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What to Know in the Event Your POP is Audited

If other aspects of your business are audited, your POP will likely fall under the same scrutiny. It's important to be well prepared and versed on what types of documents the IRS could request. Such materials 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
- Schedule of employee and employer contributions
- Calculations used to determine employment taxes paid, including FICA and FUTA taxes



See our **compliance questionnaire** on the next page to see if your POP is in violation.

FUTA Tax Rate Due to Surge in Some States

Most employers pay a federal and state unemployment tax as mandated by The Federal Unemployment Tax Act (FUTA)—one of the providers of payments of unemployment compensation to workers who have lost their jobs. Typically, employers are allowed to credit the state unemployment taxes paid against the federal tax liability. However, if a state has outstanding loan balances for two consecutive years, the FUTA credit rate for employers in that state will be reduced until the loan is repaid, ultimately requiring employers to pay additional unemployment tax when filing Form 940 for 2015.

[Click here](#) to read the full WageWorks Compliance Alert.

POP-Kit Makes Re-Enrollment and Compliance a Snap

Don't forget that your POP-Kit is an excellent resource for 2016 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.

POP Compliance Questionnaire

Only one plan deficiency needs to be 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.

Please 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 questions, your Premium Only Plan could be out of compliance. Call the hotline for further assistance at 800-876-7548 or go to ezpop.com and click on "contact us."

File this publication behind Tab 8 of your POP-Kit.

800-876-7548
www.ezpop.com

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