

EMPLOYEE BENEFIT PLAN AUDIT REQUIREMENTS



2024

Once employee benefit plans reach a certain size the Department of Labor (“DOL”) requires the plan’s financial statements to be audited. The audited financial statements are then submitted with Form 5500. Below is an overview of when an audit is required. If your plan requires an audit, or will in the coming year(s), we are happy to provide this service.

Determining Large Plan vs. Small Plan

As a general rule employee benefit plans with 100 or more participants (see definition of participant in the subsequent section) at the beginning of the plan year (generally January 1st) are considered “large plans,” and plans with fewer than 100 participants are considered “small plans.” This categorization affects the schedules that must be filed with the Form 5500 and whether the plan requires an audit.

80-120 Participant Rule: If the general rule were applied without exception, plans that frequently fluctuate between slightly more or less than 100 participants would have to switch between being categorized as a “small” plan and a “large” plan, which would be administratively difficult. Thus, an exception to the general rule is provided by DOL Reg. 2520.103-1(d). The regulation provides relief from having to switch to the reporting requirements that the general rule would otherwise require. It provides that plans with between 80 and 120 participants at the beginning of the current plan year may elect to complete the current year return using the same category (that is, “large” plan or “small” plan) that was used in the previous year.

Thus, for example, if a plan that had 115 participants at the beginning of the 20X1 plan year was considered a “small” plan for the previous year, the plan may complete the Form 5500 using the “small” plan category again in 20X1 (rather than having to use the “large” plan category) and each subsequent year until the number of participants exceeds 120.

Similarly, if a plan that had 95 participants at the beginning of the 20X1 plan year was considered a “large” plan for the previous year, it may elect to file Form 5500 again in 20X1 as a “large” plan, rather than follow the general rule and switch to the “small” plan category.

Such a plan might elect not to switch but to file the Form 5500 again as a “large” plan if the decline to 95 participants was considered to be temporary and it was considered likely that next year the plan would exceed 120 participants and thus would again have to file Form 5500 as a “large” plan. In experience most choose not to elect in this case, since the overall compliance fees for a “large” plan are higher than those of a “small” plan.

Determining the Number of Participants

The Department of labor changed the counting methodology for determining the number of participants in a Plan for Plan years beginning on, or after January 1, 2023.

For plan years beginning January 1, 2023 and after, to determine the number of participants at the beginning of the plan year you only need to consider participants and beneficiaries with account balances in the plan.

DOL Audit Requirements

“Small” employee benefit plans generally have no audit requirement.

Employee benefit plans filing the Form 5500 as a “large” plan are generally required to have an annual audit. This is true even if the plan has, for example, 81 participants but has elected to file Form 5500 as a “large” plan under the 80-120 participant rule discussed earlier.

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