

Accountants: Advanced Payroll Audits

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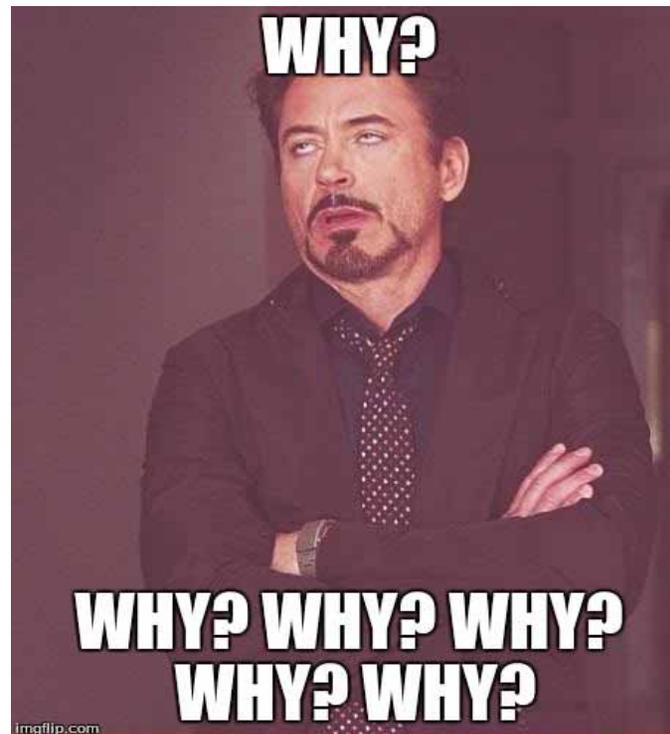
International Foundation
OF EMPLOYEE BENEFIT PLANS 

Agenda

- Common issues for payroll audits and auditors
 - Trustee concerns
 - Contract interpretation
 - Missing or bad payroll records
 - When to contact the attorney
 - How AI could help

Trustee Concerns

Why do we have to do payroll audits?



Trustee Concerns— Why Do We Have to Do Payroll Audits?

- What is the purpose of a payroll audit?
 - It enables the trustees to detect whether the plan is **receiving the proper amount of employer contributions** that are due.
 - It helps enable the trustees to determine whether the plan has **accurate and complete participant records**.
 - It assists the fund trustees in meeting their fiduciary responsibility under ERISA as it documents their reasonable, systematic and diligent **effort to collect contributions**.
 - Delinquent contributions + little effort = “LOAN” to the employer.
“LOAN” = prohibited transaction and party-in-interest transaction.

Trustee Concerns

Payroll audits confirm the delinquency
the Funds DO know.



Payroll audits inform the funds of what
deficiencies or delinquencies they DON'T know.

Trustee Concerns

- Implementation of AICPA EBP guide chapter 9 on PRAs
- In order for the F/S auditor to rely on the payroll audits for participant data, the fund F/S auditor must judgmentally select a sample of payroll compliance audits
 - Obtain the payroll audit status report
 - Determine that the number of audits performed and/or participants covered is sufficient to support the Financial Statement testing
 - Obtain copies of the payroll auditor's workpapers
 - Examine them to validate the conclusions reached by the payroll audit function
 - There should be re-performance of some of the body of work of the payroll audit

Trustee Concerns

- Other Known Benefits
 - It serves as notice that the Fund Trustees are monitoring contributions collected.
 - A program that includes all employers being audited on regular rotation levels the “Playing Field” for the employers.
 - *Everyone is playing by the same set of rules.*
 - Consistent contract interpretation.
 - *What is the definition of hours paid?*
 - Human nature, people make mistakes, even when working with computers.

