

Fiduciary Responsibilities and Plan Compliance Guidelines

The following are a few directives to help you maintain your plan's compliance status. For a complete review of your Fiduciary Responsibilities, please consult with your plan's legal counsel.

I. Timely Remittance of 401(k) Plan Deposits

Retirement plan participants make their contributions into 401(k) plans by means of a payroll deduction. The employer withholds these dollars each paycheck. In general, Department of Labor (DOL) rules demand that participant 401(k) contributions become plan assets and, therefore, must be deposited to the plan as of the earliest date on which such contributions can reasonably be segregated from the employer's general assets (usually 3 business days), but no later than the 15th business day of the month following withholding.

Some employers accumulate and transmit payroll withholdings at the end of each month, others after each pay period. Employers should be aware that the DOL may determine that monthly processing violates the requirement to hold plan assets in trust. Employers may be forced to make good on any losses resulting from the failure to timely place the assets in trust and to restore any profits the employer gained from the use of the plan assets. Excise taxes and other penalties may be imposed if the late deposit is considered a prohibited transaction. Form 5500 series reports ask all employers sponsoring retirement plans to confirm that all employee monies have been transmitted "as of the earliest date on which such contributions can reasonably be segregated from the employer's general assets". American Pension Services recommends that you follow these important guidelines by remitting employee contributions into the plan as soon as possible to avoid any potential liability.

II. ERISA Fiduciary Bond

Section 412 of ERISA requires that fiduciaries and other persons who handle or are responsible for the assets of a qualified plan be bonded. The bond is required in order to reimburse the plan if any plan assets are lost through the fraud or dishonesty of such persons. These persons would include administrators, officers and employees of the plan sponsor.

Every individual must be bonded for at least 10% of the amount of plan funds he handles up to a maximum of \$500,000, but in no case for less than \$1,000. The bond must be one that reimburses the plan from the first dollar of loss up to the full amount for which the persons causing the loss is bonded.

Please contact your property and casualty broker to arrange for an ERISA bond for your plan, or obtain your plan's bond by contacting Colonial Surety Company online at

https://web.colonialsurety.com/erisa/existingCust_menu.asp

or by telephone at 800.221.3662. Be sure to mention that you were referred to them by American Pension Services and use referral code "FL0 116" so that we will get copies of your bond issuance, limits, and expiration information automatically.



III. Other Topics

- Verify that your plan covers the right employees and does not exclude those who are entitled to participate in the plan;
- Review the definition of compensation as defined in the plan document, and verify that the correct compensation amounts are being sent to us;
- Review the plan document to ensure that plan fiduciaries (Trustees) are appointed and removed accordingly. Inform us of any changes as they occur in order to keep your plan up to date;
- Maintain a Summary Plan Description (SPD) and make sure that all eligible participants receive a copy of it;
- Make sure you inform us if you have been or just became a member of a controlled group of corporations or an affiliated service group. If you are not sure of your status, please contact your Legal Counsel and/or CPA – specific rules apply to members of such groups;
- Contributions to the plan are deductible for the taxable year in which they were paid. However contributions paid no later than the tax return due date (including extensions) for a particular taxable year are deductible [I.R.C. 404(a)(6)]. Make sure that you make all your plan contributions prior to filing your firm's tax returns or they may not be deductible. Consult with your company's accountant or financial advisor if you have any questions about tax issues pertaining to your retirement plan.

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