

401(k) Rescue

Our 401(k) Fix-It Series

401(k) Rescue, the Ekon Benefits 401(k) Fix-It Series, describes the most common 401(k) mistakes as determined by the IRS. We provide explanations of common mistakes, suggested prevention techniques and recommendations on correction methods.

Does your 401(k) Plan need to be rescued?

Common Mistake #7— Failure to file a Form 5500

Plans subject to the Employee Retirement Income Security Act, ERISA, must timely file an *Annual Return/Report of Employee Benefit Plan* otherwise known as the Form 5500. Generally, the Form 5500 deadline is the last day of the seventh month after the Plan's Year End. In most cases, Plans with fewer than 100 participants may file a shorter version of the 5500, the Form 5500-SF, while certain single participant and participant and spouse Plans may file the Form 5500-EZ. For more information on how to file a Form 5500, which Form to file, or the requirements for filing electronically using the EFAST2 system, please visit www.efast.dol.gov.

Delinquent Form 5500 filings are subject to fines by both the IRS and the DOL. The IRS penalty is \$25 per day with a maximum fine of \$15,000 per return while the DOL's penalty for late filing can run up to \$1,100 daily with no limit placed on the total fine assessed. For example, if a Form 5500 is filed just 14 days late, the Plan Sponsor could be subject to a fine of \$350 by the IRS in addition to the DOL fine of up to \$15,400.

Typically, Plan Sponsors learn that their Plan's Form 5500 was not filed in a timely manner when they receive a letter from the IRS or DOL. However, if this is the initial year of the Plan or the Form 5500 has not been filed for all previous years, the DOL and IRS will not know to alert the Plan Sponsor of the overdue filing. This error is generally found when switching to a full-service provider. The correction for delinquent returns is to simply file the delinquent Form 5500s as soon as possible. The DOL's Delinquent Filer Voluntary Correction Program (DFVC) is available in most cases and can **significantly** reduce the fine assessed by the DOL.

In order to avoid this error, Plan Sponsors and Administrators should ensure that they understand their filing responsibilities under the Plan. Most service providers assist in the requirement of annual filings and some even electronically submit Form 5500s through the EFAST2 system on Plan Sponsors' behalves.

For a complete listing of the most common 401(k) mistakes, please visit the IRS 401(k) Plan Fix-It Guide at [http://www.irs.gov/Retirement-Plans/401\(k\)-Plan-Fix-It-Guide](http://www.irs.gov/Retirement-Plans/401(k)-Plan-Fix-It-Guide)

For assistance in correcting a plan error, please contact Ekon Benefits at (314)367.6555 or info@ekonbenefits.com