

DOL Inquiries and Audits

Tulsa Employee Benefits Group
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GOAL FOR TODAY

- Provide practical guidance in preparing and responding to DOL inquiries and audits

AUTHORITY OF DOL

- Employee Benefits Security Administration (EBSA) is the arm of the DOL responsible for enforcing Title I of ERISA
- Virtually all ERISA pension and welfare benefit plans are subject to investigation by the DOL
- DOL has broad authority to investigate and broad general authority to request production of documents relating to ERISA plans absent an investigation.

INQUIRY – MEANING AND TRIGGERS

- What is a DOL Inquiry?
 - Phone call
 - Letter
- What triggers a DOL Inquiry?
 - Participant inquiries or complaints
 - Data from 5500 filings

I RECEIVED A DOL INQUIRY, NOW WHAT?

■ Phone Calls

- Scarier than letters
- Talk to investigator
- Gather info
- Consider contacting ERISA counsel

■ Letters

- Read the letter
- Gather info
- Consider contacting ERISA counsel
- Always respond timely

AUDIT – MEANING AND TRIGGERS

- What is a DOL audit?
- What triggers a DOL audit?
 - Data from 5500 filings
 - Tips from other agencies
 - Participant inquiries or complaints
 - Lawsuits or news stories
 - Random

TYPES OF AUDITS

- Limited Reviews
- Fiduciary Investigations
- Health Plan Investigations
- Participants' Rights
- Prohibited Persons Investigations

STEPS IN A TYPICAL AUDIT

- Initial document request and response
- On-site review
- Interviews with plan officials
- Identification of violations
- Voluntary compliance and/or settlement agreement
- Closing conference
- Closing letter

AREAS OF FOCUS - WELFARE BENEFITS PLANS

- Review of compliance with COBRA, HIPAA, MHPAEA, NMHPA, WHCRA, GINA, Michelle's Law, CHIPRA and ACA
- Plan assets
- Plan service providers
- MEWAs
- Bankruptcy

WHAT CAN YOU DO TO PREPARE - WELFARE BENEFITS PLANS

- Clear communication with participants
- Keep good records
 - Plan document, SPD, SBC, SMM
 - 5500s
 - Enrollment materials and participant notices
 - ACA compliance
 - BAAs
- Timely file 5500s

AREAS OF FOCUS – RETIREMENT PLANS

- Timely deposit of participant contributions
- ESOPs
- Loans
- Fees
- Protecting benefit distributions
- Monitoring service providers

WHAT CAN YOU DO TO PREPARE – RETIREMENT PLANS

- Clear communication with participants
- Keep good records
 - Plan document, SPD, Trust Agreement
 - IRS Determination or Opinion Letter
 - Participant notices
 - Meeting minutes
 - Trust statements
- Timely file 5500s

QUESTIONS?

Email: judy.burdg@mcafeetaft.com

Phone: (918) 574-3087