

# 401(k) Q&A

Federal law requires an annual audit of employer retirement plans (including 401(k)s) when a plan reaches the minimum threshold of eligible participants. In order to maintain compliance, it is crucial that an employer understand the requirements, and when and how to prepare for a plan audit.

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## **Why does a 401(k) require an annual audit?**

The Employee Retirement Income Security Act of 1974 (ERISA) requires that retirement plans subject to the provisions of ERISA undergo an annual audit of plan financial statements by an independent qualified public accountant. Plans subject to ERISA are required to report certain information to federal agencies, such as the Department of Labor (DOL), the Internal Revenue Service (IRS), and the Pension Benefit Guaranty Corporation (PBGC). The audited financial statements are then filed, along with Form 5500, to the DOL.

## **Does my company need a 401(k) audit?**

Employers with 100 or more eligible participants for their 401(k) plan, at the beginning of the plan year, will be required to undergo a plan audit. (Some small plans may also be required to undergo an audit, based on certain investments, bonding, and disclosure requirements.) There is, however, one exception to the “100 or more employees” requirement. This is the 80/120 Rule.

### What is the 80/120 Rule?

The number of participants in a plan determines whether it is a “small,” or “large” plan. This classification is indicated on the Form 5500 filed by a plan, and determines whether an audit is required. The 80/120 Rule allows a plan with between 80 and 120 participants, as of the first day of the plan year, to file Form 5500 in the same category as indicated on their prior Form 5500 filing.

### How is eligibility for employees determined?

Eligibility for employees should be outlined in the plan document, which usually defines age, minimum contributions, tenure, and minimum hours worked to qualify.

### What is the goal of a 401(k) audit?

Filing Form 5500 along with audited financial statements of a 401(k) plan fulfills the fiduciary responsibility of the employer. An audit, in addition to accurate financial information, can also provide clear insight as to the plan’s processes and control environment, and detect and prevent errors.

### What do I do with the audit results?

The audited financial statements are filed with the auditor’s report and Form 5500.

### When is Form 5500 due?

401(k)s must file the Form 5500 by July 31 (for a calendar-year plan). This is the last day of the seventh month after the plan year ends. A two-and-a-half-month extension for October 15<sup>th</sup> can be requested by filing a Form 5558 by the due date of the return.

### How can I plan for my audit?

As an employer, it is crucial that you understand your plan documents, and the federal requirements for your plan. Talk with your plan administrator or accountant to determine what your deadlines are, whether you are required to undergo an audit, what type of Form 5500 is the proper form for you to file, and what you can do to prepare for your audit.

## How do I choose an auditor?

Federal law requires that the accountants engaged to audit a 401(k) be Certified Public Accountants. They must also be independent – not employed by the organization, or related to the parties involved. They must have the knowledge and experience to understand tax & DOL rules, the plan itself, the accounting system, controls, and other common problem areas. It is recommended that they be a member of the AICPA's Employee Benefit Plan Audit Quality Center, which gives the auditor access to comprehensive resources which assist in providing high quality audits.

*Undergoing a 401(k) audit fulfills the requirements of federal law. It also protects the assets and the participants of the plan, and assists the employer in ensuring and maintaining integrity in the plan. Understanding the complexities involved, preparing for an audit, and filing the required documents can be overwhelming and time consuming. Our 401(k) audit professionals can make the process less painful and more efficient. Please contact us – we can help.*

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