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GRIST



DOL eases independence rules for employee benefit plan accountants

*By Margaret Berger and Matthew Calloway
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Recent [guidance](#) from the Department of Labor (DOL) loosens certain restrictions meant to ensure the independence of accountants performing employee benefit plan audits for the annual Form 5500 filing. The updated interpretative bulletin (IB) lets plan administrators hire a qualified public accountant who held the plan sponsor's publicly traded securities during the plan year covered by the audit if the accountant divests those securities before starting the engagement. The updated guidance, which revises and restates an IB from 1975, takes effect immediately.

Divestiture window. The revised IB gives auditors time to get rid of any holdings of a new plan sponsor client's publicly traded securities before signing a written agreement to audit the plan or starting an audit, whichever happens first. The 1975 IB automatically disqualified auditors at firms that had a financial interest in a plan sponsor during the period covered by the plan's financial statements — even if that interest was limited to a single partner holding a single share of the sponsor's stock. DOL felt this “outdated and unnecessarily restrictive” provision might have unduly limited plans' access to the most qualified accountants and accounting firms. The agency also sought to align the IB with the independence guidelines of accounting regulatory bodies, including the American Institute of Certified Public Accountants ([AICPA](#)).

Exception only applies to publicly traded securities. DOL limited the new exception to publicly traded securities, as defined in the updated IB. The agency believes that auditors with other financial interests, including interests in private or closely held organizations, during the plan year covered by the audit might still be improperly motivated, even if those interests are divested before the engagement begins.

Other clarifications. The new IB clarifies that shares held by auditors' immediate family members will count as a disqualifying financial interest. Although the 1975 IB didn't state this position explicitly, it's consistent with AICPA's attribution rules and independence standards. DOL says it “has and will continue to treat” those rules as a relevant fact and circumstance when determining whether an accountant is independent. Shares held by audit firm employees working in any office where a significant portion of the audit takes place also count as a disqualifying financial interest. For this purpose, the IB

updates the definition of “office” to focus on functional work groups, not employees’ physical location, in recognition of today’s geographically diverse work arrangements.

Related resource

- [Interpretive bulletin relating to the independence of employee benefit plan accountants](#) (Federal Register, Sept. 6, 2022)

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