

# POP INSIGHTS

Your Source for Information on IRS Section 125 Premium Only Plans



## In This Issue

Compliance reminder

POP Kit re-enrollment  
and compliance

## What if your POP is audited

If other parts of your business are audited, your POP will likely fall under the same scrutiny. It's important to be well prepared and aware of what types of documents the IRS could request. Examples include:

- Executed plan document and all amendments
- Summary Plan Description (SPD)
- Signed election forms
- Change of election forms
- List of employees who are eligible and ineligible for the plan
- Related insurance policies
- Results of nondiscrimination tests
- Form 5500 and Schedule F (requirement suspended April 4, 2002 in IRS Notice 2002-24)
- Payroll records
- Reconciliation of employee pre-tax deductions with Form W-2

## Compliance Reminder

The tax laws impose discrimination restrictions to prevent officers, shareholders and certain highly compensated employees from receiving a disproportionate share of the income tax savings available under POP. In most cases, a POP will not be discriminatory, but it is important each year to verify that your plan remains nondiscriminatory. If the POP becomes discriminatory, certain plan participants (called highly-compensated or key employees under the tax laws) will not be able to exclude their premium payments from their taxable income.

Generally, discrimination is only a problem in very small companies if all the employees are not eligible to participate in the plan. As the employer and plan administrator, it is your responsibility to assess discrimination issues.

Review Section 5 of your POP Kit to determine if annual discrimination testing has been completed, if facts and circumstances have changed for your company and if your POP is in compliance with current tax laws.

Copy the applicable Annual Discrimination Test(s), complete, and file in Section 5 to ensure everything is in place in case of an audit.

Annual nondiscrimination testing is vital to maintaining employer and employee tax savings. If your plan fails the annual nondiscrimination tests, you could be forced to repay tax savings, plus penalties and interest. We've made it simple to comply with this IRS law. Analyzing just one payroll report can usually complete your annual nondiscrimination tests.

## POP Compliance Questionnaire

There only needs to be one plan deficiency found during an Internal Revenue Service (IRS) audit for the plan to be declared invalid. If the plan is invalid and no Premium Only Plan (POP) exists, it means that all contributions to your plan would be taxable. Both you and your employees miss out on the tax savings.

Answer the following questions to assess your compliance with the POP rules and regulations.

Section 125 Premium Only Plan Self-Audit Compliance Worksheet	YES (✓)	NO (✓)
Do you have a current written plan document and summary plan description?		
Does the POP document identify the plan name, plan number, sponsoring employer and any participating employers (e.g. controlled group members and affiliates)?		
Have participating employers that are tax affiliates properly adopted the plan for their employees?		
Is the POP administered in accordance with the IRS permitted election change Regulations and FMLA Regulations as outlined in your POP document?		
Is the POP administered in accordance with the plan document and disclosures to participants?		
Is the POP properly adopted by the appropriate entity, and executed and dated by a duly authorized representative of the plan?		
Was the POP adopted before beginning operation?		
Are board resolutions regarding the POP and all component plans (e.g., adopting plan, authorizing action on behalf of plan sponsor), contained in the POP-Kit?		
If the POP is sponsored by a partnership, Subchapter S corporation or limited liability corporation, are the shareholders/owners restricted from participating in the POP?		
Are elections made prior to the coverage period and are election changes being administered in accordance with applicable regulations?		
Are election/salary reduction forms completed appropriately (e.g., signed, filled in, etc.)?		
Are Summary Plan Descriptions provided to employees and copies of Summary Plan Descriptions retained in the POP-Kit?		
Are Health Savings Account (HSA) contributions paid through your POP properly reported on the participants' W-2s?		
Have nondiscrimination tests been run and passed for the component plans and the POP each year?		
Are plan records and documents being kept for the periods prescribed by law?		

If you answered "No" to one or more of the questions, your Premium Only Plan could be out of compliance. We can help. Call us at 800-876-7548 or visit [www.wageworks.com/ezpop/contact-us](http://www.wageworks.com/ezpop/contact-us)

## Make Re-Enrollment and Compliance a Snap

Your POP Kit is an excellent resource for 2019 re-enrollment and compliance information, such as:

- New participant election forms
- An updated Plan Document and Summary Plan Description (SPD)
- Instructions for complying with IRS Regulations on annual nondiscrimination testing
- An IRS Code Sections and Regulations reference

Be sure to leverage the Kit materials as needed.

Check out the POP educational videos for you and your employees