

Keeping Your Organization's Retirement Plan in Shape: A Two-Part CAPLAW Webinar Series

Webinar One: Ins and Outs of Retirement Plan Audits



Trainer: Angie Whiteside, CPA, AIF®, Senior Manager

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Learnings Objectives

- Determine what plans require an audit
- Discuss internal controls and their importance in retirement plan operations
- Review an audit request list and the importance of each item in that list
- Review common audit deficiencies and the method for correction
- Learn strategies to reduce the risk for audit deficiencies



Plan Audit Requirement

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Audit Requirements

- An audited financial statement must accompany the Form 5500, Schedule H for any plan with:
 - 100 or more participants as of the beginning of the plan year
- Important note – participant is defined as any active employee eligible for the plan (does not have to be participating) as well as terminated employees with a balance remaining in the plan.

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Internal Controls in a Retirement Plan

What we will cover:

- Why are internal controls necessary?
- What controls should be in place to effectively operate a retirement plan?
- How selecting competent service provider(s) impacts the plan

Internal Controls in a Retirement Plan

Why internal controls are important to your plan:

- As a plan sponsor you are considered a fiduciary under ERISA, subject to certain fiduciary responsibilities
- Responsibilities include but are not limited to:
 - plan administration functions (financial books and records of the plan)
 - filing a complete and accurate annual return/report for your plan
 - Monitoring service providers

Internal Controls in a Retirement Plan

Why internal controls are important to your plan: (cont.)

- Errors and fraud can and do occur, it is important that you establish safeguards
- One way to establish safeguards is to implement effective internal controls

Internal Controls in a Retirement Plan

Effective internal controls:

- Reduce the risk of asset loss
- Help ensure that plan information is complete and accurate
- Increase reliability of the financial statements
- Help ensure the plan's is operated in accordance with applicable laws and regulations

Internal Controls in a Retirement Plan

Effective internal control protect your plan in two ways:

- Preventive controls
 - By minimizing opportunities for unintentional errors or intentional fraud that may harm the plan
- Detective controls
 - By discovering small errors before they become big problems

Internal Controls in a Retirement Plan

The following internal controls should be in place for all organizations:

- Segregation of duties
 - The same individual should not have the ability to make changes in the payroll system, upload contribution files to the plan, and authorize transactions for the plan.
 - Management level monthly/quarterly review of plan transactions to company financial data.

Internal Controls in a Retirement Plan

The following internal controls should be in place for all organizations: (cont.)

- Personnel qualified to perform their assigned responsibilities
 - Do all employees involved with the operations of the plan understand how the plan works?

Internal Controls in a Retirement Plan

The following internal controls should be in place for all organizations: (cont.)

- Are processes followed by personnel in performing their duties and functions
 - Are employees cross-trained to perform another's duties in their absence?

Internal Controls in a Retirement Plan

The following internal controls should be in place for all organizations: (cont.)

- A system that ensures proper authorization and recording procedures for financial transactions
 - Is Management involved in authorizing financial transactions?
 - At what level are changes to the plan authorized and implemented?

Internal Controls in a Retirement Plan

Finally, monitoring internal controls is critical

- Are controls in place and operating?
- Are controls working as designed?
- Are exceptions and problems resolved promptly?
- Are the controls periodically reviewed?

Internal Controls in a Retirement Plan

All Plan sponsors should use service organizations

Examples include:

- Trustees/Custodians
- Investment managers
- Third Party Administrators (TPAs)
- Record keepers to perform various functions on behalf of the plan
- Plan Audit Firm (if applicable)

Internal Controls in a Retirement Plan

Service providers perform duties that impact the controls of the plan, so it is important to:

- Understand the function(s) performed by each provider
- Monitor the service organization to ensure they are performing the agreed upon services

Internal Controls in a Retirement Plan

Service providers should also:

- Conduct periodic meetings to discuss:
 - Monthly/annual reports received
 - New Federal regulations
 - Plan audit and form 5500 preparation
 - Non-discrimination testing
 - Participation rates
 - Error reporting and related corrections
 - Other requests

Internal Controls in a Retirement Plan

Service provider review should include plan audit firm:

- Important to understand how many plan audits are performed annually.
- What level of training is required of plan audit staff on an annual basis?
- Are they a member of the AICPA Employee Benefit Plan Audit Quality Center



