



## Does Your Employee Benefit Plan Need an Audit?

December 15, 2021

The Employee Retirement Income Security Act of 1974 (“ERISA”) contains a requirement for annual audits of plan financial statements by an independent qualified public accountant. Determining if your plan is a “small plan” or “large plan” is the first step to establishing whether your plan needs an audit. This determination is based on the total number of participants at the beginning of the plan year.

Per the Form 5500 instructions for a 401(k) plan, a “participant” includes any individual who is eligible to participate in the plan whether the individual elects to contribute or has an account under the plan. This also includes participants with an account balance in the plan who are no longer employed.

“Small plans” have under 100 “participants” at the beginning of the plan year and file a Schedule I, which does not require an audit.

“Large plans” have 100 or more “participants” at the beginning of the plan year and file a Schedule H, which must include audited financial statements with their Form 5500 filing, unless your plan is covered under the 80-120 rule.

80-120 Rule - As provided in DOL Reg. 2520-103-1(d), a plan that covers between 80 and 120 “participants” at the beginning of the current plan year may elect to complete the current year Form 5500 using the same category (that is “large” or “small” plan) that was used in the previous year.

### Example

If a plan filed as a small plan in the prior year, with 90 participants at the beginning of the plan year and then the participant count increased to 118 at the beginning of the current year, it may elect to file as a small plan in the current year. The plan may continue to file as a small plan indefinitely under this rule, if the participant count remains at 120 or fewer.

However, once the participant count is more than 120, the plan must file as a large plan and file the Form 5500 with audited financial statements. The plan will continue to file as a large plan until the participant count is fewer than 100, when it can once again file as a small plan or, if it believes that the participant count may again increase to more than 120 the next year, it can elect to file as a large plan. Once the participant count falls below 80, the plan must file as a small plan.

### Next Steps

If you determine that your plan does need an audit or if you have any questions when determining whether your plan needs an audit, please reach out to us at [info@melton-melton.com](mailto:info@melton-melton.com).

### Contact

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