

PenSys, Inc.

Qualified Retirement Plans

401(k) Contribution Deposit Guidelines

Department of Labor (DOL) regulations require that 401(k) contributions **and** participant loan payments be deposited “as soon as reasonable” following the plan sponsor’s regular “payday.” Although, the DOL has not defined “as soon as reasonable”; based on recent DOL audits, they are holding employers to a much higher standard than they did in previous years.

In DOL examples, they suggest making deposits within *two* days following payday, while others believe that 401(k) deposits should be made the same time payroll tax deposits are made.

We know that the DOL is taking a hard look at employers who are taking more than seven days to deposit 401(k) contributions!

Since there is no definite due date, we strongly encourage plan sponsors to consistently deposit 401(k) contributions and participant loan payments as soon as possible after each payday.

What happens if plan sponsors violate the Deposit Rules?

Late deposits are considered a prohibited transaction and must be disclosed on Form 5500, which *could* trigger a Department of Labor audit:

- Prohibited transactions must be corrected by depositing all of the late contributions **and** making up “missed” investment earnings.
- In addition, the company must pay a 15% excise tax on the make-up earnings amount.

What should plan sponsors do?

- ✓ Be certain that the payroll department knows that 401(k) contributions and participant loan payments must be deposited as soon as possible after payday. Give them a deadline and make sure they meet the deadline.
- ✓ Automate the transfer of data to the 401(k) record keeper.
- ✓ Deposit electronically for faster transfer of funds.
- ✓ Make certain that more than one payroll person knows the deposit rules, contribution procedures and how to use the appropriate computer software. In this way, the company is covered when the primary payroll person is sick or on vacation.
- ✓ If you send checks, make sure every check has been cashed.