

What if Your 401(k) Plan Failed the ADP and ACP Tests?

By Jewell Lim Esposito March 01, 2011

Beware the IRS Ides of March.

March 15th is a looming deadline. If your 401(k) plan failed the ADP test, it must remove participants' excess contributions (and related earnings) by March 15th to avoid a 10% excise tax. Similarly, if your plan failed the ACP test, same thing: remove the excess match and after-tax contributions (and earnings) by March 15th to avoid the excise tax. The failure to address ADP and ACP problems will likely mean that an employer will have to come out-of-pocket with an unanticipated, *but required*, contribution into the 401(k) plan.

In informal sessions with IRS officials in early February, the officials observed that many employers have difficulty understanding the discrimination testing data that a TPA hands back to them. If you have concerns evaluating the information, check with your TPA for clarification. It is not a grave error to fail a discrimination test; it is, however, typically a tax-disqualifying error not to correct.

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