

Audit your employee benefit plan to protect your assets

Audits of employee benefit plans are more common than ever. Everything is being audited - defined contribution plans, defined benefit pension plans, health plans, welfare plans, and, beginning in 2009, 403(b) plans. With more than 300,000 active 401(k) plans covering more than 42 million people, and another 44 million workers and retirees covered by private pension plans, it is no wonder that employee benefit plans are in the spotlight. When and why are audited financial statements required to be included with your Form 5500 Series submission?

The Employee Retirement Income Security Act of 1974 (ERISA) was established to protect the interest of employees who participate in employee benefit plans. All employee benefit plans are subject to ERISA rules and must report certain information to the Department of Labor (DOL) and the IRS, as well as provide this information to all plan participants, on an annual basis. ERISA holds plan administrators responsible for ensuring that financial statements are audited in accordance with generally accepted auditing standards (GAAS).

When is an audit required?

Typically, only small employee benefit plans have the option to waive the audit requirement. For most large plans, those with more than 100 eligible participants at the beginning of the plan year (usually January 1st), an audit is required as part of the mandatory annual return/report. When calculating the number of eligible participants in your 401(k) plan, make sure that you include all of the following:

- Active participants
- Eligible 401(k) participants
- Fringe benefit participants
- Retirees or former employees who are receiving benefits
- Retirees or former employees entitled to receive benefits in the future, and
- Beneficiaries of deceased participants

Many plan administrators make the mistake of not counting “non-active” participants, opting to waive the audit requirement by claiming to be a “small plan.” Unfortunately, this mistake could cost you a significant amount of money. The DOL has significantly stepped up its enforcement of the audit requirement, and has the right to assess penalties of up to \$1,100 per day, without limit, on plan administrators for deficient filings. Because an incomplete, inadequate, or untimely audit report may result in penalties being assessed against you as the plan’s administrator, selection of an experienced and reliable auditor is very important.

In addition to fulfilling your compliance obligations, a quality audit will help protect the assets and the financial integrity of your employee benefit plan and ensure that the necessary funds will be available to pay retirement, health and other promised benefits to your employees. The higher the quality of the financial statement audit, the more reliable the data used to manage and administer the plan.

What type of audit do you need?

A **Full Scope Audit** is required when certification from your custodian on the investments held is not available (i.e., the custodian has only obtained a Type I SAS 70 report and will not provide a certification on the completeness and accuracy of the investments). This type of audit requires substantially more audit work on the part of the plan’s auditor as they will be required to test the investments held by the custodian.



In a **Limited Scope Audit**, the auditor of the plan will test all noninvestment activity of the plan, such as participant allocations, contributions, benefit payments and expenses. The auditor relies on the certification and Type II SAS 70 Report obtained from the custodian for the investment value.

Regardless of which type of audit you need, you should ask your auditor the following questions to ensure that your audit is comprehensive and accurate:

- *Have the plan’s assets covered by the audit been fairly valued?*
- *Are the plan’s obligations properly stated and described?*
- *Were contributions to the plan received on a timely basis?*
- *Were benefit payments made in accordance with the plan’s terms?*
- *Are the participants’ accounts fairly stated?*
- *Were any issues identified that impact the plan’s tax status?*
- *Were any prohibited transactions identified?*

Are there exceptions to the audit requirements?

There is an exception to the large plan audit requirement, which is often referred to as the “80-120 Participant Rule.” This rule states that if a plan has between 80 and 120 eligible participants at the beginning of the plan year, then the Form 5500 annual report can be filed in the same manner as previously filed (i.e., if the plan had fewer than 100 employees and no audit was conducted in the prior year, and there are between 80 and 120 eligible participants in the current year, then the company can opt not to submit audited financial statements).

Other exceptions

Although there are general guidelines provided by ERISA and the DOL on when an audit is required and what type of an audit can be performed, there are additional complex exceptions. Our Audit Department is dedicated to providing comprehensive services to plan administrators and sponsors, including attest, compliance, and management advisory services. Our seasoned professionals are available to assist you with audit and filing regulations to ensure your compliance with both the Internal Revenue Service and Department of Labor requirements.



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