

ERISA Requirements for Employers. Are You Compliant?

ERISA Requirements for employers are complex.

ERISA (Employee Retirement Income Security Act of 1974) is federal legislation that “sets minimum standards for most voluntarily established retirement and health plans in private industry to provide protection for individuals in these plans,” according to the Department of Labor. Of course, covered employers are required to abide by these standards when adopting retirement and health plans, adding to the already rigorous compliance requirements employers face with the Affordable Care Act, Family and Medical Leave Act, and more.

There are distinct ERISA requirements for private sector employers of different sizes, shown below:

Employers with 1-99 employees:

- All employers who offer Group Welfare Benefits to their employees are required have a formal written ERISA “wrap” plan document and Summary Plan Document (SPD) for each benefit
- Provide a copy of the SPD to all plan participants.
- Provide a Summary of Material Modification (SMM) to plan participants when there is a material modification to the plan itself, or there is a change to the information that is required to be provided in the Summary Plan Description (SPD)
- Provide employees with a variety of ERISA/PPACA related notices concerning their rights and responsibilities
- Provide all ERISA documents stated above upon request by a plan participant or beneficiary or face potential penalty of \$110 per day for each day documents are not provided within 30 days of the written request

Employers with 100+ employees must satisfy all requirements above, PLUS:

- Form 5500 Preparation for most employers with 100 or more participants on the first day of the plan year in a Welfare Benefit Plan as defined by ERISA
- Such health and welfare benefit plans may include: health, dental, vision, life insurance, short-term and long-term disability and health FSA plans
- Penalties for non-compliance are up to \$2,400 per day for each day a 5500 filing is late, up to an annual maximum of \$30,000 per year.
- DOL’s Delinquent 5500 Filer Voluntary Compliance Program (DFVC) allows late-filing administrators to voluntarily bring plan into compliance at reduced penalties

Typically, employers who are not in compliance are subject to fines that could range from \$110 per day to over thousands of dollars per day. Additionally, employers can face astronomical settlement amounts. For example, T. Rowe Price Group recently agreed to pay out a \$7 million settlement after a complaint was filed by a participant in their 401(k) plan for alleged ERISA violations!

Contact BASIC if you would like help with ERISA compliance. Our ERISA Essentials offering is perfect for any employer subject to ERISA!



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