



Tales From the (K)rypt



How to Avoid 401(k) Horror Stories

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HOW TO AVOID COMMON 401(K) MISTAKES WITH PROPER PLAN GOVERNANCE

- ▶ The Department of Labor collected \$1.1 billion in fines, penalties, and restorations in 2018 from 401(k) plan sponsors. This is a 72% increase over 2017. *
- ▶ In the DOL's 2018 budget request, three stated goals were to increase enforcement results 2% -5% over the next five years, double compliance reviews, and integrate enforcement activities **
- ▶ Proper plan governance and documentation can avoid many costly mistakes plan sponsors make.
- ▶ Here are the most frequent 401(k) plan mistakes as reported by the IRS / DOL and the proper plan governance to avoid them:

*Peter Lewenson, compliancebug.com

** 2018 ESBA congressional budget request and strategic plan

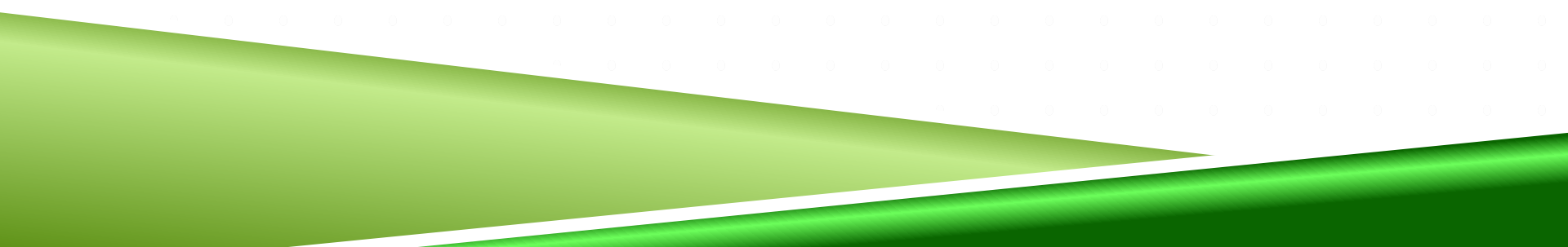
HOW TO AVOID COMMON 401(K) MISTAKES WITH PROPER PLAN GOVERNANCE

MISTAKE:

The plan sponsor has not updated their plan to include recent law changes.

PROPER PLAN GOVERNANCE FOR AVOIDANCE:

Get with your plan's administrator at least annually to confirm all plan amendments have been implemented. Ask them for written verification the plan has been properly amended and keep that documentation in your 401(k) file with your plan document.



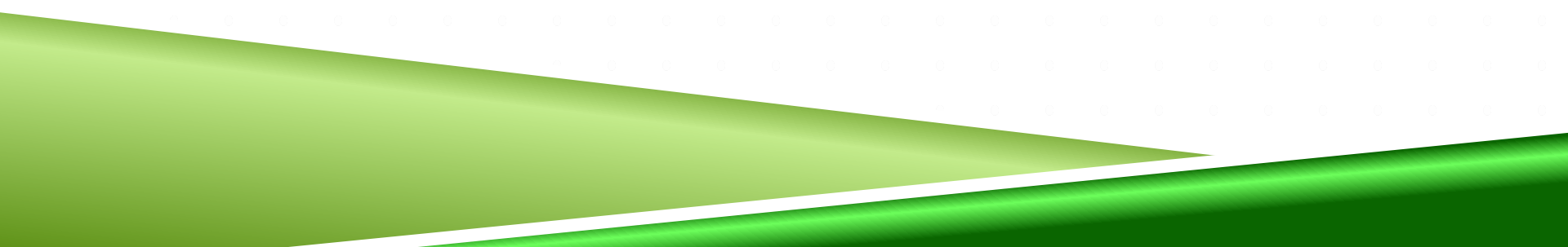
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MISTAKE:

The plan sponsor didn't base the plan operations on the terms of the plan document.

PROPER PLAN GOVERNANCE FOR AVOIDANCE:

Conduct an annual review of the plan document provisions compared to its operation.



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MISTAKE:

The plan sponsor didn't use the plan definition of compensation correctly for all deferrals and allocations.

PROPER PLAN GOVERNANCE FOR AVOIDANCE:

Perform an annual review of your compensation definition and insure the person in charge of determining compensation is properly trained to understand your plan document.

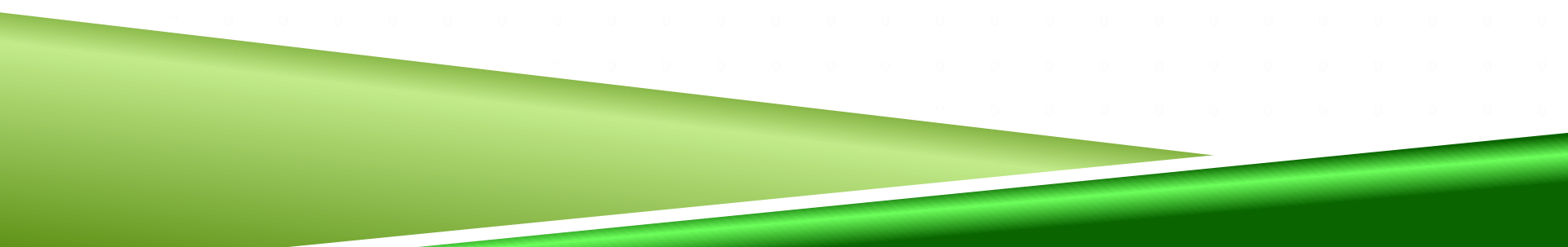
HOW TO AVOID COMMON 401(K) MISTAKES WITH PROPER PLAN GOVERNANCE

MISTAKE:

Employer matching contributions were not made to all appropriate employees.

