



Filing Requirements

The annual report filing is due by the last day of the seventh calendar month after the end of a plan year (12 months maximum) including a short plan year (any plan year less than 12 months). A two and a half month extension is available for a plan by filing Form 5558, Application for Extension to File Certain Employee Plan Returns.

For example, a calendar year (December 31, 2011), plan's filing is due on July 31, 2012 and with a two and a half month extension the plan filing would be due on October 15, 2012.

ERISA gives the DOL the authority to reject reports of plans that do not meet the reporting or disclosure requirements. Under ERISA section 502(c)(2) and 29 CFR 2560.502c-2, a penalty of up to \$2,670 a day in 2025, which is adjusted annually, may be imposed for failure or refusal to file a complete annual report. Working papers that support audits of 401(k) plans must be maintained for six years.

Some 401(k) plans are required to register and file with the Securities and Exchange Commission (SEC) under the Securities and Exchange Act of 1934. The plan administrator should consult with legal counsel to determine whether this is applicable or not.

For more information on this topic, please contact Paul McGovern at PMcGovern@DowneyCoCPA.com.