Published on *The National Law Review* https://natlawreview.com

Going to Bat for Hiring a Great Benefit Plan Auditor

Article By:

M. John Burgess

Baseball season has just started, and retirement plan auditing season will soon kick into high gear. Many plan sponsors don't see the value of a good auditor; they just see the audit as a cost of doing business. That's too bad because these days when a plan sponsor becomes aware of an operational problem in the plan, it's frequently the auditor who discovers it. The longer a plan mistake goes on without being caught, the more expensive it is to fix it, so a good auditor can save a plan sponsor a lot of money by catching errors sooner than later. Unfortunately, like with any other business, not everyone doing benefit plan audits is good at it. The Department of Labor released a study in 2015 that found that the fewer plan audits a CPA firm does, the more likely it is that there will be significant deficiencies in its audit process. That, of course, increases the risk to the plan and its sponsor. An updated study should be released this year, and the results aren't expected to be much better.

Last year in its Employee Plans News (the June 3, 2022, issue), via an online post with very few details, the IRS announced a new pilot program that gives plan sponsors an advance warning of a potential audit. The IRS will send the sponsor a notice that it intends to audit the plan, and the sponsor has 90 days to look into the plan's document and operational compliance and report its findings back to the IRS. From there, the IRS can decide whether it will go ahead with a full audit, a limited audit, or no audit. The advantage of this pilot program is that any issues that the plan sponsor discovers during the 90-day period can be fixed via the Employee Plans Compliance Resolution System (EPCRS) using either the Self-Correction or the Voluntary Correction Program. This approach is much less expensive than paying the penalties that the IRS would assess if they discovered the issue during an audit.

The 90-day window seems like a decent amount of time to get a handle on whether the plan has any operational problems, but it doesn't consider how long it takes to prepare for and perform the annual plan audit. This makes having a good plan auditor more important than ever. A sponsor who gets a pre-audit notice from the IRS will be in a much better place because the auditors will have looked closely at how the plan runs every year. It's also a good idea for a sponsor who gets one of these notices to, if possible, bring the auditor back in during those 90 days to do some additional testing of the plan's operations. Needless to say, the plan's legal counsel needs to be involved too.

It was already smart to hire a CPA firm with a lot of knowledge and experience in benefit plan audits – now, it could help save a plan sponsor from an IRS audit.

National Law Review, Volume XIII, Number 97