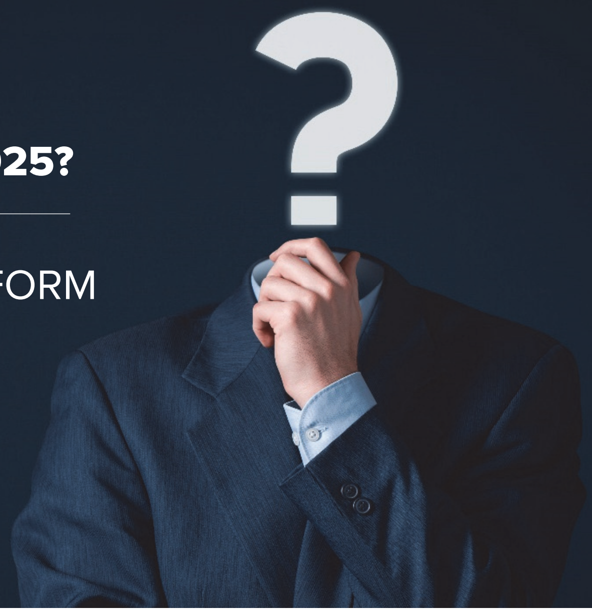
EVER HEARD OF IRS FORM 8925?

FORGETTING THIS ONE-PAGE FORM CAN COST YOU BIG DOLLARS!



If a company has employer-owned life insurance, there is a short, simple, annual filing requirement that can cost the enterprise big dollars if left unattended. Unfortunately, far too many employers have never heard of IRS Form 8925. Are you one of them? Read on... *

BURIED IN THE LEGISLATION...

In 2006, there was landmark legislation passed in the form of the Pension Protection Act of 2006, aka “PPA06”. This impacted numerous elements of Qualified retirement plans, pensions, 401(k)s etc., ushering in an era of increased transparency, disclosures, and regulatory notices.

There was a much lower profile element of PPA06: it also created code section 101(j) aka “COLI best practices act” (COLI = Corporate Owned Life Insurance). And although 101(j) didn’t get the headlines, it can have a major cost to companies who don’t properly comply – and far too many employers have never even heard of 101(j).

There are any number of reasons why an employer might own life insurance on its top talent: business succession & buy-sell planning, key person protection, covering lending covenants, or informal funding of non-qualified deferred compensation programs on a tax-advantaged basis.

THE GOOD NEWS: COMPLIANCE IS EASY...

The annual reporting is simple: for any life insurance policies issued after August 17, 2006 that are owned by an employer, the employer must report two easy pieces of information on each year via IRS Form 8925:
a) number of policies
b) total face amount of said policies

*Johnson Kendall Johnson, April 27, 2015

That's it. Nothing more. And, to be clear, Form 8925 is an informational filing only i.e., none of this reporting has any tax impact for the filing employer at all. (There are also modest compliance requirements at a time a policy is issued. If those one-time steps weren't taken, there are remediation steps that are possible.)

THE BAD NEWS: FAILURE TO COMPLY IS COSTLY…

The cost of failure to comply is also simple – but harsh: about 35% of the policy death benefit is the penalty. Why? Because failure to comply causes the death benefit to be taxable to the employer (whereas proper reporting means the policy death benefits are received free from any income taxes). So, failure to file a simple one-page IRS form can cost hundreds of thousands of dollars. In the simplest of examples, if an employer has a $1 million death benefit on a key employee, the tax due would be $350,000 (or more). Ouch.

WHY WOULD SOMEONE NOT COMPLY?

If compliance is so easy, and failure is so costly, why wouldn't everyone just comply? The main obstacle in compliance is awareness. As mentioned above, 101(j) was buried in a much larger and broadly sweeping piece of legislation that impacts a huge swath of the American population. And because it didn't get the headlines, 101(j) completely flew under the radar screens of most companies.

QUESTIONS?

If you have questions, feel free to contact us for assistance.