Importance of Audit Request List Information

Plan Sponsor's Role in the Audit Process

- Preparation and assistance on your part is critical to an effective and efficient audit process
- Audits of retirement plans are performed in accordance with Auditing Standards, as well as DOL/ERISA/IRS regulations
- The request should only include the information necessary to conduct the audit, as well as timelines to aid with the timely completion of the audit

Plan Sponsor's Role in the Audit Process

Information requested for the audit is generally maintained by various parties or individuals

- Plan sponsor's human resource and payroll departments
- Plan sponsor's payroll service provider, if applicable
- Plan sponsor's finance or accounting department
- Third-party plan administrator or record keeper (TPA)
- Plan Trustee or Custodian

**** It is most efficient for the plan sponsor to coordinate the gathering of all information requested**

Plan Audit Request List

Audit information may be requested in two parts:

Part I – Plan level information requested at the planning stage of the audit

- Audit package from the plan's TPA or Trustee/Custodian
- Census report for the participant testing selection process
- Internal control questionnaires (or "Internal Control Data Gathering" forms)
- Changes to plan documents (i.e., plan document, plan adoption agreements, Summary Plan Description, IRS determination letters, plan administrative committee meeting minutes, correspondence from IRS or DOL, and ERISA fidelity bond)
- Contribution deposits and receivable detail

Plan Audit Request List

Part II – Participant level information requested for detailed participant data testing

- Payroll
- Eligibility
- Contributions
- Rollovers
- Investment, expense, and forfeiture allocations
- Distributions
- Participant loans

Plan Audit Request List

Why is the census report important to the audit process?

- The census report allows the auditor to make judgmental selections for participant testing
- To determine completeness of the report it must be reconciled to the YTD payroll register
- The census report completeness is important to the discrimination testing process as well



Common Audit Deficiencies

Common Audit Deficiencies

Plan operation errors fall into two categories:

- Incorrect application of plan document
- Unintentional error

Top Problems Found in Qualified Plans

- Automatic Enrollment
- 403(b) Plan Universal Availability
- Compensation definition errors
- Missing Plan documentation
- Late deferral deposits
- Administration errors

Automatic Enrollment

Requirement:

Employees are automatically enrolled in the plan unless they elect otherwise

Correction:

- Enroll employee as soon as discovered
- Notify employee of error
- Determine if employer corrective contribution is required
 - Required if missed entry occurs more than 3 months following eligibility date

Automatic Enrollment

Monitor:

- Review employee census at least 30 days prior to each entry date to determine upcoming newly eligible
- Maintain file with list of all employees who received automatic enrollment notification
- As employees enroll, make notation on enrollment list
- For those that do not complete enrollment by entry date, instruct payroll to setup automatic election amount
- Maintain copy of automatic enrollment notice in employee's personnel file for audit purposes

403(b) Plan Universal Availability

Requirement:

Salary deferrals must be available to any employee:

- Cannot have an hour requirement or waiting period
- Limited employee class exceptions may be applied

Correction:

- Notify employee of error
- Book an employer contribution receivable for plan correction – IRS VCP has provisions for corrective contributions. Self correction may be available, if not material

403(b) Plan Universal Availability

Monitor:

- Provide plan enrollment packet to all new employees upon hire.
- Assist employee with completion of enrollment form
- If employee elects not to participate in plan, maintain a copy of their enrollment form showing a zero election for their personnel file

Compensation Definition errors

Requirement:

The definition of compensation for contribution calculation purposes is specified in the plan document.

- Wrong definition of compensation is #1 issue detected by plan auditors
- Plan allocation is based on compensation in excess of compensation limits
- Improper exclusion of bonuses, overtime, commissions, or other compensation from deferrals, or for calculating match or non-elective contributions

Compensation Definition errors

Correction:

- If the employer inadvertently excludes compensation from contribution calculations, it is the employer's responsibility to calculate the missed contribution amount, and deposit 25% of employee missed deferral and the entire matching contribution, if any, plus lost earnings.

Compensation Definition errors

Monitor:

- Review plan document to ensure clear understanding of plan compensation definition.
- Ensure that all involved with the plan operations, especially payroll, understand this definition.
- Review setup of contribution codes in payroll to verify that contributions are being calculated correctly in the payroll system.

