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08.08.24 | INSTITUTIONAL RETIREMENT PLANS

Retirement Plan Newsletter | Q3 2024

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401(K) AUDITS

Is your 401(k) plan considered a "large plan" according to your Form 5500 filing? If it is, then it will need to be audited annually by an independent auditor. This audit comes with additional oversight, more work for you as employer and substantial cost. Let's take a closer look at which plans need an audit and what is involved in an audit.

Whether or not your plan requires an audit is determined by the number of participants with a balance in your plan at the beginning of the year. This includes both active employees and terminated employees with a balance. You are considered a "large plan" if you had 100 or more participants with an account balance at the beginning of the plan year.

However, there is an exception referred to as the "80-120 Participant Rule". Under this rule, plans that have between 80 and 120 participants at the beginning of the play year may use the same category, small or large plan, that was used the previous year. For example, a plan that filed as a small plan the previous year, and now has 101 participants, can still avoid an audit until they go over 120 participants. This rule allows some flexibility for growing retirement plans.

If your plan is close to the 100 or 120 participant limit it is important to make sure you "clean up" any small terminated employee balances in the plan prior to year-end. Under current rules your recordkeeper or administrator can process an involuntary distribution for any terminated balances under $1,000 and process an involuntary rollover for any balance under $7,000. This annual action could prevent you from the additional cost and effort involved in an audit.

You should work with your plan recordkeeper and/or Third-Party administrator to determine if your plan needs an audit. Audits need to be performed by an independent accounting firm using Generally Accepted Audit Standards (GAAS). The Department of Labor has a helpful guide entitled "Selecting an Auditor for Your Employee Benefit Plan" that can be found here:

https://www.dol.gov/sites/dolgov/files/ebsa/about-ebsa/our-activities/resource-center/publications/selecting-an-auditor-for-your-employee-benefit-plan.pdf

The majority of information needed for an audit will be provided directly to the auditor from your plan recordkeeper or TPA. Some of the documents that are typically requested are:

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- Plan Documents including adoption agreement, plan document, summary plan description and IRS opinion letter.
- Form 5500
- Fidelity Bond Information
- Employee Census
- Investment Policy Statement
- Investment committee meeting minutes.

John McVey, an Audit Manager at Stowe & Degon in Westborough, MA, explains that "While a 401(k) audit is not the most comfortable thing for Plan Sponsors, it can help them identify areas of noncompliance with Plan documents and help lower the risk of findings that may come from a DOL audit." A Department of Labor (DOL) Audit is a different and less welcome type of audit. This is an unexpected audit performed by the Employee Benefits Security Administration (EBSA). These audits are typically random but can be the result of 5500 information or complaints from employees.

If you are subject to a DOL audit you will receive a letter looking for a more extensive list of documentation and items. These audits can last anywhere from a few weeks to a year. The best way to navigate this type of audit is to be prepared. Keep records of investment committee meetings, document investment decisions, adhere to the plan document and make timely remittance of employee deferrals.

If you are unclear as to whether your company 401(k) needs an audit, please reach out to your advisor or an accounting firm that specializes in 401(k) audits.

Grimes has a dedicated team that specializes in providing investment advisory services to retirement plan fiduciaries and their employees. We assist clients with investment selection and monitoring, fee benchmarking, plan design and employee education. If you are not sure of your total plan costs or think you are overdue for a thorough review, please feel free to reach out to us.

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