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SPRING IS AROUND THE CORNER…DO YOU NEED A PLAN AUDIT?

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The employee benefit plan audit season is quickly approaching for calendar year plans. If the number of participants in your defined contribution plan, defined benefit plan, or employee stock ownership plan crossed the magical threshold of 100 or more participants in 2011, your annual Form 5500 filing responsibilities now include engaging an independent accounting firm to perform an audit of your plan. Form 5500s are due by the seventh month following the end of the plan year. Therefore, if you sponsor/administer a calendar year plan, you must file the Form 5500 by July 31; however, a 2½ month extension is automatically made available by filing IRS Form 5568. Even with an extension, it is important to get the audit process underway sooner rather than later (even if this isn't your first plan audit).

As part of the audit process, the auditor will examine various documents to determine your adherence to the terms of the plan, timeliness of deposits (especially, 401(k) salary deferrals and loan repayments), accuracy and completeness of personnel files, and the handling of forfeitures. If plan assets are held by a trust company or an insurance company, your plan may qualify for a limited-scope exemption. Although you will still be required to have independent audit, the scope of the audit will not include an audit of plan investments.

Perhaps the most daunting task from the perspective of a plan administrator is gathering all the required documents - so start now. You don't have to wait until you have formally engaged an auditor. Although the list of required documents may vary among auditors, below are the standard items that most auditors will generally need to conduct the audit:

- Plan document, including any plan amendments, and the summary plan description
- IRS determination letter
- Prior year's Form 5500 (including the independent auditor's report, if applicable)
- If your plan holds employer securities for which published market values as of the end of the plan year are not readily available or if your plan holds investments in limited partnerships, real estate, or other investments, an independent appraisal of such investments

- Annual census report, preferably including both eligible and ineligible participants
- Year-end summary of all participant loans
- If the plan's financial statements are prepared on an accrual basis, a list of any employee and employer contributions that have not been deposited by the close of the plan year
- Annual administration report from the plan's recordkeeper, including participant allocation reports and results of discrimination and coverage tests
- SSAE 16 report (formerly the SAS 70)
- Trust statements, or in the case of a limited-scope audit, certification of investments from the custodian or trustee
- Recordkeeper and trustee services agreements

Its a good idea to check with your plan's service providers to determine what information, if any, they can provide. This may be as simple as requesting an "annual audit package" from the plan's third party administrator and trust company.

Ideally, audit preparation is something that occurs throughout the year. As a matter of best practices to facilitate the audit process (and thereby potentially minimizing audit costs), a plan sponsor/administrator should:

- Work regularly with ERISA counsel and other service providers regarding plan changes, regulatory updates, and administrative challenges, as well as potential audit implications
- Keep contribution remittance schedules updated and immediately address any delinquent contribution issues
- Fully document all plan processes and controls
- Perform internal audits to ensure that any non-compliance is identified early and corrective measures taken in a timely manner and through IRS/DOL voluntary correction programs
- In the event of any mergers, acquisitions, or reductions in force, discuss any potential audit implications, as well as proper administrative steps, with ERISA counsel, auditor, and other services providers
- Involve ERISA counsel and auditors in discussions prior to a change in service providers to identify common pitfalls in the conversion process; loans, outstanding checks, certification of assets, reporting of earnings, etc.

An incomplete, insufficient, or delinquent audit may result in the assessment of penalty against you as the plan administrator. Therefore it is imperative that an experienced and reliable auditor is selected. Any accountant selected to conduct the audit should have specific experience auditing employee benefit plans so that he/she has familiarity with benefit plan administration and operations. You can visit the Department of Labor’s Employee Benefits Security Administration website and click "Fiduciary Education" for more information on selecting an auditor.