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## Important Information on 401(k) Election Forms

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It is extremely important to follow some basic guidelines for administering 401(k) election changes. The IRS has been very active in reviewing these forms. Here are some rules to follow:

### GETTING FORMS

One of the first things the IRS will ask for if your plan is audited is a copy of the salary deferral election forms. They will compare the forms to the actual contributions made to the plan to ensure that you are depositing the amounts that the employees have requested. ***You must have a form for everyone – even if they choose to not have any of their pay deferred into the plan.***

For new plans, this means that you will need to gather forms from everyone when your plan first starts. For ongoing plans, you will need to make sure that employees who are newly eligible to participate in the plan complete an election form prior to their entry date.

### TRACKING CHANGES

When an employee wants to change their 401(k) deferral election, ***you must get a new form.*** This is true whether they want to stop deferring, start deferring, or change their percentage/dollar amount. ***You should not accept verbal instructions or emails from your employees for this purpose.***

### DEFERRING ON BONUSES AND OTHER FORMS OF COMPENSATION

Most plans define Compensation as “W-2 compensation”. This includes bonuses, commissions, and most other common forms of compensation. Unless your plan specifically excludes certain types of compensation (and this is extremely rare), ***you should be applying the deferral election to ALL compensation.***

If a Participant is going to be paid a bonus, but does not wish to have 401(k) deferrals taken from it, he/she will need to complete a new form and clearly indicate that the form applies only to the “bonus paid on...”. Again, the important thing is that the election form matches what you are withholding on his/her behalf.

### FOLLOWING THE PLAN

Your Summary Plan Description (SPD) indicates how often you will allow changes in salary deferral elections during the year. Some plans allow changes any pay-period. Others only allow changes quarterly, or semi-annually. The language in your SPD should match how you are administering your 401(k) deferral election changes.

### OUR RECOMMENDATION

Many employers are afraid to allow changes every pay-period because they think that they will need to deal with a large volume of change requests and it will burden their payroll processing. While this is a reasonable concern, we find most often that very few participants make such changes. However, when they do they are usually motivated to get them implemented as soon as possible.

We encourage you to allow changes every pay period. If the number of changes becomes onerous, then you can always restrict the ability by changing the policy.