

Preparing for Your First Employee Benefit Plan (EBP) Audit | Video Transcript

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Kat Jenkins:

Hi and welcome to Barnes Denning Ask The Experts. I'm Kat Jenkins, marketing director, and today Director and employee benefit plan audit expert Dan Holthaus is talking with Jessica Doremus about how to get ready for your first employee benefit plan audit. Dan and Jessica, thanks for joining us.

Dan Holthaus:

Thanks Kat.

Jessica Doremus:

Thanks Kat and thanks Dan. Dan first thing, at what point is an employee benefit plan audit required?

Dan Holthaus:

So, generally speaking, employee benefit plan audits are going to be required if you are over 100 eligible participants in your plan. However, in the first year, there's a rule called the 80-120 rule, that allows sponsors to not eclipse the audit requirement until they get over 120 eligible participants in their plan and they would not get out of that audit requirement until they went back under 100 and what this allows a plan sponsor to do is, stay either in the audit requirement or out of the audit requirement for a longer period of time, so that they're not flipping in and out, which can be burdensome on the plan sponsor to have to go do an audit one year, then no audit, then an audit, then no audit. It allows for them to continue to do what they've been doing; it allows them that flexibility.

Jessica Doremus:

In regard to the 80-120 rule that you just described, who is an eligible participant?



Dan Holthaus:

So an eligible participant is going to cover a couple of different groups. First of all, it's those eligible who are not participating, so you do have to count those. Those eligible, who are participating, who are actively contributing in the plan, who are active employees of the plan, but also a third group, those that are still in your plan, however, no longer employed by the company. So it's very important for a company whose got a growing plan, as you're approaching that 120 limit, that you're getting folks out of the plan who no longer employed, because you don't want those folks counted in that number and causing you to go over the audit requirement. As much as you and I are so used to these audits, they can be burdensome to companies and they do have a cost associated with them. So the longer you can stay out of the audit requirement as a sponsor employer, the better for you.

Jessica Doremus:

Right. So what's involved in an employee benefit plan audit?

Dan Holthaus:

So a plan audit involves two aspects. The first is a compliance piece and second is financial reporting. The compliance is where we spend the majority of our time as auditors. We're going to be looking at department of labor rules and regulations, we're going to look at IRS rules and regulations and we're going to look at your plan document and we're essentially, as auditors, ensuring that the plan is adhering to all of those rules, DOL, IRS, and the plan document. And then the second piece is the financial reporting. We're going to issue a financial statement that covers the period under audit, that financial statement is going to be attached to the form 5500, that the plan sponsor files with the IRS and the Department of Labor. We don't spend as much time on the financial reporting, it is important, it has to be done, however, in terms of the time spent, much more time is spent on the compliance piece than on the financial reporting as auditors.

Jessica Doremus:

Great. So what are the main steps in preparing for your plan audit?

Dan Holthaus:

The first piece that you're going to want to do as a plan sponsor is begin gathering all the documents that are important to the plan. So we're talking about volume submitter, a plan document, your adoption agreement, any amendments that you've made to the plan, any correspondence you've had with IRS, the DOL, related to the plan. We're going to look at the summary plan descriptions, we're going to look at any administrative documents that you have, the meeting minutes that you might keep as the plan sponsor are going to be very important, to document that you've adhered to your fiduciary duty,



fidelity bond and any other sort of agreements, fee agreements, those sorts of things are going to be crucial to begin gathering to prepare for the audit.

Jessica Doremus:

Right. So what are some of the common plan errors that you typically see?

Dan Holthaus:

I'd say there's about three that I see most often. The first one is eligibility issues. One of the most common things that we're seeing these days in plan audits are auto enrollment features. They're very popular, as employers try to increase the benefits that they're getting to their employees. So, as auto enrollment features go, really adherent to those eligibility rules that are in your plan document. So sometimes we'll see where people are getting added to the plan too early and then sometimes we'll see that they're getting added to the plan too late, or that they don't get auto enrolled at all, which is an issue, luckily there are fixes for those issues and we're very versed in that and we can help our clients get through that. The second area is definition of compensation.

Dan Holthaus:

So employers may pay their employees all sorts of different types of compensation, however, their plan document governs what is considered to be eligible compensation and we really have to dive into figuring out what that eligible compensation is, in order to make sure that the employees deferrals and any match or profit sharing that they're being given, is being computed properly and the third area is probably one of the hottest topics across plans, is timely remittance of employee deferrals. It's a big, hot topic for the Department of Labor. They want employers to remit employee dollars as soon as administratively feasible and that could be as soon as one or two days after the payroll period and there can be some pretty steep penalties for not doing so timely and so we take a very close look at all three of these amongst other areas in the plan audit, I'd say that third one, a timely remittance of employee deferrals is probably one of the most important ones and it's probably on Department of Labor's radar the most.

Jessica Doremus:

Great, thanks for going into detail on those common plan errors. Lastly, can you tell us about buildup testing? What is it and how does it work?

Dan Holthaus:

So one of the unique things that happens in a first year plan audit, is what we refer to as buildup testing. So presumably the plan has been in existence for 5, 10, 15 years and just has never eclipsed that audit requirement that 120 eligible participants, but in the first year that they do, we do have to go back and



audit some of the data from previous years to ensure that the building up of the total plan balances and the balances in each participant's account has been done properly. So on a sample basis, we'll go back a number of years, we'll recalculate employee deferrals, employer match, or profit sharing, we'll look at eligibility, we'll look at some distributions, we'll look at loans, depending on if the plan allows for loans and things of that nature and really, we need to have a comfort level with the beginning of the year balances, in order to audit the current year and years going forward but the good thing is that buildup testing is only done in the initial year.

Jessica Doremus:

Okay, great. This all sounds very interesting and can help our clients prepare for their employee benefit plan audits. I want to thank you for your time today and talking through these points.

Dan Holthaus:

Great, thanks.

Kat Jenkins:

Great information. Dan and Jessica, thanks so much for helping our audience get prepared for their first employee benefit plan audit. If you're getting ready for your first EBP audit and have questions, or would like to talk to one of our experts, contact us at barnesdenning.com. We'll see you next time on Ask the Experts.