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## 29 C.F.R. § 2509.2022-01

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### Interpretive bulletin relating to guidance on independence of accountant retained by employee benefit plan.

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This section provides guidance for determining when a qualified public accountant is independent for purposes of auditing and rendering an opinion on the financial information required to be included in the annual report (Form 5500 Annual Return/Report of Employee Benefit Plan) filed with the Department of Labor (Department).

- (a) *In general.* Section 103(a)(3)(A) of the Employee Retirement Income Security Act of 1974 (ERISA) and 29 CFR 2520.103-1(b)(5) of the Department's implementing regulations require that the accountant retained by an employee benefit plan be "independent" for purposes of examining plan financial information and rendering an opinion on the financial statements and schedules required to be contained in the annual report. Under section 103(a)(3)(A) of ERISA the Department will not recognize any person as an independent qualified public accountant who is in fact not independent with respect to the employee benefit plan upon which that accountant renders an opinion in the annual report filed with the Department. In determining whether an accountant or accounting firm is not independent, the Department will give appropriate consideration to all relevant circumstances, including evidence bearing on all relationships between the accountant or accounting firm and that of the plan sponsor or any affiliate thereof, and will not confine itself to the relationships existing in connection with the filing of annual reports with the Department of Labor.
- (b) *Examples.* The following examples are intended to illustrate how the Department would apply paragraph (a) of this section in certain common financial and business relationships. The Department in enforcing the Form 5500 annual reporting requirements will not consider an accountant to be independent with respect to a plan if:

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