Service-wide priority
- Improving international tax compliance by large corporations and high-wealth individuals a top concern
 - President Obama
 - Treasury Secretary Timothy Geithner
 - IRS Commissioner Doug Shulman
- The Service is focusing on
 - addressing existing abuse
 - preventing abuse going forward

Why International? Why Now?

- Employers are globally focused
- An unprecedented cross-border movement of employees
- Assets are increasingly being sheltered offshore
 - Experts estimate that Americans now have \$1 trillion in assets offshore and illegally evade between \$40 and \$70 billion in U.S. taxes each year through offshore tax dodges

Globalization is a World-wide Phenomenon

- As globalization continues to grow the Service is challenged by:
 - International/U.S. territory non-compliance
 - Lack of information reporting on many cross-border transactions
 - The ease of using complex international structures
 - Constantly evolving compliance issues
- The fast paced change in the global economy requires an equally fast pace of change within the IRS

Globalization is a World-wide Phenomenon

- International company facts & findings
 - Close to twice as many
 - 37,000 to 64,000 (1990 to 2009)
 - Almost five times as many foreign subsidiaries
 - 175,000 to 870,000 (1990 to 2009)
 - Increasingly, companies being managed on regional or even global lines
 - 60% of international trade is within multinationals (firms trading with themselves)

Globalization is a World-wide Phenomenon

- International company facts & findings
 - US entities doing business in over 230 countries
 - Foreign profits of U.S. corporations increased by 235%
 - \$89 to \$298 billion (1994 to 2004)
 - profits are currently around \$1 trillion
 - U.S. source profits for these same companies have been decreasing

Employee Plans FY 2012 Exam Strategies

International Issues

Activities and Actions to Date

- Examined over 40 EPTA cases with international issues
- Completed 2 EPCU international compliance check projects – domestic trusts & 72(t) tax
- Started new Hacienda EPCU project focusing on coding
- Conducted additional training for Hacienda agents in Puerto Rico

Employee Plans FY 2012 Exam Strategies

International Issues

Activities and Actions to Date

- Conducted Audits and EP training for the Virgin Islands (2 phases)
- Internal enhanced collaboration
 - Large Business & International (LB&I)
 - Counsel
- Internal revenue agent training
- Internal web-based guidance and resources

Employee Plans Team Audit (EPTA) International Work

- EPTA focus on multi-national corporations and international tax issues
- EPTA agents will look at multinational corporations for any retirement plan implications
- Formed a team with LB&I to coordinate referral of cases with international issues involving retirement plans
- Over 20 EPTA audits with International issues are in process

International Issues Encountered in EPTA Work

- U.S. individuals covered by IRC 401(a) plans and foreign plans
- U.S. employees separate from a domestic parent to work on a project for overseas joint venture “affiliate” and then return to parent
- Foreign parent companies own multiple domestic companies who sponsor IRC 401(a) plans providing different benefit structures
- Compensation earned by domestic employees working for a domestic parent - parent transfers this cost to a foreign subsidiary

Typical Issues Found on Hacienda Audits

Inconsistencies in the pension laws provided for in the IRC and Puerto Rico Code:

- HCE Definition
- ACP TEST
- Contribution and Deduction Limits
- Compensation Limit

Other Issues Found on Hacienda Audits

- Non-Amender
- Form 1099R/480.6A & 6B Filing (2007-480.7C)
- Mandatory Hacienda Determination Letter
- Puerto Rico Source Income/Distributions

Issues found on USVI Audits

- Non-amenders
- IRC 401(k) violations
 - late deposits
 - missing election forms
- No fidelity bond
- Filing incorrect payroll forms
- Minimum funding violations



FY 2012 Exam Strategies

International Issues

- Continue to:
 - Ensure effective global tax administration
 - Provide guidance, education and outreach on identified issues
 - Partner with tax professionals and other internal/external stakeholders
 - Expand enforcement coverage
 - Identify new and emerging international issues

Employee Plans FY 2012 Exam Strategies

401(k) Plans

Activities and Actions to Date

- Initiated examinations on all EPCU Compliance Questionnaire non-responders
- Questionnaire data analyzed to
 - Identify potential compliance problems
 - Design future compliance efforts
 - Improve case selection models
- Prepared and released interim report

401(k) Interim Report

Background

- 2009/2010 - Questionnaire developed
 - Covered 2006, 2007, & 2008 plan years
 - Could only be completed on-line
- 2010 - Employee Plans Compliance Unit (EPCU) requests 1,200 401(k) plan sponsors complete questionnaire
- 2011 – Analyzed data
- February 3, 2012 – Issued interim report

401(k) Interim Report

Background

- Compliance Check performed by EP Compliance Unit (EPCU)
- First TEGE on-line compliance check
- Statistical sample of 1,200 randomly selected plan sponsors
 - Stratified based on plan size
 - Number of participants

401(k) Interim Report

Background

- 98% of the plan sponsors responded
- Initiated examinations on all EPCU Compliance Questionnaire non-responders
- Questionnaire data analyzed to
 - Identify potential compliance problems
 - Design future compliance efforts
 - Improve case selection models
- Prepared interim report

