

# CLIENT ALERT

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**Anytime a company allows their employees to pay for their health contributions on a pre-tax basis they are sponsoring a Section 125 Premium Only Plan (POP) as defined by IRC 125. The IRS is very clear that these plans must meet certain criteria:**

**IF YOU ALLOW YOUR EMPLOYEES TO PAY FOR THEIR HEALTH CONTRIBUTIONS ON A PRE-TAX BASIS, CAN YOU ANSWER “YES” TO EACH OF THESE QUESTIONS?**

1. Do you know that your pre-tax contributions are considered a Premium Only Plan (POP Plan) under Section 125 of the IRC?
2. Do you have a Plan Document that describes your POP Plan?
3. Have you given each of your employees a Summary Plan Description for your POP Plan?
4. Do you have Annual Salary Reduction forms on file for each participating employee?
5. Are you administering the Plan based on IRS regulations with regard to adding and dropping coverage?
6. Can your plan pass the IRS Non-Discrimination Tests?

**IF YOU ANSWERED “NO” OR “I DON’T KNOW” TO ANY OF THESE QUESTIONS – YOU NEED TO ADDRESS THIS NOW!!!**

What are the possible consequences if the IRS audits your POP and finds that you are not compliant:

- ⊖ Pre-tax deductions may be dis-allowed back to the beginning
- ⊖ IRS Assessment of unpaid taxes, plus interest and penalties
- ⊖ Fines from the DOL

**DANGER SIGNS THAT YOUR PLAN WILL NOT  
PASS THE NON DISCRIMINATION TEST**

- ⊖ Only Highly Compensated Employees participate in the plan or most Highly Compensated Employees and only a few non Highly Compensated Employees participate in the plan.
- ⊖ The plan offers different levels of contributions for different levels of employees
- ⊖ The plan has different waiting periods or different eligibility requirements. (Salaried Employees treated differently from hourly employees)
- ⊖ Different levels of benefits are provided to different levels of employees;

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