

IRS Section 125 Audit Disasters Await Many Small Employers

Employers nationwide are routinely ignoring IRS and DOL compliance requirements for properly establishing and maintaining IRS Section 125 and HRA plans to deduct insurance premiums, medical expenses, and dependent care assistance. The consequence: deductions may be disallowed back to the beginning; assessment of back taxes with interest and penalties; and, possible daily DOL fines. Are you one of these employers?

Bradenton, FL (PRWEB) October 27, 2005 -- As the President of Core Documents, Inc., one the nation's leading providers of IRS and DOL compliant plan documents for establishing Section 125 Cafeteria Plans and Section 105 HRA plans, I continue to be amazed at the number of small employer groups who are completely unaware of IRS and DOL requirements regarding their pre-taxed benefit offerings. This leads me to believe the number of small and medium-sized businesses blissfully unaware and routinely ignoring these compliance requirements is huge.

The Section 125 or Section 105 HRA infractions are normally discovered by an astute insurance agent, and rarely by the company owner, corporate attorney, CPA or bookkeeper. I emphasize the word astute because most insurance agents, as well as most accountants, are also blissfully unaware when it comes to this subject.

So what are the consequences to these unsuspecting employers? Any, or all of the following:

- all pre-tax deductions may be disallowed back to the beginning;
- IRS assessment of unpaid back taxes plus interest and penalties;
- and possible daily Department of Labor fines.

A common misconception is, "my Payroll Company or Professional Employer Organization (PEO), take care of these issues". Don't count on it. Ask them a few questions about your plan from the list of compliance issues below. My experience tells me they'll have as many infractions as most small employers. My best advice is you should maintain your own formal plan document, SPD, election forms, and annual testing.

Is your company out of compliance with a possible IRS Section 125 audit disaster in your future? Here are a few of the more common compliance issues we address daily:

- Employers are required by the IRS to establish and maintain a formal plan document before pre-tax benefits can be offered,
- Employers are required by the Department of Labor to distribute a Summary Plan Description or SPD to every employee initially and at predetermined intervals,
- Annual salary reduction election forms should be on file and available for possible IRS audit,
- Discrimination testing should be done at least once a year and proof of testing should be available for possible IRS audit,
- Medical expense reimbursement plans with more than 100 participants are required to file IRS Form 5500 annually,
- Failure to update and maintain the plan document for new IRS provisions and laws regarding COBRA, HIPAA, FMLA, USERRA, protected health information, over-the-counter prescription drugs, new definitions for dependents, deductions for domestic partners, mid-year qualifying events to make election changes,
- Failure to enforce twelve month irrevocable deduction rules during the plan year,
- Refunding unused funds back to the employee from medical and dependent care assistance FSA plans at the end of the plan year,

- Companies establishing simple reimbursement plans for dental, vision, or deductible and co-payment expenses without a written plan and SPD,
- Reimbursing medical and insurance expenses to only certain key employees,
- Discriminating within a class of employee,
- Basing benefit limits for reimbursement on seniority or a percentage of pay,
- S Corporation owners and family members pre-taxing benefits,
- Owners participating illegally,
- Highly compensated and key employee deductions total more than 25% of group deductions,
- Professional groups, normally physicians, setting up elaborate insurance and medical expense reimbursement schemes without a formal plan while excluding hourly employees,
- Pre-taxing health savings account bank funds through the Section 125 Premium Only Plan without proper plan documentation addressing HSA administration,
- Not limiting Medical Expense Reimbursement FSA plans offered in combination with HSA plans.

These are just a few of the compliance issues we address daily. If you believe your plan may be out of compliance, call today for a free no obligation consultation. You'll speak with a professional, fully accredited and Certified in Flexible Compensation, (CFC), by the Employers Council on Flexible Compensation.

Core Documents, Inc. has been providing plan documents, starting at only \$99, since 1997 for: Section 125 Premium Only Plans (POP), Medical Expense Reimbursement Flexible Spending Accounts (FSA), Dependent Care Assistance Plan FSAs, Health Savings Account Modules (HSA), Health Reimbursement Arrangements (HRA), Section 105 for Sole Proprietor Spouse/Employee arrangements, and Section 132 Commuter Transit Plans.

See more information about these fringe benefit plans at Core Documents' website:
<http://www.CoreDocuments.com> , or call toll free 1-888-755-3373.

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