# AVOIDING THE TOP RETIREMENT PLAN MISTAKES - CHECKLIST

## I. Eligibility Errors

☐ 1. Review plan's list of eligible employees against your employment practices. Are there any individuals employed who are not excluded under the plan's list of excluded employees? For example:

(i) leased employees
(ii) temporary employees

☐ 2. Review plan operation with respect to part-time employees. If the plan document requires an employee to complete one year of eligibility service, employees who have not completed it may be excluded. However, plans cannot exclude part-time employees as a group.

☐ 3. Review the plan operation with respect to automatically enrolling employees. Are eligible employees being automatically enrolled?

☐ 4. Review the employer operation with respect to classifying employees. If a worker is misclassified as an independent contractor, the employer should review the classification and confirm that the employee is properly classified.

☐ 5. Review practices with respect to re-hires and counting prior service toward eligibility.

## II. Vesting Errors

☐ 6. Review when an employee is credited with one year of vesting service. An employee earns a year of vesting service upon completing 1,000 hours – not at the end of the 12-month period (which makes vesting service different from eligibility service).

☐ 7. Review employees moving from an ineligible to eligible classification. If an employee is ineligible and becomes eligible, the employee's service in the ineligible classification counts for purposes of vesting.

☐ 8. Review exempt employee hours. Is the employer tracking actual hours or using an equivalency (such as crediting 90 hours if 1 hour is worked in a 2-week period) for hours worked?

☐ 9. Review re-hires and counting prior service toward vesting. Does the employer track such service?

## III. Compensation Errors

☐ 10. Review the definition of compensation to determine if it matches payroll practices. Common items that are not properly defined as (or excluded from) compensation are: bonuses, imputed income, income from employer gifts (such as gift cards), relocation and moving expenses, and other fringe benefits.

☐ 11. If the employer has more than one defined contribution plan, review whether compensation is defined in the same manner for all plans.

☐ 12. Review whether the definition of compensation is the same for employer and employee contributions. If the definitions are different, is compensation correctly calculated for each type of contribution?

☐ 13. Review whether elective contributions are being deducted from severance pay. This is not permitted.

☐ 14. Review whether elective contributions are taken from off-cycle pay (paychecks or bonuses).

## IV. Distribution Errors

☐ 15. Review whether the plan is cashing out small accounts.

☐ 16. Review whether the plan is making minimum required distributions. (Note – If plan provides that only lump sum distributions are permitted, then a lump sum should be distributed when a minimum required distribution must be made.)

## V. Loan Errors

☐ 17. Review how loans are handled when an employee is on a leave. Does the plan reamortize the loan or require the loan to be caught up?

☐ 18. Review the rate of interest required under the plan. Is it a reasonable rate of interest (what employee would be charged at a bank)? Does the rate in the plan match the amount being charged in operation?

☐ 19. If the employer has more than one plan that allows loans, review whether the plans coordinate to assure that loans to an employee do not exceed the loan limits.

## VI. Testing Errors

☐ 20. Review the employer's controlled group. Are all employers under common control being included in testing?

☐ 21. Review how testing is being performed. Are union employees excluded from testing? Are leased employees counted? Is accurate census data being provided? Is the plan disaggregated? Is the plan aggregated with another plan for testing purposes?

☐ 22. Review timing for performing ADP and ACP testing. Are excess amounts distributed within 2½ months after the end of the plan year (i.e., March 15th for calendar year plans)?

## VII. Other Errors and Things to Consider

☐ 23. Review the plan's forfeiture account. Does the plan use all of the forfeiture account each year?

☐ 24. Review the plan's process for true-up contribution on a matching contribution. Does the plan provide a true-up contribution will be made? Is it being made for all participants and not just those that reach the 402(g) limit ($17,500 in 2013, $17,500 in 2014)?

☐ 25. Review the plan's adoption agreement (plan statement) and amendments. Are there signed copies of written actions or copies of minutes for the adoption of each document?

## Additional Information

The above checklist is intended to help employers identify actual or potential retirement plan errors. If you have additional questions, please contact the attorney or benefits specialist in Dorsey's Benefits and Compensation practice group with whom you work on retirement plan issues.

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