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Employee Benefits Security Administration
US Department of Labor
200 Constitution Ave., NW
Washington, DC 20210

Subject: RIN 1210-AB97

The following is our response to the proposed rule to reduce the audit requirement for retirement plans from 100 eligible participants to 100 participants with account balances.

We currently audit approximately 30 ERISA plans per year, some of which would benefit from the proposed changes and additional cost savings. I am also a peer reviewer and have seen issues similar to those noted below during the peer review process. We do have concerns that this rule may have a negative impact on participants and potentially the plan sponsor.

Our experience has been that the smaller employers are sometimes the ones that have the most difficult time understanding their plan and adhering to it. Plan responsibility is given to someone who has some other HR, administrative or finance responsibilities with no training in employee benefit plans. They frequently believe that the services being provided by their payroll/recordkeeping/TPA service are all encompassing and essentially remove the plan sponsor from responsibility. Larger employers tend to have more sophisticated HR and finance departments with more experience and knowledge. We have encountered fewer problem with larger sponsors.

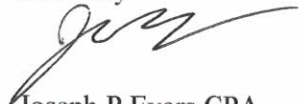
Here are some examples of issues we have encountered with plans with more than 100 eligible participants and less than 100 participants with account balance.

- The most common issue we have found is that the plan sponsor frequently excludes certain types of compensation from withholding and match. Bonuses, commissions, allowances and other types of infrequent compensation are often improperly excluded from withholding and match and have therefore resulted in significant additional contributions to the participants upon discovery of those issues during the audit.
- On several audits having under 100 participants with account balances, our audits determined that certain employees were improperly excluded from eligibility which resulted in additional employer contributions, sometimes totaling well over one hundred thousand dollars.
- Frequently, we have seen that 401k withholdings are either never remitted to the plan or well after a reasonable time period until caught during the audit process.
- Related companies are improperly excluded from coverage or participation agreements are never obtained for companies participating in the plan.

If you decide to eliminate the annual audit requirement for plans with less than 100 participants with account balances, we suggest that there be some other procedures implemented to replace them. Perhaps you could implement a three-year audit requirement, voluntary review by department personnel with no penalties being assessed to the sponsor or a formal training requirement.

Thank you for taking our comments into consideration. Should you have any questions, please feel free to contact me.

Sincerely



Joseph P Evers CPA