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INFORMATION RELEASE

New Audit Requirements for Small Plans

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Retirement plans with fewer than 100 participants are automatically exempt from the requirement to engage an independent qualified public accountant and to include that accountant's report as part of the plan's annual Form 5500 filing. However, this is about to change.

The Department of Labor (DOL) has issued final regulations that could require independent CPA audits for many small plans. The new rules are applicable for plan years beginning after April 17, 2001. Thus, for calendar year plans, the new rules first apply to the 2002 plan year.

New Rules

The new rules will require a small plan to have a CPA audit unless it becomes exempt by meeting the following two requirements:

1. Additional Disclosure Requirement

The Summary Annual Report given to participants and beneficiaries each year will have to contain the following additional information:

- the name of each financial institution holding "qualifying plan assets" (discussed below) and the amount of assets held by each institution at the end of the plan year;
- in some cases, the name of the surety company issuing the plan's fidelity bond;
- a notice indicating that participants and beneficiaries may (upon request and without charge) examine or receive copies of evidence of the required bond and statements received from each institution holding qualifying assets which describe the assets held by the institution;
- a notice stating that participants and beneficiaries should contact a Department of Labor Regional Office if they are unable to examine or obtain copies of the statements or evidence of the required bond, if applicable.

2. Minimum Bonding Requirement

To be exempt from the audit requirement, a plan with assets that are not "qualifying plan assets" may need to increase its fidelity bond coverage. The minimum coverage amount must be at least equal to the value of the non-qualifying plan assets, but not less than 10% of all plan assets. Non-qualifying plan assets include certain assets, such as trust deeds, limited partnerships and collectibles, that are not held in trust by a corporate trustee.

Qualifying Plan Assets

"Qualifying plan assets" are defined to include:

- employer securities,
- participant loans
- any assets held by the following institutions:
  - bank or similar financial institution,
  - an insurance company
  - a broker-dealer
  - any other organization authorized to act as an IRA trustee
- mutual fund company shares
- investment and annuity contracts issued by an insurance company
- assets in participant-directed accounts.

One-Participant Plans Remain Exempt

Notwithstanding these new, tougher rules, any "one-participant plan" (that is, a plan with only one participant where that participant owns 100% of the sponsoring employer) will continue to be exempt from the audit requirement. This is because such plans are not subject to the provisions under Title I of ERISA that impose the audit requirement.

What You Should Do

If you think this applies to your plan or if you need assistance, please do not hesitate to contact us.