

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 #10—

Employee Elective Deferrals were not deposited in a timely manner.

As part of their fiduciary duty, plan sponsors are responsible for ensuring the timely deposit of employee elective deferrals. By law, the deposit must be made on the earliest date the funds can be segregated from the employer's general assets, but in no case later than the 15th business day of the month following the month in which the contributions were deducted from the participant's compensation.

In an effort to entice employers to remit more timely, the DOL instituted a 7 business day safe harbor for plans with less than 100 participants. For larger plans it is presumed that they will be able to remit more quickly than the 7 day safe harbor. Also note, if your plan document contains specific instructions regarding the timing of deposits, those terms must be followed.

Failure to deposit employee elective deferrals in a timely manner can result in an operational failure (not following the plan's terms) or in a prohibited transaction at the fault of the employer. Operational failures can be corrected under the Employee Plans Compliance Resolution System, EPCRS. A prohibited transaction (the illegal "loan" of plan funds to the employer) requires the error to be corrected, lost earnings to be contributed, and for an excise tax to be paid.

IRS Form 5500 (the plan's annual tax return) requires the disclosure of any late deferral deposits that have yet to be corrected which can trigger an IRS or DOL audit. Avoiding these failures is key. Plan procedures should facilitate the timely deposit of deferrals, payroll personnel vacations and other disruptions should be documented in plan records, and new payroll personnel should be trained on the importance of the timing of salary deferral deposits.

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