Trustee Concerns—Costs

- Payroll Audit Selection
 - 3/5 year audit cycle—Equal amount of large, medium and small employers
 - 30%/20% total population coverage
 - Alternative payroll audit cycles—Based on past audit findings
 - A yearly evaluation of:
 - Delinquent employers audited more often
 - New or withdrawing employers
 - Changes in the industry's workforce
 - Significant increase or decrease in reported hours
 - Participant complaints

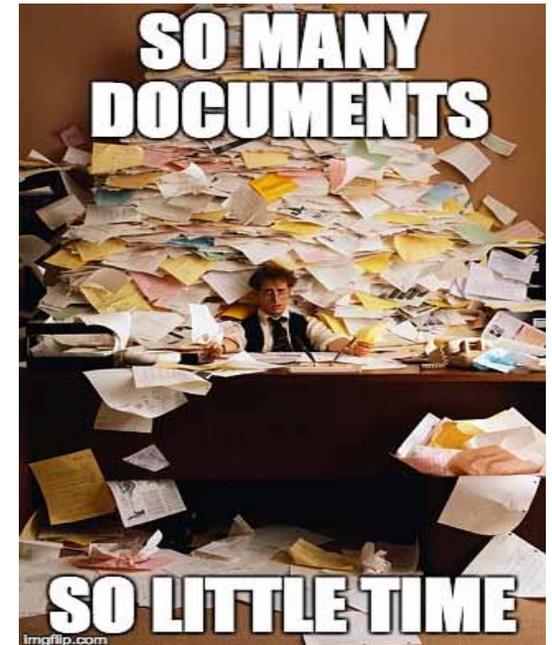


Trustee Concerns—Costs

- Employer charged for audit cost
 - Under ERISA the employer can be charged for the cost of audit. Confirm your collections/audit policy addresses when an employer is responsible for audit cost
 - Large findings; Anything over a certain amount
 - If audit findings are a certain percentage of contributions
 - Uncooperative employer
 - Overpayments applied to audit cost

Trustee Concerns— Why Do You Need to Review...

- The entire payroll, not just “union” or covered departments
- W-2s
- Cash Disbursements Journal
- Corporate Tax Returns
- Other



Trustee Concerns

- Level the playing field
 - All employers subject to the audit and collection policies
 - Confirming all employers are following the CBA as it pertains to contributions due to the Funds.
 - Use of non-union employees/subcontractors
 - Review of the cash disbursement journal
 - Employees paid off the books
- Timeliness of the audit program
 - How soon will a final report be issued?
 - Will you complete all the audits selected?

Contract Interpretation

Contract Interpretation

- Auditors do not interpret the collective bargaining agreement. Only the parties that were at the table know the intent.



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Contract Interpretation

- Collective Bargaining Agreements
- National Agreements/National Funds
- Participation Agreements
- Project Labor Agreements
 - Evergreen Clause
 - Conflicts between agreements

Contract Interpretation

- Contribution obligations may be under different articles—READ THE ENTIRE CBA
- Who is covered?
 - Full time, part time, temporary, seasonal
 - Union vs. Non-union
 - Jurisdiction
 - Length of service

Contract Interpretation

- When do contributions begin?
 - Union probationary period vs. contribution waiting period
 - Contribution starting requirements vs. benefit eligibility
 - Time measurements
 - Calendar days, workdays, first of the month language

Contract Interpretation

- Are contributions due for?
 - Hours, days, weeks, months, percentage of wages, total wages paid divided by rate=hours reported to the fund
 - Hours worked or hours paid
 - Holidays, vacations, sick leave
 - Overtime, double-time—At straight time rate or premium rate
 - Bonuses, vacation payouts, severance, lay offs

Discussion Question

- If a union electrician is sweeping floors are contributions due?
- If a Philadelphia laborer is working in Virginia, are contributions due?
 - Does the answer stay the same if the employer only signed a PLA?



Missing Records and When to Contact the Attorney

Missing Records

- Lack of cooperation from the employer
 - Audit refusal
 - Will not provide the entire payroll
 - Missing some requested information/documents
 - Employer cancels or postpones the audit

Should you contact the attorney right away or contact the administrator, union or employer association?

