



An Update on PEPs and Plan Audit Requirements for 2022 Form 5500 Filings

More Pooled Employer Plans (PEPs) than thought may be subject to the Independent Qualified Public Accountant (IQPA) audit requirements for the 2022 Form 5500 plan year filing. The IRS and Department of Labor (DOL) released final revisions to their Forms 5500 and instructions on February 24, 2023, which, among other guidance, state any multiple employer plan (MEP) or PEP with 100 or more eligible participants (as defined for reporting year 2022) must be audited unless the “80-120 exception” applies.

BACKGROUND

Under the Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act), the DOL could have (but did not) adopt special reporting rules for MEPs and PEPs that would have waived the IQPA report for MEPs and PEPs with fewer than 1,000 participants in total, provided each participating employer had fewer than 100 participants. The DOL explained in its September 2021 proposal that it was not proposing to amend the current reporting rules to establish simplified reporting for such plans. Further, in its February 2023 release, the DOL declined to adopt these SECURE Act rules. Experts at the recent AICPA Employee Benefit Plan Audit Quality Center’s annual conference confirmed the DOL did not adopt the SECURE Act simplified rules for MEPs and PEPs with respect to plan year 2022.

As a result, any plan (MEP or PEP included) with 100 or more eligible participants for reporting year 2022 must be audited. Consequently, even if a MEP or PEP consists solely of small participating employers, if—in aggregate—the arrangement has more than 100 eligible participants at the beginning of the 2022 plan year, an IQPA audit report is required to be included with its Form 5500 filing unless the plan meets the 80-120 exception.

THE 80-120 EXCEPTION

In general, once a plan has more than 100 eligible participants, it is deemed a large plan for Form 5500 filing purposes and subject to the IQPA audit requirement. An exception to the audit requirement applies when a plan is a small plan (under 100 participants), or the participant count ranges from 80-120 (i.e., the 80-120 exception) between filing years. If a plan has more than 100 eligible participants but less than 120 and filed as a small plan in the previous year, the plan can remain as a small plan filer in the current year and exempt from the audit requirement.

2023 PLAN YEAR REPORTING CHANGES

There is plan audit requirement/criteria change for plan year 2023 and later years to note related to the participant-counting methodology for determining eligibility for reporting alternatives available to small plans. For plan years beginning on or after January 1, 2023, participant count for the audit waiver will be based on the number of participants and beneficiaries with account balances at the beginning of the plan year. The change means any single employer plan, PEP or MEP is required to file as a large plan with an audit report if there were 100 or more participant/beneficiary accounts as of the beginning of the 2023 plan year. That audit threshold change is not applicable for year-end 2022.

The Form 5500 final revisions also incorporate the addition of the new Schedule MEP (Multiple-Employer Pension Plan Information), designed to consolidate SECURE Act related reporting for MEP (and PEP) filers in one easily identifiable schedule.

This material is provided solely for informational purposes and does not constitute investment, tax, legal or accounting advice on the matters addressed.

Pentegra can assist with helping you understand plan audit requirements and reporting criteria, especially as they relate to MEPs and PEPs. For more information, contact the Pentegra Solutions Center at solutions@pentegra.com or 855-549-6689 for expert guidance on how to make the most of the new rules.

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