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# ESOP Plans, Are You Exercising All of Your Fiduciary Responsibilities?

ERISA

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More and more companies continue to move to an Employee Stock Ownership Plan (ESOP) structure. With each of these transactions comes new fiduciary responsibility. ESOP plans are considered qualified employee benefit plans, and as such, fall under the oversight of both the Internal Revenue Service and Department of Labor (DOL). As a general rule, if your ESOP plan has more than 100 “eligible” plan participants, an audit report is required to be filed with the annual 5500 reporting for the plan. As we have discussed in a previous article, the DOL is very focused on audit quality and the plan sponsor’s fiduciary liability in situations where it considers the plan audit to be deficient. Substandard audit work can be costly to both plan administrators and plan sponsors in the form of significant civil penalties being imposed by the DOL. ESOP plans continue to be a focal point of the DOL in its review of audit quality. Many of the plan audit issues identified by the DOL are centered around the lack of adequate audit procedures on the plan’s investment in employer stock. In addition, when there is a leveraged ESOP, adequate procedures are not always being performed around all of the various loan provisions. The complexities and uniqueness of an ESOP plan require your plan auditor to be knowledgeable in these areas; therefore, you need a plan auditor who is well versed in the requirements and characteristics of an ESOP plan.

ERISA holds plan administrators responsible for ensuring that plan financial statements are properly audited in accordance with generally accepted auditing standards (GAAS). The hiring of a plan auditor is considered a fiduciary responsibility. Have you used the same level of scrutiny in hiring your plan auditor as you used when you hired all of the other service providers for your plan?

Schneider Downs has a dedicated employee benefits plan practice that specializes in the various compliance and regulatory requirements of ESOP plans. To learn more about these services, contact Mike Renzelman at [mrenzelman@schneiderdowns.com](mailto:mrenzelman@schneiderdowns.com) or your Schneider Downs representative.

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