Missing Records

- What is missing and why?
 - Technology has changed
 - Employers do not have hard copy; Cloud based
 - Payroll reports run with incorrect parameters
 - Payroll reports run without historical classification data
 - Lack of social security numbers

Missing Records

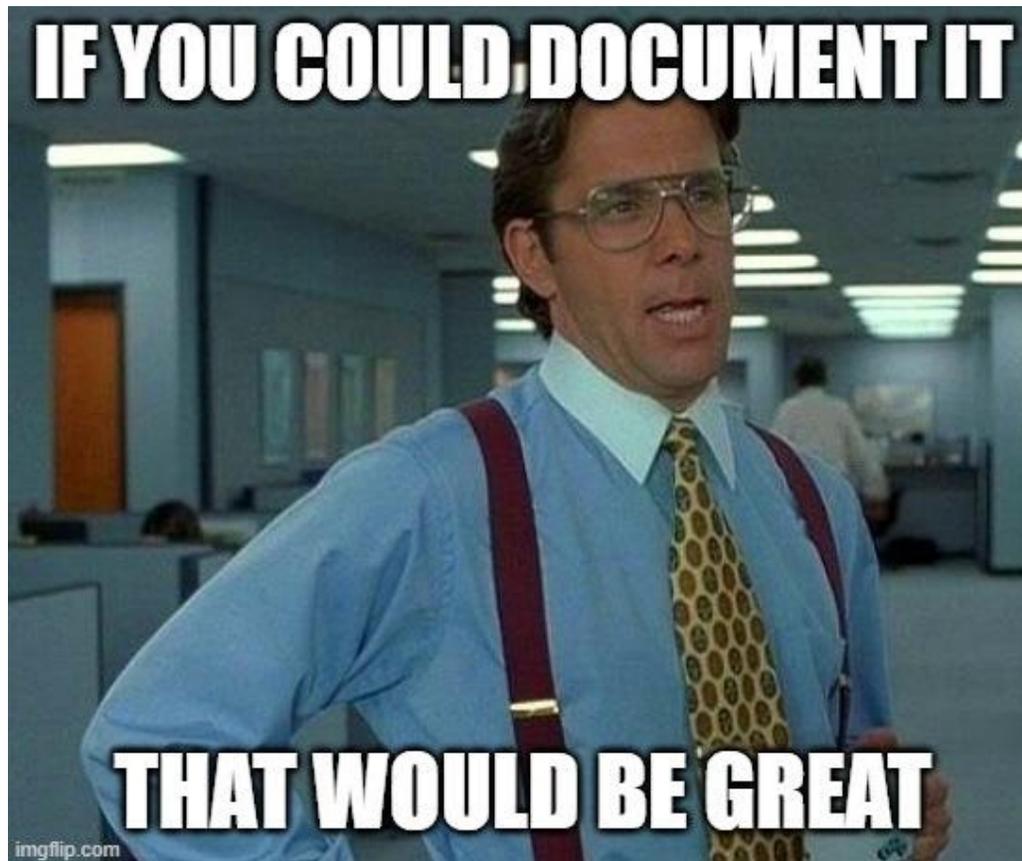
- When an employer is not so tech savvy
 - Gaps in weekly payroll
 - Did not keep payroll registers
 - Paid by cash
 - No tax records
 - Outdated software/Hardware

Missing Records

- What are some options?
 - Certified payroll and shop steward reports.
Use these with caution!
 - Require employer to request W2's from the IRS,
Forms 4506 and 4506T
 - Require employer to contact payroll provider for
missing documents
 - Use estimates, extrapolations, and assumptions

Missing Records

- Employer may state they have no employees or payroll
 - Review Corporate tax returns—Schedule C under salary and wages
 - Review general ledger for subcontractors
 - Does the employer only issue 1099s
 - Does the employer use Temporary Employment Agencies
 - Does the employer use a Professional Employment Organization (PEO)



Missing Records

- The employer has an obligation to keep accurate records.
- The employer must provide documentation to dispute the audit findings.
- Err on the side of the participant.
- Be aware of Non-Disclosure Agreements, affidavits, or waivers—Contact the Fund Attorney!

How AI Can Help

How AI Can Help

- Quick research and web browsing.
- Assist with correspondence and meeting notes summaries.
- Organize audit timeline and procedures.
- Quick and specific searches and formatting in Excel.
- Keep in mind that humans are unpredictable!



Key Takeaways

- Address trustee concerns about audit costs, fiduciary responsibility, and the audit guide.
- Understand the CBA and be aware of other documents that may affect the audit.
- Remedy missing records situations and know when to involve the attorney.
- Use AI to assist with some tasks.

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