Shannon & Associates LLP
Certified Public Accountants
Management Consultants

Employee Benefit Advisor

COMMITTED TO YOUR SUCCESS

Fall 2012

AS BUSINESS FRAUD STATISTICS GROW, SHANNON & ASSOCIATES AFFILIATES WITH RED FLAG REPORTING

With a typical organization losing 5% of its revenue to fraud each year, it's no wonder that Shannon & Associates, one of the area's largest accounting firms, has affiliated its business with Red Flag Reporting services.

The *2012 Report to the Nations on Occupational Fraud and Abuse* by the Association of Certified Fraud Examiners (ACFE) reported an average loss due to fraud of $140,000 per victim, with more than 20% of victims losing at least $1,000,000. The result of these findings is a concerted effort on the part of Shannon & Associates with the education and training of their employees and clients on fraud prevention, detection, and proactive reporting.

"Unfortunately, we've seen a lot of vulnerability in clients who over-rely on audits and internal controls alone to protect themselves from fraud," states Certified Fraud Examiner and CPA Jessica Kinney of Shannon & Associates. "Businesses today need to focus on protecting their bottom line everywhere possible – not only on spreadsheets, but within their own work environments. Choosing to affiliate with Red Flag Reporting was an easy decision for us – as it is the most cost-effective anti-fraud solution and it's created for organizations of all sizes. It was the perfect fit into our portfolio because it was founded within our industry by experts with high standards similar our own," says Jessica.

Red Flag Reporting can help clients achieve 44% less loss from fraud (than those without). In fact, the national average for loss to fraud reported by companies without a hotline is $180,000.

"Clients love it because it's a targeted, user-friendly and cost-effective solution to occupational fraud," says Raymond Dunkle, President of Red Flag Reporting. "At Red Flag Reporting, we see it as part of our job to protect a client's bottom line, and so we founded this turnkey program for our affiliated firms to be able to extend the protection to their clients as well. We're ecstatic to see the benefits of this proven system for fraud prevention being utilized by a firm with the stellar reputation that Shannon has."

Red Flag Reporting was created to educate and empower employees with the tools to detect and report unethical behavior. Because tips and complaints are proven to be the number one method of fraud protection (2012 ACFE Report to the Nations on Occupational Fraud and Abuse), the anonymity that hotlines like Red Flag Reporting provides has been shown to make employees feel both protected and alleviated from burden. By adding a new service to our portfolio, Shannon & Associates is now in a unique position to build value and protect our clients.

Red Flag Reporting is your hotline for:

- Fraudulent activity/theft
- Misconduct
- Safety violations
- Unethical Behavior

Report concerns safely, securely and anonymously 24/7.

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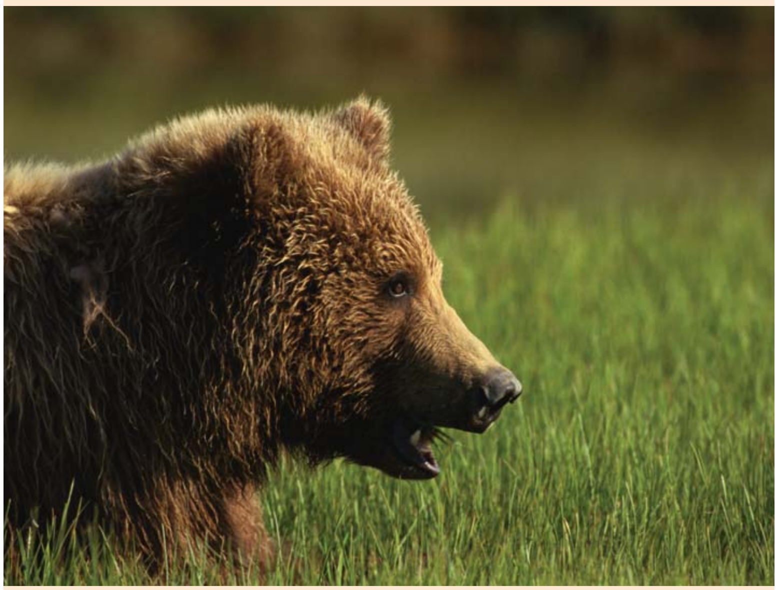
About Red Flag Reporting

Red Flag Reporting's mission is to protect organizations and their people from damages caused by financial fraud and employee misconduct. Developed by experienced fraud investigators and human resources consultants, Red Flag Reporting is a highly effective program to detect and stop costly problems such as embezzlement, false billing, misuse of appropriations and accounting irregularities. The program also addresses employee protection, raising red flags before a work condition leads to a litigious situation. For more information contact Certified Fraud Examiner, Jessica Kinney, CPA, CFE at 253-852-8500 or JKinney@Shannon-CPAs.com.



