



Employee Benefits Law Alert

A Corporate Department Publication

August 2009

This Employee Benefits Law Alert is intended to provide general advice for clients or interested individuals and should not be relied upon as legal advice. Please consult your attorney for specific advice regarding your particular situation.

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DOL Scrutinizes ERISA Plan Audits

Recently, the U.S. Department of Labor (DOL) has increased its efforts to assess and improve the quality of employee benefit plan audits. For employee benefit plans required to have their financial statements audited in conjunction with their obligation to file an annual return/report (Form 5500 Series), the DOL is increasingly investigating and reviewing the associated work papers of auditors to determine whether the auditing firm used the proper audit review standards. Much of the scrutiny is aimed at auditors who audit fewer than 100 plans per year. Where the DOL identifies deficient audit work, the related Form 5500 filings are subject to rejection, and plan sponsors (not the auditing firms) are subject to penalties of up to \$1,100 a day, capped at \$50,000, per annual report. The DOL also may refer the auditors to the American Institute of Certified Public Accountants (AICPA) and state accounting boards for discipline.

Work Paper Review Program. The following areas are the focus of the DOL's audit work paper inspections: (1) investments, (2) benefit payments, (3) contributions, (4) participants data, (5) plan obligations, and (6) prohibited transactions. When reviewing the work papers, the DOL will determine whether the audit was performed in compliance with generally accepted auditing standards (GAAS).

Auditor Selection. In addition to the foregoing, the DOL examines the staffing on the audit engagements and the experience of the auditors who perform the audit. When reviewing the audit staff, the DOL is looking for auditors experienced with employee benefit plans. Accountants who primarily audit corporate or business financial statements may not have this experience. Further, low-cost auditors may need to have a more experienced auditor review their work or even perform some of the more difficult audit procedures.

To assist plan administrators in selecting an auditor, the DOL's Employee Benefits Security Administration (EBSA) has developed a booklet titled *Selecting an Auditor for Your Employee Benefit Plan*. It is

available at <http://www.dol.gov/ebsa/publications/selectinganauditor.html>. Additionally, the AICPA has established the AICPA Employee Benefit Plan Audit Quality Center to assist plan sponsors in identifying auditors who are approved by the AICPA to perform benefit plan audits. Approved audit firms are available on the Center's website at <http://ebpaqc.aicpa.org/Memberships/Find+a+Member+Firm.htm>.

Action Items. To lessen the risk of penalties related to the DOL's aggressive inspection efforts, plan administrators should:

- Determine whether the auditor is a member of the AICPA Employee Benefit Plan Audit Quality Center;
- Determine the number of the auditor's employee benefit plan clients; and
- Inquire as to the audit standards used by the auditor.