



ERISA PLAN AUDITS – SAS No. 136 & REGULATORY UPDATE



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HOUSE-KEEPING ITEMS:

- Please feel free to ask questions. For those attending virtually, please enter your questions in the meeting chat feature.
- We will be sure to leave time at the end of the presentation to make sure all questions are responded to if we don't get to all questions during the presentation.
- This slide deck will be available to all meeting attendees the end of this meeting. Presentation is being recorded and will be available on our website.
- CPE is available for this training today. For VIRTUAL attendees there will be CPE Codes provided throughout the presentation that will all need to be submitted to dnesbit@larsco.com after the training is completed.
- We are presenting information as things stand today. Information presented is subject to change.



FIRM QUALIFICATIONS:

- AUDITING PLANS FOR OVER 25 YEARS
- AICPA EBPAQC MEMBER
- AUDIT OVER \$500 MILLION IN PLAN ASSETS
- UTAH'S 13TH LARGEST CPA FIRM

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BENEFIT PLAN
SPECIALISTS

ABOUT US
We've been auditing employee benefit plans for over 25 years. Our team of experts are certified and trained in the latest audit standards for all types of benefit plans.
We currently audit over 30 employee benefit plans, and we audit more than \$500 million in plan assets. Our clients range in size from 5000 to 120 participants. Contact our team today to find out how we can make the audit process better for your company.

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Find out more details on our website: <https://larsoncpa.com/employee-benefit-audit/>

ERISA AUDIT REQUIREMENTS

- New plans:
 - An audit is required to be performed if there are 100 or more eligible participants
- Existing plans:
 - An audit is required to be performed when total eligible participants reach 120 and the plan is deemed a "large" plan
- **There is a proposed rule that may change the audit thresholds by excluding eligible participants with no balance, the DOL has not released guidance on this yet. (RIN 1210-AB97)



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- **Key questions to ask an auditor:**
 - Number of plans audited
 - Types of plans audited
 - EBP audit specific training
 - Firm “Peer Review” report
 - Any DOL firm findings
 - AICPA EBPAQC Member
 - Client references

- The DOL can assess penalties on plan sponsors about \$2,000 per day without limit, where the required auditor’s report is missing or deficient.

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**NEW EBP AUDIT
STANDARD SAS No.
136 – What’s
Different?**



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SAS No. 136 – What’s Different?

Statement on Auditing Standards (SAS) No. 136:

- Effective for audits for periods ending on or after December 15, 2021. Early implementation permitted.
- Eliminates the “DOL Limited Scope” audit opinion
 - Now referred to as ERISA section 103(a)(3)(C) audit opinion
- Enhances auditor reporting relating to going concern
 - Describes respective responsibilities of management and the auditor for going concern
- Expands description of plan management’s responsibilities
 - Requires additional written management representations

SAS No. 136 – What’s Different?

Statement on Auditing Standards (SAS) No. 136:

- Expands description of auditor’s responsibilities:
 - New auditor report format outlines procedures performed over certified investment information
- Requires other-matter paragraph
 - Reporting on the ERISA required supplemental schedules in an ERISA Section 103(a)(3)(C) audit
- “Full-Scope” audit reports
 - Now referred to as non-ERISA Section 103(a)(3)(C) reports

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SAS No. 136 – How Changes Affect Plan Management



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Plan Management Responsibilities Clarified

Engagement audit acceptance:

➤ Management must agree to:

- maintain the current plan instrument
- administer the plan in accordance with ERISA and the plan document
- provide the auditor a Form 5500 draft that is *substantially complete* prior to audit report date

➤ Management must also determine:

- if an ERISA Section 103(a)(3)(C) is permissible
- if the investment information prepared and certified meets the requirements of 29 CFR 2520.103-8 and 29 CFR 2520.103-5
- if the certified investment information is appropriately measured, presented, and disclosed in accordance with the applicable financial reporting framework

Plan Management Responsibilities Clarified

Conclusion of the audit:

- **Management representations must state they:**
 - maintained the current plan instrument
 - administered the plan in accordance with ERISA and the plan document
 - provided the auditor a Form 5500 draft that was *substantially complete before the audit report was dated*
 - acknowledge that ERISA Section 103(a)(3)(C) audit was permissible under the circumstances
 - acknowledge that investment certification requirements under 29 CFR 2520.103-8 and 29 CFR 2520.103-5 were met

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SAS No. 136 – Reportable Findings

Reportable Findings Communicated in Writing

- Auditor is now required to evaluate and communicate in writing if there are any reportable findings, defined as follows:
 - An identified instance of noncompliance or suspected noncompliance with laws or regulations.
 - A finding arising from the audit that is, in the auditor's professional judgment, significant and relevant to those charged with governance regarding their responsibility to oversee the financial reporting process.
 - An indication of deficiencies in internal control identified during the audit that have not been communicated to management by other parties and that, in the auditor's professional judgment, are of sufficient importance to merit management's attention.

