Long Island
BusinessNEWS
JUNE 12-18, 2015 | LIBN.COM

FINANCE

Feds say employee benefit plan audits fall short

Experienced auditors have best track record

By CLAUDE SOLNIK

Audits of employee benefit plans by accounting firms that do only a handful of them annually are far more likely to be substandard than those done by firms that focus on these plans.

The study by the U.S. Department of Labor, the Office of the Chief Accountant and Employee Benefits Security Administration painted a picture of often lax audits of benefit plans containing billions of dollars ranging from 401(k) to healthcare benefits.

The study, released in May based on 2011 data, found 39 percent or nearly four in 10 contained major deficiencies.

The government said that would put $653 billion and 22.5 million plan participants and beneficiaries at risk.

CPAs who performed one to two employee benefit plan audits annually had a 76 percent deficiency rate. Nearly 70 percent of audits were deficient at firms performing three to 24 audits annually.

The number fell to about 42 percent for firms doing 25 to 99 audits annually and 12 percent for firms doing 100 or more.

The conclusions were based on 400 audits of the 81,000 benefit plan audits filed by 7,330 accounting firms in 2011.

"There are many unique things you need to test that, if you don't specialize, you won't know how to do or won't do right," said Adam Lilling, a partner at Lilling & Co. in Great Neck, who chairs the New York State Society of Certified Public Accountants' employee benefits committee. "The real problem is the people who audit one to five came up with high deficiency rates. It's not the people who do most of the audits."

The report indicates historically "smaller employee benefit plan audit practices tend to have the most audit deficiencies."

"There is a clear link between the number of employee benefit plan audits performed by a CPA and the quality of the audit work," according to its conclusions.

New York Society of Certified Public Accountants President Scott Adair said the high audit deficiency rate for firms doing a few such audits annually in the study is "unacceptable" and at odds with the "core tenets that the CPA profession holds dear."

Half of accounting firms auditing these plans do only one to two a year, while roughly 20 percent audit three to five and another 20 percent audit six to 24 firms.

Statistics actually show a worsening trend with 19 percent of audits found deficient in 1997, followed by 33 percent in 2004 and 39 percent in the latest study.

"You have an accounting firm that specializes in accounting and tax services. One day a client says they have a 401(k) or health plan that needs to be audited," Lilling said. "The small firm doesn't want to say 'no.' Their client may go elsewhere. And the firm they meet may want the rest of their business."

Employee benefit plans frequently failed to adequately monitor contributions, benefit payments, participant data and prohibited transactions.

"A lot of things don't get tested," Lilling said. "It's not that the money isn't there. The risk is plan participants aren't treated according to the plan document and ERISA (Employee Retirement Income Security Act of 1974) guidelines."

Companies typically have 45 days to cure problems detected in audits, after which daily fines of up to $1,100 can kick in.

"They run the risk of getting fined and having a disruption in their life and business," Lilling said. "You have to find a new auditor, very likely need to hire a lawyer and pay legal fees."

Auditors who come in during the 45-day window typically charge more than for a traditional audit and go over plans with a fine-tooth comb.

"It could be very costly and stressful," Lilling said. "If they never really had a good audit, things could come up."

While many companies hire firms such as Fidelity to manage 401(k) plans, for instance, Fidelity doesn't do everything.

Companies still must provide data and funds to administrators in a timely manner.

"All the time people say, 'What could go wrong? The money's with Fidelity," Lilling continued.

Companies need to provide the money promptly to plan administrators, although Lilling said he "walked into situations where employers hung onto employees' money for months."

Firms also must provide the right date of birth, hire and termination, correct withholding and other data.

"Plan decisions are made off of that census. We need to test that census, to make sure it's accurate," Lilling said. "If someone's age is wrong, they might not be admitted to plan when they should. The date of hire impacts vesting."

The study also concluded the accounting profession's peer review and practice monitoring efforts failed to improve audit quality.

Adair said the state society is committed to developing "educational and practice monitoring solutions that result in significant improvement to employee benefit plan audits."

The review recommended an increased focus on audits by CPA firms with employee benefit plan audit practices that audit large plans.

It also favors amending ERISA to allow the government to assess some or all of the up-to-$1,100-per-day penalties not only against client companies, but against accounting firms that fail to detect problems.

The report also called for working with the American Institute of Certified Public Accountants to streamline the peer review process to improve audit quality.

The government also wants to ensure CPAs required to undergo a peer review have "in fact had an acceptable peer review."

"There needs to be more education on all sides," Lilling said. "Accounting firms really need to know about this."