

## Compliance Division Programs

**We will be charging \$500 for a review and recommendation letter. These fees will be applied to F&B compliance fees, if we proceed with a correction program.**

The Internal Revenue Service and Department of Labor offer a comprehensive system of correction programs to sponsors of 401(a), 403(b) and Simplified Employee Pension (SEP) plans. Each program is designed to correct specific problems.

### **DOL Delinquent Filer Program (DFVC):**

- Failure to file Form 5500.
- The DOL fees for small plans (fewer than 100 participants) are \$10 per day after the due date, not to exceed \$750 per return, with a maximum of \$1,500 for multiple late returns. The DOL fees for large Plans (100 or more participants) are \$10 per day after the due date, not to exceed \$2,000 per return, with a maximum of \$4,000 for multiple returns.
- F&B will charge annual administration fees plus \$500 for DOL submission.

### **IRS Voluntary Correction Program (VCP):**

- Failure to timely adopt or amend plan documents.
- The IRS fees are based on the size of the plan.
- F&B will charge document fees plus \$500.

### **IRS Self Correction Program (SCP):**

- Operational Failures such as ADP/ACP tests, top-heavy, 415 limits, and minimum distributions.
- There is no IRS fee.
- F&B will charge a fee of \$500.

### **DOL Voluntary Fiduciary Correction Program (VFCP):**

- Late deposit of 401(k) or employer contributions.
- There is no DOL fee.
- F&B will charge a fee of \$1,500 (The client could incur additional F&B fees depending on the severity of the violation and the amount of time required.)

### **Determination of Controlled Groups or Affiliated Services Groups:**

- If research needs to be completed to determine whether the companies are affiliated and/or controlled, our fee is \$500 for an informal letter. If formal determination is required via IRS private letter ruling is needed, specialized fees need to be discussed starting at \$10,000.

### **Plan Audit Services:**

- Our fees are \$250 per hour.

## Determination of Controlled Group and/or Affiliated Service Groups

To determine whether the companies are affiliated or controlled please supply: the name of all business owners, percentage and relationship. Each entity type, number of employees, description of the business nature and any business relationship to one another. Show if any of the businesses provide services to one another or mutual third parties and the percentage of the services provided. List any existing qualified retirement plans the businesses may sponsor.

### Controlled Group [IRC Codes 414(b)(c) and 1563]

A Controlled Group exists for businesses with a parent-subsiary or brother-sister relationship.

- **Parent-Subsidiary Controlled Group:** A parent-subsidiary controlled group exists when one business (common parent) owns at least 80% of one or more other businesses (subsidiaries).
- **Brother-Sister Controlled Group:** A brother-sister controlled group exists when five or fewer persons own 80% or more of the stock value or voting power of each corporation and the same individuals together own more than 50% of the stock value or voting power of each corporation, taking into account the ownership of each person only to the extent such ownership is identical with respect to each organization (e.g. if a common owner owns 30% of one business and 80% of another business, the owner's identical ownership in the two businesses is 30%).

### Affiliated Service Group [IRC Code 414(m)]

An Affiliated Service Group (ASG) is a group of employers treated as a single entity because of a combination of ownership and services rendered. An ASG can fall into one of three categories: (1) A-Organization Groups (A-Org) consists of an Organization designated as a First Service Organization (FSO) and at least one A-Org, (2) B-Organization Groups (B-Org) consists of an FSO and at least one B-Org, or (3) Management Groups.

An FSO must be a "service organization". An organization is a service organization if capital is not a material income producing factor. As a general rule, the capital is a material income producing factor if a substantial portion of the income of the business is attributable to the employment of capital in the business (e.g. inventories, plant, machinery, or other equipment.) In a service organization, fees would come from commissions or compensation for personal services, such as health, law, architecture, accounting, performing arts, and consulting.

- **The A-Organization Groups** must consist of an FSO and another service organization, which is known as the A-Org. The A-Org must (1) have ownership interest in the FSO and (2) the A-Org must regularly perform services for the FSO or must be regularly associated with the FSO in performing services for third parties.
- **The B-Organization Groups** must consist of an FSO and another organization, which is known as the B-Org (B-Org does not have to be a service organization). The B-Org must meet all of the following three requirements: (1) a significant portion of its business must be the performance of services for a FSO (or an A-Org with respect to the FSO), (2) the services must be historically performed by employees in the service field of the FSO or the A-Org's, and (3) 10% or more of the interest in the organization must be held, in aggregate, by highly-compensated employees.
- **The Management Groups** must consist of a recipient organization and a management organization. To be an affiliated service group, the management organization's principal business must be the performance of management functions, on a regular and continuing basis for the recipient organization. There does not need to be any common ownership between the management organization and the organization for which it provides service.