Employee Plans FY 2012 Exam Strategies

401(k) Plans

Interim Report Highlights

- Safe harbor plans 43%
- Top heavy plans 20%
- Use www.irs.gov/ep 57%
- Aware of EPCRS 65%



FY 2012 Exam Strategies

401(k) Plans

- Complete and publish a final report
 - End of 2012
- Design and improve case selection strategies
- Develop follow-up compliance projects
- Develop outreach materials

Employee Plans Team Audit (EPTA)

Update

- Enhanced internet with tailored products
 - Trends & tips
 - Internal controls questionnaire
 - More in development
- Completed first stage of EPTA Pilot Program

Employee Plans

FY 2012

Other Exam Strategies

- Abusive Transactions & Technical Issues (ATTI)
 - Emerging Issues
- Governmental Plans

Employee Plans Compliance Unit (EPCU)

Update

- Successful expansion to three groups
- Developed eight new compliance projects

Employee Plans Compliance Unit (EPCU)

Sample of Current Projects

- 403(b) Universal Availability- Higher Ed
- Small Plan IRC 415 Project **NEW**
- Hacienda Project
- Plan Participant Project
- Proposed Amendment Follow-Up Project
- Partnership Investment Project
- Termination Project

Employee Plans Compliance Unit (EPCU)

Compliance Check

- **EPCU** contact
- **NOT** an audit/investigation
- Verify **return information**

- Books/Records **not** inspected
- **Voluntary correction (VCP)** available

Audit

- **Revenue Agent** visit
- Determine **tax liability**
- Verify **compliance** in form and operation
- **Inspect** books & records
- **No VCP** available upon notice of audit receipt

ATTENTION:
PLAN
SPONSORS!


**EMPLOYEE PLANS
COMPLIANCE RESOLUTION
SYSTEM**

The EPCRS Menu

What's Your Choice?

The impact of
non-compliance left unchecked
can be costly.

Preventive Maintenance –
Fix Mistakes Immediately!!

	Audit CAP	Voluntary Correction	Self- Correction
Cost of Correction			
IRS Fees			\$0
Time Involved			
Result			

How Can Plan Sponsors Improve Compliance?



**It is crucial to
have good
internal
controls!!**

How Can Plan Sponsors Improve Compliance?

Have You Had Your Yearly Check-Up?

401(k)

403(b)

SEP

SIMPLE IRA

SARSEP

1. Has your plan document been updated within the past few years? **Yes** **No**

If your plan has not been updated to reflect recent law changes, the plan needs to be revised.

[\(More\)](#)

2. Are the plan's operations based on the terms of the plan document? **Yes** **No**

Failure to follow the terms of the plan is a common problem encountered on audit.

[\(More\)](#)

Fix-It Guides – Common Problems, Real Solutions

SIMPLE IRA

With Video!

SARSEP

Coming Soon!

401(k)

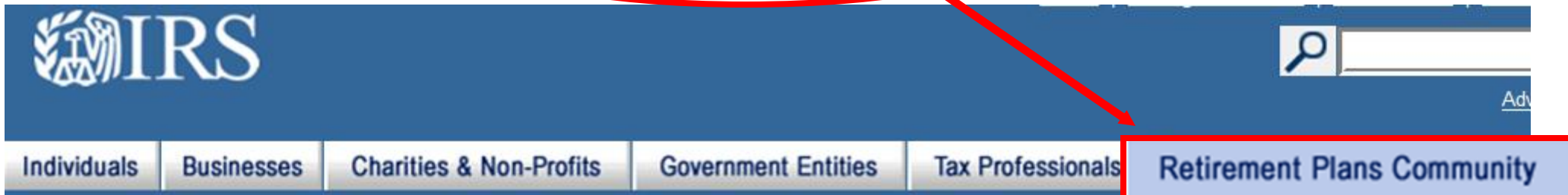
SEP

403(b)

-----Trends-----	-----Tips-----			
Potential Mistake	How to Find the Mistake	How to Fix the Mistake		How to Avoid the Mistake
		Corrective Action	Correction Program(s) Available	
1) Has your plan document been updated within the past few years to reflect recent law changes? (More)	Review annual cumulative list published close to year-end to see if plan made all required law changes (for example, Notice 2009-98). (More)	EPCRS VCP: Streamlined application available. See Appendix F and schedules 1 and 2 . Adopt amendments for missed law changes. (More)	VCP Audit CAP (More)	Resort to a calendar (tickler) that notes when you must complete amendments. Review your plan document annually. Maintain regular contact with the company that sold you the plan. (More)

How Can I Find Out More?

www.irs.gov/ep



newsletters

Employee Plans News

Retirement News for Employers

Governmental Plans Updates



We Want You To Take

Yes, You...

- **S**hare this information with clients and peers
- **T**alk with us about anything
- **E**nsure your clients use our tools
- **P**artner with us in EP
- **S**urf through [irs.gov/ep](https://www.irs.gov/ep) and provide feedback