PROPER PLAN GOVERNANCE FOR AVOIDANCE:

Compare your plans matching contribution formula and employee eligibility to what is applied operationally with payroll. Insure plan administrators have the proper payroll and employment information to make calculations.



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MISTAKE:

Eligible employees were not given the opportunity to make elective deferrals.

PROPER PLAN GOVERNANCE FOR AVOIDANCE:

Monitor plan eligibility with census data and communicate in writing to eligible employees. Insure all eligible employees have accepted or declined participation and keep each employee's completed form on file.

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MISTAKE:

The plan sponsor did not make timely deposits of employee deferrals.

PROPER PLAN GOVERNANCE FOR AVOIDANCE:

The DOL requires plans < 100 participants to deposit employee deferrals within 7 business days of check date. Inspect your operational procedures to insure employee deferrals are deposited in accordance with DOL time frame.

HOW TO AVOID COMMON 401(K) MISTAKES WITH PROPER PLAN GOVERNANCE

MISTAKE:

Plan notices were not distributed to participants in a timely manner.

PROPER PLAN GOVERNANCE FOR AVOIDANCE:

Be familiar with plan events requiring a notice to employees and the time frame involved. Verify notices are delivered by an approved method.

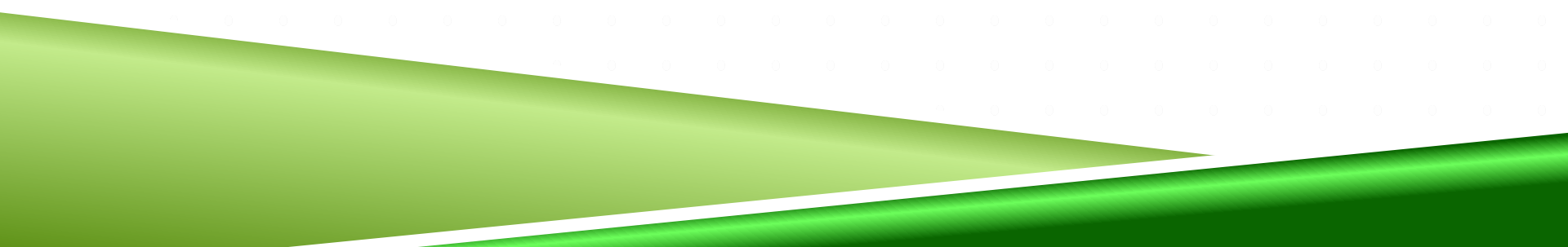
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MISTAKE:

The plan sponsor did not file a form 5500 or filed the form 5500 late.

PROPER PLAN GOVERNANCE FOR AVOIDANCE:

The DOL requires the form 5500 filed by July 31st for the proceeding plan year, without an extension. Know your filing requirements and who filed and when. Don't assume someone else is taking care of it. Keep a copy of your form 5500 and filing confirmation in your 401(k) folder.



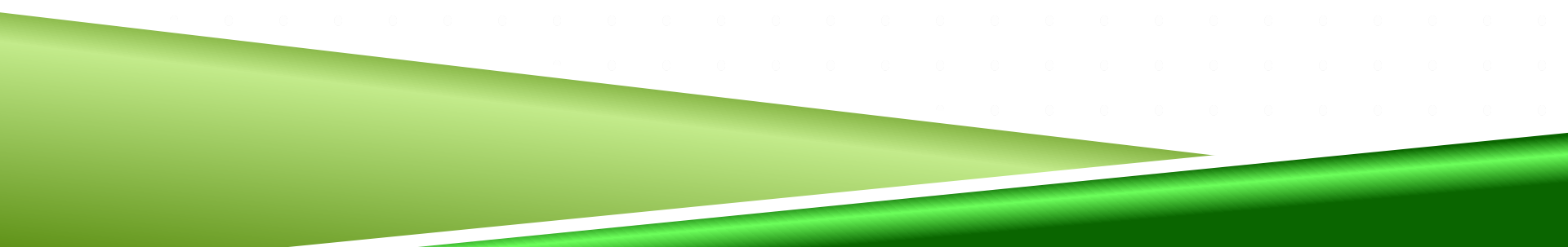
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MISTAKE:

The ADP/ACP Testing has mistakes.

PROPER PLAN GOVERNANCE FOR AVOIDANCE:

Insure the plan's administrator has validated census information including all eligible employees.



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In conclusion, all of these common mistakes can be easily avoided with proper plan oversight.

Many plan sponsors mistakenly assume their service provider is taking care of all compliance and plan governance requirements.

A comprehensive annual plan review can insure quality plan operation.

We've all heard the phrase "INSPECT WHAT YOU EXPECT".

