

Compliance Review Reveals Exposure

A newly acquired Long Island, NY based MBA retail client who had grown in size from 84 employees to 120 employees two years ago as a result of an acquisition.

Key Challenges

When doing an initial compliance review for this account, one of our MBA Advisors discovered that the required 5500 forms had not been completed for last year. According to federal law under ERISA, health and welfare plan sponsors with 100 or more participants at the beginning of a plan year are generally required to file an annual report with the Department of Labor/IRS. This “Form 5500” contains information about the plan and includes disclosure of all commissions and fees received by those who provide services to insured plans. Failure to file these forms by the required deadlines could result in an IRS penalty of \$25 per day, up to a maximum of \$15,000. The DOL penalty for late filing can run up to \$1100 per day with no maximum.

MBA Solution Presented

Since their growth two years ago resulted in the client having over 100 employees at the beginning of last year, we advised the client that they were delinquent in not filing 5500 forms for last year and were facing the potential of substantial penalties. After collecting the necessary plan data for the year, we assisted the client in completing and filing an electronic 5500 form and then prepared a special filing under the “Delinquent Filer Voluntary Correction Program” (DFVCP) offered by the IRS and Department of Labor. Under the DFVCP program, the client’s liability for financial penalties would drop from tens of thousands of dollars to the limit of \$2000 for each annual report, not to exceed \$4000 per plan. If the Department of Labor were to have conducted an audit before the DFVCP was filed and discovered the delinquency, the plan sponsor would have been prohibited from using the DFVCP and would have been responsible for the significantly higher penalties.

Measureable Results

Plan compliance today is complex and spans a multitude of areas and required processes, from 5500 filings to “Pay or Play” to COBRA and FMLA, just to name a few. Requirements vary by number of employees and process deadlines are scattered throughout the year. With guidance from the MBA team and suggested compliance audits we can help clients resolve potential problems before they become expensive mistakes.



By submitting the DFVCP filing, this client eliminated the possibility of substantial fines and penalties, which could have totaled tens of thousands of dollars.