Reportable Findings Communicated in Writing

- The auditor is not permitted to issue a written communication stating that no reportable findings were identified during the audit.
- This communication should be included with the required communication with those charged with governance
 - previously the internal control findings and communication with governance were typically separate communications
 - under this new standard, auditors will most likely combine these into one communication
- Reportable findings communication should include:
 - A description of the reportable findings
 - Sufficient information to enable those charged with governance and management to understand the context of the communication.
 - An explanation on the potential effects of the reportable findings on the financial statements or to the plan

Reportable Findings Communicated in Writing

- Examples of Reportable Findings:
 - no minutes kept for plan board meetings
 - fidelity bonding requirements for the plan were not met
- Examples of Reportable Findings which may also be internal control deficiencies (significant deficiency or material weakness):
 - Plan participant entry failures
 - Definition of compensation failures
 - Timeliness of participant contribution failures
- This written communication is not required to be filed with the Form 5500, it does have to be given to management and governance of the plan

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Regulatory Updates



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Employee Benefit Plan Regulatory Updates

- CARES Act
- SECURE Act
- Consolidated Appropriations Act (CAA)
- New DOL Cybersecurity Guidance





CARES Act - Highlights

1. Coronavirus-related distribution
2. Plan loan availability and limits
3. Waiver of RMDs for 2020
4. Funding relief for certain DB plans

REMINDER – Plan amendments are required by the end of the 2022 plan year for each adopted CARES Act provision



CARES ACT - Late Participant Contributions due to COVID-19

- The DOL EBSA issued Disaster Relief Notice 2020-01; Guidance and Relief for Employee Benefit Plans Due to the COVID-19 (Novel Coronavirus) Outbreak
 - Allows for relief on late plan contributions solely due to COVID-19 beginning on March 1, 2020, and ending on the 60th day following the announced end of the National Emergency
- On February 24, 2021, President Biden issued a notice continuing the National Emergency until March 1, 2022
- On February 18, 2022, President issued a notice continuing the National Emergency and extended it past March 1, 2022, but did not specify how long the extension would be

SECURE Act - Highlights

- Most provisions are effective for plan years beginning after December 31, 2019
- **Deadline for adopting any SECURE Act plan amendments is the last day of the first plan year beginning on or after January 1, 2022.**
- Created pooled employer plans (PEP) administered by a pooled plan provider (PPP)
 - Effective for plan years beginning after December 31, 2020
- Increases the cap on payroll contributions from 10% to 15% percent for automatic-enrollment safe harbor plans



SECURE Act - Highlights

- Long-term part-time workers who work at least 500 hours eligible to make **employee deferrals** into 401(k) plans
 - **Begin tracking hours 1/1/21 to determine eligibility for participation starting 1/1/2024**
- Allows up to \$5,000 in-service withdrawals for childbirth and adoption expenses
- Allows retirees to delay required minimum distributions (RMDs) until age 72, up from the prior age of 70 ½
 - **Only individuals who had not reached age 70 ½ by 12/31/19**



Consolidated Appropriations Act 2021 (CAA)

- Signed into law on December 27, 2020
- Includes a temporary rule providing COVID-related relief from certain partial plan terminations
 - For the period beginning on March 13, 2020, and ending on March 31, 2021
 - If the number of active participants covered by the plan on March 31, 2021 is at least 80 percent of the number of active participants covered by the plan on March 13, 2020

New DOL Cybersecurity Guidance

- Best practices for maintaining cybersecurity for:
 - Plan sponsors, fiduciaries, record keepers and participants
- This is the first time the DOL EBSA has issued cybersecurity guidance. The guidance comes in three sections:
 - Tips for Hiring a Service Provider
 - Cybersecurity Program Best Practices
 - Online Security Tips
- This guidance will help to make sure that the requirements of ERISA are being met as they pertain to cybersecurity and protecting sensitive data



QUESTIONS?

CONTACT INFORMATION

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