



GRAY, GRAY & GRAY'S GUIDE TO EMPLOYEE BENEFIT PLAN AUDITS

Do You Need to Audit?

Employee benefit plans that are subject to the Employee Retirement Income Security Act (ERISA) and have 120 or more eligible participants at the beginning of the plan year are generally required to have an annual audit. Plan sponsors must make the important decision of choosing an independent auditor who has the ability to issue an unbiased, objective opinion.

The Department of Labor (DOL) reviews and regulates ERISA audits. The DOL has the ability to issue fines and penalties for companies that do not file their audits on time, or where there are deficiencies in the audit. The deficiencies typically found by the DOL are often a result of the auditor not conducting tests in areas unique to employee benefit plans.

The primary fiduciary responsibility of the plan sponsor is to run the plan in the best interests of the participants and to administer the plan for the exclusive purpose of providing benefits and paying plan expenses. This includes diversifying the plan's investments to minimize the risk of large losses and carefully following the terms of the plan documents consistent with the provisions of ERISA.

Fiduciaries who do not act in the best interests of plan participants can be held personally liable to restore losses to the plan and/or to restore profits resulting from improper use of plan assets.

This makes the choice of a plan auditor critical. You should not view the audit of your employee benefit plan as a "nuisance," but rather as an opportunity to review the plan and to make sure you are meeting your fiduciary responsibilities under ERISA.

What are Some of the Problems that a Benefits Plan Audit May Uncover?

Plans can run into trouble in many areas. One such area is the timely remittance of participant contributions. Participant contributions must be remitted to the plan as soon as they can reasonably be segregated from the employer's general assets and no later than the 15th business day of the month following the month of withholding. If this is not done, the plan sponsor may be liable for payment to restore lost earnings.

Additional issues range from problems applying the definition of participant compensation, to a lack of understanding surrounding the investment fees being charged to participants. Failure to administer the plan properly can result in significant fines.

What Does the Audit Encompass?

There are two types of benefit plan audits that can be performed under the current ERISA regulations. The first type, a limited-scope audit, requires that the plan investments be certified as to their completeness and accuracy by a trust company or similarly approved entity and allows the auditor to apply limited procedures to the plan investments. As a result of the limited testing of investments, a limited-scope audit provides less auditor assurance and is generally less expensive to perform than a full-scope audit.

A full-scope audit applies more extensive procedures to the plan investments and includes audit procedures relating to the existence, valuation and completeness of the investments. Plans that are required to file with the Securities and Exchange Commission — generally, plans that offer employer securities as an investment option to the plan's participants — must perform a full-scope audit and must also file form 11K with the SEC.

Your auditor should ensure the following areas are meeting requirements:

- Plan assets covered by the audit are fairly valued;
- Plan obligations are properly stated and described;
- Contributions to the plan were timely received;
- Benefit payments were made in accordance with plan terms;
- Participant accounts are fairly stated;
- Issues are identified that may impact the plan's tax status;
- Transactions prohibited under ERISA are properly identified.

What are My Responsibilities During the Audit?

It is generally the responsibility of the plan administrator to maintain plan and other financial records. Many of these records will need to be available for review by the auditor. If a third-party administrator maintains plan records, you will need to arrange for access to them by the auditor.

What Does the Audit Firm Provide at the Conclusion of the Audit?

The auditor will issue a report and state an opinion on your benefit plan's financial statements, as well as any schedules required as part of the plan's annual report filing. If any significant problems were found, these will be reported. The auditor may also suggest improvements in internal controls and plan operations.

Conclusion

A quality audit, performed with accuracy by an experienced audit firm, provides vital protection for your employee benefit plan, its participants and its administrators. It is in your best interest to secure the services of an audit firm with the experience and expertise necessary to complete the audit properly.

Choosing the Right Audit Firm

The ability to identify potential problems is a big reason to have your audit conducted by an accounting firm that specializes in these types of audits. 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. Just as important, a quality audit will help you carry out your legal responsibility to file a complete and accurate annual return/report for your plan.

The more training and experience that an auditor has with employee benefit plan audits, the more familiar the auditor will be with benefit plan practices and operations, as well as the special standards and rules that apply to such plans.

Be sure your audit firm is a member of the AICPA's Employee Benefit Plan Audit Quality Center. Membership will ensure that your auditor is keeping abreast of the current audit requirements for employee benefit plans. Each member is also required to have one of its pension audits subject to "Peer Review" every three years by an independent CPA firm who has been authorized to perform such a review. The peer review report is then submitted to the AICPA. The AICPA helps ensure that CPAs are applying required professional auditing standards.