

Publications

IRS Launches Exam Program Targeting Executive Comp Benefits

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Prompted at least in part by generous and sometimes aggressive compensation practices that came to light as a result of Enron and other high profile corporate scandals, the IRS has initiated a pilot audit initiative focusing on executive compensation and fringe benefits. This initiative—developed by the Large- and Mid-Size Business Division, Employment Tax Group—will include a few dozen companies (of the 200,000 or so covered by this Division). Depending on the results, the program may be expanded in future years.

Three of the 8 areas being targeted for review—i.e., split dollar life insurance, family limited partnerships and offshore employee leasing—are relatively narrow and have been the subject of recent IRS guidance intended to curtail abuses. The following 5 targeted areas are likely to affect most corporate taxpayers and their executives:

- Nonqualified deferred compensation — including FICA tax and constructive receipt issues,
- stock-based compensation — including stock options, phantom stock and debt-financed stock purchases,
- “fringe benefits” — including air travel (employee/spouse), loans, vacations, club memberships, and a host of other common practices,
- \$1 million deduction limit (sec. 162(m)), and
- golden parachute rules (sec. 280G).

For each area, IRS has prepared issue papers, document requests and suggested audit techniques. Thus far, these materials have only been available within IRS and the audits started only recently. Hopefully, the focus of these exams will become clearer over the coming months.