CAN WE HELP?

Our firm offers a broad range of employee benefit plan services. If we can be of service to you, please call.

BENEFIT NOTES

Small plan compliance failures

A study by the IRS's LESE (Learn, Educate, Self-Correct, and Enforce) project found that small retirement plans (less than $5 million in assets) are missing the mark in several compliance areas. The project looked at plans that had investments in real estate and either offered participant loans or filed a Form 5500 Schedule D (DFE/Participating Plan Information). Among the failures: 25% of the plans had at least one prohibited transaction and 25% had real estate investments that weren't valued at fair market value. Problems with plan loans included failure to follow the plan loan provisions, to document loans and loan payments, and to prohibit loans to the employer or related entities.

Contribution benchmarks

Preliminary information from the IRS's Section 401(k) Compliance Check Questionnaire gives plan sponsors some benchmarks for assessing their 401(k) plans' contribution features in comparison to other plans. The findings: 54% of 401(k) plans have a one-year-of-service requirement for participation, 64% contain an age-21 eligibility requirement, 41% let participants change elective deferrals at any time, and 96% allow participants age 50 and older to make catch-up contributions. Only 22% of the 401(k) plans surveyed permit designated Roth contributions. As for employer contributions, 68% of plan sponsors make matching contributions, 65% provide employer nonelective contributions (such as a profit sharing contribution), and 58% of plans have a one-year-of-service requirement for receiving matching contributions.

Social security benefit statements

In February, the Social Security Administration (SSA) resumed mailing annual paper benefit statements to workers age 60 and older who are not already receiving Social Security benefits. The SSA has also introduced an online statement service to provide workers of all ages immediate access to their statement information and plans to resume first-time "welcome" mailings to workers at age 25 that will explain how to access online statements.

FOCUS ON SAFE HARBOR 401(k) PLANS

The IRS has launched an examination project focused on 401(k) plans that operate under a safe harbor design. A 2010 IRS compliance check revealed that a high percentage of employers sponsoring safe harbor 401(k) plans may not be making the required contributions to those plans. To help safe harbor plan sponsors vet their plans, and for employers who are considering a safe harbor design, here is a review of the safe harbor requirements.

A safe harbor design allows a 401(k) plan to avoid annual nondiscrimination testing on pretax salary deferrals and employer matching contributions. Typically, a 401(k) plan that fails nondiscrimination testing must refund contributions to highly paid employees or recharacterize them as after-tax contributions if the plan allows. Highly compensated employees' annual contributions are reduced, and they are forced to pay income taxes they weren't expecting.

The trade-off -- required contributions

In exchange for relief from the nondiscrimination testing requirements and higher contributions for highly compensated employees, a safe harbor plan sponsor must either (1) make a nonelective contribution of at least 3% of compensation for each non-highly compensated employee eligible to participate in the plan or (2) make matching contributions under a qualifying matching formula. The basic matching formula is 100% of the first 3% of compensation deferred, plus 50% of deferrals between 3% and 5% of compensation.

The rules are a little different for a plan with a qualified automatic contribution arrangement (QACA). For these plans, the safe harbor matching contribution formula is a 100% match on the first 1% of compensation deferred and a 50% match on deferrals between 1% and 6%. Participants may be required to have two years of service before becoming vested in QACA contributions. The minimum employee deferral percentage must start at not less than 3% and, after two plan years of participation, increase at least one percentage point annually to no less than 6% (with a maximum of 10%) unless the participant elects otherwise.

Review your employer contributions for the year so far and the contributions you plan to make for the remainder of the year to determine whether you are on track to meet the applicable requirements. You can reduce or stop safe harbor matching contributions during a plan year if you give your participants at least 30 days' notice so they can change their elective deferrals if they want to, but you'll have to perform annual nondiscrimination testing for the entire plan year.