Missing Plan Documentation

Requirement:

- New laws passed or regulations issued on a regular basis requiring plan amendments
- Plan may not be timely amended during remedial amendment period or an interim amendment is missed
 - Interim amendments are required to keep a plan up to date between remedial amendment periods

Correcting violations – retroactive amendments and submission under VCP – IRS issues compliance statement

Missing Plan Documentation

Correction:

- Retroactive amendments and submission under VCP – IRS issues compliance statement.
- There is a filing fee to get the compliance statement from the IRS (starts at \$750 for small plans)

Monitor:

- Always discuss plan amendments with your TPA to ensure completed prior to application
- Review plan restatement process with TPA/attorney to ensure that you understand your responsibility with regard to this process.

Late contribution deposits

Requirement:

- Employee deferrals and loan payments must be deposited as soon as administratively feasible but no more than 7 business days following each payroll date.

Late contribution deposits

Correction:

- Employer deposits lost earnings on late deposits. Late deposits must be disclosed on the plan's audited financial statement and Form 5500 through the plan year that all corrections are completed.
- Employer files Form 5330 reporting the late deposit, and pays excise tax of 15% of lost earnings amount to the IRS.

Late contribution deposits

Monitor:

Maintain a contribution and loan payment remittance schedule to track timing of deposits – the plan auditor will need this for their audit files.

Contribution Reconciliation & Test of Timely Deferral Deposits									
12/31/14									
Payroll	Date					(A)	(B)	(A) - (B)	
Pay	Remitted	Employee	Employer		Employer		Total		X
Date	to Trust	Contribution	Match	Loans	Non-elective	Total	Per Trust	Statement	Number of
								Difference	Days
1						-		-	0
2						-		-	0
3						-		-	0
4						-		-	0
5						-		-	0

Administration errors

Loans

- Plan sponsor or TPA permits loans when plan does not permit
- Loan repayment period is for more than 5 years
- Loan repayments do not follow amortization schedule (at least quarterly payments are required)
- Missing documentation to support residential loan

Administration errors

Hardship Withdrawals

- Plan sponsor or TPA permits hardship withdrawal when plan does not permit
- Employer fails to suspend deferrals for six months following hardship distribution
- No documentation to support hardship purpose



How to reduce plan audit deficiencies

1. Understand your plan and your responsibilities
2. Carefully select service providers
3. Make timely contributions
4. Avoid prohibited transactions
5. Timely reporting to government and participants

How to reduce plan audit deficiencies

1. Understand your plan and your responsibilities:

- Read your plan document and be sure provisions are in line with the operations of the plan
- Know who is responsible for plan activities:
 - Custody of plan assets
 - Trustee
 - Recordkeeping
 - Benefit decisions/distributions
 - Investment direction

How to reduce plan audit deficiencies

2. Carefully select service providers:

- Selection of a service provider is a fiduciary act requiring a prudent process
- Plan fiduciaries must also monitor service providers to assure services are being delivered as promised
 - The plan fiduciary is ultimately liable if service providers fail to carry out their responsibilities
- Plan fiduciaries have a duty to ensure that fees and expenses paid by the plan are reasonable in light of the quantity and quality of services provided
 - Consider all fees – including fund fees and revenue sharing paid to service providers

How to reduce plan audit deficiencies

3. Make timely contributions:

- Employer contributions – by due date of tax return
- Participant contributions – amounts withheld from employees' wages must be deposited into the plan as soon as they can reasonably be segregated from the employer's assets.
 - Generally 7 business days or less
 - Failure is a fiduciary violation/prohibited transaction

How to reduce plan audit deficiencies

4. Avoid prohibited transactions:

- A fiduciary shall not cause the plan to engage in a transaction, if he or she knows or should know that such transaction is either directly or indirectly between the plan and a party in interest:
 - Fiduciaries
 - Employees, officers, and directors
 - 50% or more owners of the plan sponsor
 - Sponsoring employer
 - Service providers
 - Relatives of the above

How to reduce plan audit deficiencies

5. Timely reporting to government agencies and participants

- Form 5500 is filed with the DOL
 - Information is shared with IRS
 - Filed for all employee benefit plans – if over 100 participants, an independent auditor's report must be attached
 - Must be electronically filed within 7 months following the end of the plan year (9 ½ months if extended)

How to reduce plan audit deficiencies

5. Timely reporting to government agencies and participants

- Participant disclosures
 - 404(a)(5) – annual and quarterly reporting
 - Summary Plan Description
 - Summary Annual Report
 - Notices – Safe harbor, QDIA, EACA, QACA, etc.

QUESTIONS??

www.wipfli.com

Connect with me:

Angie Whiteside

awhiteside@Wipfli.com



www.linkedin.com/in/angiewhiteside