



The EJReynolds Compliance Guide

As a Fiduciary, proper documentation is a key component to a smooth and successful retirement plan. The list below and compliance calendar are provided as a resource to help maintain a proper library of files to meet the plan reporting and disclosure requirements of ERISA. Maintaining the proper documentation is the best way to prepare for any request for information from individuals and appropriate government agencies. We suggest you keep this resource in a convenient place so you can refer to it should you need to take specific action. EJReynolds will also maintain this data on your client portal, a secure, client specific portion of our website.

A Plan Sponsor's Responsibility: What You Should Keep

- > Signed copy of the Plan Document (including all Amendments and Restatements), copy of all authorization and adoptive resolutions, committee materials and related trust agreements, including agendas, minutes and documents distributed at meetings
- > Copy of most recent IRS Determination or Opinion Letter
- > Summary Plan Description, which is a summarized description of the plan, and any summaries of material modifications
- > Annual Participant Notices, including:
 - Participant fee disclosure initial/annual notice
 - Safe Harbor notice, if applicable
 - Qualified Default Investment Alternative (QDIA)
 - Default Enrollment notice, if applicable
- > ADP and ACP Testing, Top-heavy and Coverage Testing Results – at least three year's worth
- > Copies of Form Series 5500, including attachments (e.g., auditor's report), and copies of each year's Summary Annual Reports
- > Contribution Summary Reports including date of payroll and deposit confirmations
- > Plan's Investment Policy Statement and applicable investment management agreements or contracts
- > Due diligence reviews to support choice of investment funds offered, including Annual Contract Review, Benchmarking reports and comparative historical return charts
- > Service Agreements for each Covered Service Provider
- > Participant Election Forms and Designation of Beneficiary Forms
- > Loan Application, Promissory Note and Amortization Schedule (for all Loans)
- > Most recent account statements for plan participants and their beneficiaries
- > Fidelity Bond
 - Current law requires a retirement plan which covers employees other than "principals" have fiduciary bond coverage in the event of misuse of the funds
 - Coverage at all times must equal at least 10% of the value of the plan assets, with a minimum of \$10,000, and a maximum of \$500,000
 - For plans with less than 100 participants: In the event the plan's non-qualifying plan assets exceeds more than 5% of the total plan assets, the plan may be subject to a "Small Plan Audit" unless the bond covers 100% of the plan's non-qualifying plan assets

Section 107 of ERISA provides that records used to compile information that is required to be reported (e.g., Forms 5500, Summary Annual Reports) must be retained for at least 6 years. Section 209 of ERISA requires that records used to determine an employee's benefit also must be retained. However, the law is not clear on the timeframe under Section 209 of ERISA, in which case, employers need to retain for as long as it would be deemed "prudent." As a practical solution, employers may wish to avail themselves of the guidance contained in the DOL Final Regulations which permit electronic retention of records. 29 C.F.R. Part 2520, 67 Fed. Reg. 17264 (April 9, 2002).

EJReynolds 2023 Compliance Calendar

January

- 31** Deadline for sending Form 1099-R to participants who received distributions during 2022 calendar year.

February

- 29** Deadline for filing Form 1099-R filing paper returns with the IRS to report distributions made during 2022 calendar year.

March

- 15** Deadline for processing corrective distributions for failed actual deferral percentage (ADP)/actual contribution percentage (ACP) test without 10% excise tax for plans without an Eligible Automatic Contribution Arrangement (EACA).
Deadline for filing Sub-chapter S Corporation and Partnership Tax Returns and contribution deadline for deductibility (without extension) for those entities operating on calendar-year fiscal year.
Deadline for requesting automatic extension (to September 15th) of Sub-chapter S Corporation and Partnership Tax Returns.
- 31** Deadline for filing Form 5330 used to report and pay excise taxes on prohibited transactions and excess 401(k) plan contributions that occurred in 2021 plan year.
Deadline for electronic filing of Form 1099-R filing with the IRS to report distributions made in 2022.

April

- 1** Required Beginning Date for 2022 (based on the account balance at December 31, 2021) for a 5% owner who attained age 72 in 2022, or for a terminated participant who attained age 72 in 2022 or a participant who retired in 2022 that was born prior to July 1, 1949.
- 15** Deadline for processing corrective distributions for IRC Section 402(g) excesses – Deferrals in excess of the 2022 Calendar year limit.
Deadline for filing C Corporation and Individual Tax Returns and contribution deadline for deductibility (without extension) for those entities operating on calendar-year fiscal year.
Deadline for requesting automatic extension (to October 15th) of C Corporation and Individual Tax Returns

June

- 30** Deadline for processing corrective distributions for failed ADP/ACP test from plans with Eligible Automatic Contribution Arrangements (EACA) without 10% excise tax.

July

- 28** Deadline for sending Summary of Material Modification (210 days after end of plan year in which the amendment was adopted).
- 31** Deadline for filing Form 5500 (without extension) *
Deadline for filing Form 5558 to request automatic extension of time to file Form 5500 (2½ months) *

September

- 15** Extended deadline for filing Tax Returns for S Corporations and Partnerships, and contribution deadline for deductibility under those entities.
Deadline for contributions to meet Minimum Funding Standards under a Pension Plan.
- 30** Deadline for distributing Summary Annual Report (SAR) to participants, provided deadline for Form 5500 was not extended.

October

- 15** Extended deadline for filing Form 5500 and related Schedules.*
Deadline for adopting a retroactive amendment to an IRC Section 410 (b) coverage or IRC Section 401(a)(4) nondiscrimination failure for 2022. **
Extended deadline for filing C Corporation and Individual Tax Returns, and contribution deadline for deductibility under those entities. **

December

- 1** Deadline for sending annual 401(k) and (m) Safe Harbor notice.
Deadline for sending annual Qualified Default Investment Alternative (QDIA) notice.
Deadline for sending annual automatic contribution arrangement notice. For administrative ease, a combined notice may be provided for the above notices.
- 15** Extended deadline for distributing Summary Annual Report (SAR) to participants.
- 31** Deadline for processing corrective distributions for failed 2022 ADP/ACP test with 10% excise tax.
Deadline for correcting a failed 2022 ADP/ACP test with qualified non-elective contributions (QNEC).
Deadline for amendment to convert existing 401(k) plan to Safe Harbor design for next plan year.
Deadline for amendment to remove Safe Harbor status for next plan year.
Deadline for amending plan for discretionary changes implemented during plan year (certain exceptions apply, e.g., adding salary deferrals, cutting back accrued benefits).
Required Minimum Distributions for 2023 due based on account balances as of December 31, 2022.

* The deadlines in this calendar are for plans with calendar-year plan years. This chart is intended to provide plan sponsors with a list of notable deadlines and is not a substitute for consultation with ERISA counsel and in no way represents legal advice.

** Should any due date shown above fall on a Saturday, Sunday or legal holiday, the above due date is modified to the next business day following the normal due date.

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WHERE IS YOUR COMFORT PLACE?
EJR CAN HELP YOU GET THERE.

9050 Pines Blvd., Suite 202, Pembroke Pines, FL 33024

Office: 954.431.1774 Fax: 954.438.7250

www.ejreynoldsinc.com