Other safe harbor requirements

You must provide a notice of rights and obligations under your safe harbor plan to all eligible employees between 30 and 90 days before the start of each plan year. Employees who will become eligible during the year must be given reasonable advance notice. In addition:

- All safe harbor contributions are immediately 100% vested.
- You can't set conditions on the receipt of safe harbor contributions -- for example, that plan participants be employed on the last day of the plan year or work at least 1,000 hours during the plan year. (However, the plan can have minimum age and service requirements that employees must meet before they are eligible for plan participation.)
- Safe harbor contributions generally can't be available for in-service withdrawal before age 59½.
- Plan documents must state whether safe harbor or non-safe harbor testing will be used.

Changing plan design

If your 401(k) plan isn't currently a safe harbor plan but you are thinking it would be advantageous to operate under a safe harbor design, be aware that safe harbor provisions cannot be added to an existing 401(k) plan during a plan year. Rather, you must amend your plan to add a safe harbor design for the next plan year. The amendment must be adopted before the first day of the new plan year.

AMENDING YOUR PLAN

One of the most frequent compliance errors IRS examiners find when conducting Employee Plan Examinations is the failure of 401(k) plan sponsors to amend their plan documents to comply with current law. Such a failure can mean plan disqualification.

Amendment basics

401(k) plans must be updated periodically to conform to changes in federal tax or pension law (ERISA) and to reflect official guidance issued by the IRS. At the end of each year, the IRS publishes a Cumulative List of Changes in Plan Qualification Requirements that includes amendment requirements and deadlines.
Currently, the most common law changes that employers have failed to amend their plans for are GUST (a series of tax laws), the good faith amendments for the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), and the final and temporary required minimum distribution regulations under Internal Revenue Code Section 401(a)(9).
Individually designed 401(k) plans must be routinely amended and restated every five years, and preapproved plans every six years. There is a revolving remedial amendment cycle for amending and restating a plan. If you use a preapproved plan document, the institution that maintains the plan document will contact you when you need to update your plan.
Between remedial amendment cycles, interim and good faith amendments are required to keep a written plan current. Discretionary amendments are used for nonrequired changes to the plan -- for example, adding or changing features -- made between remedial amendment cycles.

Avoiding the error

The following are some suggestions for staying on top of required amendments and avoiding possible plan disqualification:

- Keep a calendar or tickler file of when amendments must be completed.
- Review your plan document each year for possible amendments.
- Check that your plan is operating in accordance with your plan's documents. If it isn't, amendments may be in order.
- Make sure the plan document and Summary Plan Description (SPD) match. If you've amended the plan document, compare the new language against your old SPD language and make any necessary changes to the SPD.
- Regularly review your plan with your employee benefit plan advisor.

Julie Courtney, CPA, Partner, our Director of Accounting and Auditing for Shannon & Associates, is in charge of the firm's employee benefit plan audit practice. Julie is involved in all aspects of the audits we perform as well as plan consulting and advisory services.

Julie has over 20 years of public accounting experience. Her areas of expertise include benefit plan and financial audits and financial reporting. Her responsibilities include advising closely-held businesses, internal control review, and various tax engagements. She also assists in quality control and staff training for the firm. Julie attends the AICPA National Conference on Benefit Plans annually. She has served clients in many industries including the following: manufacturing, non-profit organizations, real estate development, wholesale distributors, restaurant, construction (home builders), and professional services. Julie holds a Bachelor of Arts degree in Accounting from Western Washington University.

Bethany Hulbert, CPC, our Employee Benefits Consultant, has over 9 years experience specializing in defined contribution plan administration and holds the Certified Pension Consultant (CPC) credential from the American Society of Pension Professionals and Actuaries (ASPPA). This experience, along with her educational background in accounting and attendance at numerous seminars and courses, has resulted in an up-to-date mastery in profit sharing, 401(k), and money purchase pension plans. We encourage you to contact Bethany regarding any questions you may have with your defined contribution plans.
Bethany provides expert and timely services in the following areas:

- Plan document design, implementation and submission to the IRS
- Employee communications
- All aspects of plan administration
- Evaluation of controlled groups and related businesses
- Discrimination/coverage testing and solutions
- Compliance with all reporting required by the IRS and DOL
- Minimum required distributions

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