

Tax Qualifications and Your Retirement Plan—*Who Has Answers?*

Beginning January 1, 2017, the IRS will eliminate the determination letter program for individually designed qualified plans (subject to certain limited exceptions). This means that employers can no longer rely on the IRS to issue an opinion as to the tax qualification of the employer's retirement plans. Opinions on the tax qualification of retirement plans are important for a number of reasons, including:

- Most lenders will require an opinion as to the tax qualification of an employer's retirement plans.
- Standard due diligence in corporate transactions requires evidence of the current tax qualification of all retirement plans.
- Retirement plan auditors may charge significantly more for the audit, or may specifically disclaim part of the audit, if the employer does not have a current opinion letter for the retirement plan.
- Regular opinion letters will protect employers from many penalties associated with the plan's qualification and ensure proper documentation in the event of an IRS audit.
- The opinion letter process affords plan sponsors the opportunity to implement best practices, identify potential issues before they occur and correct minor issues before they become more substantial.

Kutak Rock Offers New Retirement Plan Opinion Letter Program

Be More Confident That Your Documents Comply With the Code

To provide plan sponsors assurances that their plan documents comply with the applicable Internal Revenue Code requirements, Kutak Rock LLP is introducing its RPOL program. Under the RPOL program, Kutak Rock's Employee Benefits Practice Group will:

- Conduct an annual review of an employer's retirement plans to confirm compliance with the Internal Revenue Code's documentary requirements;
- Provide employers with recommendations regarding best practices;
- Identify potential issues and provide guidance on correcting minor operational issues; and
- Issue an opinion letter allowing plan sponsors to demonstrate that their retirement plan documents comply with applicable law.

While the RPOL program is new, Kutak Rock's Employee Benefits Practice Group has been issuing opinion letters on qualified retirement plans for many years. The Kutak Rock team offers plan sponsors expert insight on the design, qualification and operation of their retirement plans. Specifically:

- Kutak Rock's attorneys are nationally recognized as experts in employee benefits law with experience representing private and public sector employers of all sizes in all 50 states.
- Kutak Rock has assisted hundreds of clients, including those with multiemployer and multiple-employer plans, in obtaining opinion letters on their retirement plans.
- Kutak Rock has reviewed, obtained and issued opinion letters on all types of profit sharing, 401(k), 403(b), 457, defined benefit, cross-tested and cash balance plans.

If you have any questions regarding the RPOL program or would like additional information about obtaining a Retirement Plan Opinion Letter, please contact your Kutak Rock attorney or a member of the Kutak Rock Employee Benefits and Executive Compensation Practice Group.