



**WELCOME!**

**Fiduciary Trends and Best Practices**

**Introductions:**

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“IN GENERAL TERMS, A *FIDUCIARY* IS A PERSON WHO OWES A DUTY OF CARE AND TRUST TO ANOTHER AND MUST ACT PRIMARILY FOR THE BENEFIT OF THE OTHER IN A PARTICULAR ACTIVITY. FOR RETIREMENT PLANS, THE LAW DEFINES THE ACTIONS THAT RESULT IN *FIDUCIARY* DUTIES AND THE EXTENT OF THOSE DUTIES.”

[HTTPS://WWW.IRS.GOV/RETIREMENT](https://www.irs.gov/retirement)

WHO / WHAT  
IS A  
FIDUCIARY?



## WHO / WHAT IS A FIDUCIARY?

- **Co- Fiduciary Status**
  - **Investments**
    - **3(21)**
    - **3(38)**
  - **Plan Administrator**
    - **3(16)**
- **What Can You Outsource?**
  - **Compliance Items – Third Party Administration (TPA's)**
  - **Investment Co-Fiduciary – 3(21)**
  - **Investment Fiduciary – 3(38)**
  - **Administration Tasks – Integration**
  - **Plan Administrator – 3(16)**

WHO / WHAT IS A  
FIDUCIARY?

- **Plan Administrator 3(16)  
Outsourcing**
  - **Industry Trends**
  - **Differences compared to  
outsourcing administrative tasks**
    - **Fiduciary Liability**
  - **Common Functions – Approve /  
Authorize:**
    - **Distributions, Form 5500, Hardships,  
Loans, QDROs, Corrective  
Amendments, Corrective  
Distributions, Eligibility Tracking,  
Notice Delivery**

## DATA INTEGRATION

- **Payroll Integration**
  - 180 Degree Integration
  - 360 Degree Integration
- **Functionality Requirements**
  - DATA
  - Specific Recordkeeping Platforms

**YOUR RESPONSIBILITY:**  
**PARTICIPANT COMMUNICATION**

Education Strategies

Education Policies

Investment Policies

Retirement Plan Committees

Annual Plan Best Practices

Outsourcing

# IMPORTANT DATES & NOTICES COMPLIANCE CALENDAR

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## Compliance Calendar

### January

|        |  |
|--------|--|
| 31-Jan | <b>Census Deadline</b><br>Provide and Confirm to ERISA to meet ADP/ACP Test Deadline |
|        | <b>Form 1099-R</b><br>Deadline for distributing IRS Form 1099-R                      |

### February

|        |  |
|--------|--|
| 10-Feb | <b>Form 945</b><br>Deadline to file the Form 945 with the IRS, if required |
|--------|--|

### March

|        |   |
|--------|---|
| 15-Mar | <b>ADP/ACP Refunds</b><br>Deadline to make ADP/ACP Refunds and avoid 10% excise tax penalties |
|        | <b>Tax Deductions</b><br>Deadline for Partnerships and S-Corps to fund and claim deductions.  |
| 31-Mar | <b>Form 1099-R</b><br>Deadline to electronically file with the IRS                            |

### April

|        |  |
|--------|--|
| 15-Apr | <b>Tax Deductions</b><br>Deadline for Corporations and Sole Proprietors to find contributions and claim tax deductions |
|        | <b>Excess Contribution Refunds</b><br>Deadline to refund excess deferrals above 402(g) limit                           |

### May

|       |   |
|-------|---|
| 1-May | <b>Engage Large Plan Auditor</b><br>Suggested deadline for large plan Form 5500 filers to engage an auditor |
|-------|---|

### June

|        |  |
|--------|--|
| 30-Jun | <b>Tax Deductions</b><br>Deadline for providing all information to ERISA to avoid filing an extension on the Form 5500 |
|--------|--|

### July

|        |   |
|--------|---|
| 15-Jul | <b>Complete Large Plan Audit</b><br>Deadline to submit completed large plan audit report to ERISA           |
| 31-Jul | <b>Form 5500-5558</b><br>Deadline for the employer to electronically sign Form 5500 or prepare an extension |
|        | <b>Form 5330</b><br>Deadline for filing IRS Form 5330 required if the plan is required to pay excise tax    |

### August

|        |  |
|--------|--|
| 31-Aug | <b>Census Deadline</b><br>Return census data to ERISA to ensure plan meets final Form 5500 filing deadline |
|--------|--|

### September

|        |  |
|--------|--|
| 15-Sep | <b>Tax Deductions</b><br>Final deadline for Partners to fund contributions                                 |
|        | <b>Mid-Year Testing</b><br>Deadline for submitting Census data for mid-year testing (if rejected) to ERISA |
| 30-Sep | <b>Summary Annual Report</b><br>Deadline for distributing the SAR  |

### October

|        |   |
|--------|---|
| 1-Oct  | <b>Extended Large Plan Audits</b><br>Deadline to submit completed large plan audit report to ERISA  |
| 15-Oct | <b>Form 5500</b><br>Final Deadline for the Employer to sign Form 5500                               |
|        | <b>Tax Deductions</b><br>Final deadline for Sole Proprietors and Corporations to fund contributions |

### November

|       |  |
|-------|--|
| 1-Nov | <b>Terminating SIMPLE Plan</b><br>If current SIMPLE Plan transitioning to 401(k) Plan, or just terminating, SIMPLE IRA Notice must be given to employees on/before November 1st. |
|-------|--|

### December

|        |   |
|--------|---|
| 2-Dec  | <b>Annual Notices</b><br>Deadline to distribute participant notices   |
| 10-Dec | <b>Distribution Deadline</b><br>Deadline to submit distribution request to ERISA for processing prior to year end |
|        | <b>ADP/ ACP Refunds</b><br>Final deadline for making ADP Refunds  |

*EXAMPLE:*

Preparation for  
July 1<sup>st</sup>  
Enrollment

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- May 1<sup>st</sup>: Contact Financial Advisor to review Past Year Reports & set up Education meeting in June
- May 15<sup>th</sup>: Determine Eligibility
- June 1<sup>st</sup>: Deliver Enrollment Materials to eligible participants & required notices
- June 15<sup>th</sup>: Financial Advisor holds enrollment education meeting
- July 1<sup>st</sup>: Enrollment Date



# IMPORTANT DATES & NOTICES: Q1

- **JANUARY:**

- JAN 31 – Due Date for Plan Sponsors to return complete Census File and Annual information Request Form to Recordkeeper / TPA
- JAN 31 – Deadline for 1099-R reporting to a plan participants for plan distributions in previous year
- JAN 31 – Deadline for Form 945 reporting for a plan withholding on distributions in previous year.

- **FEBRUARY:**

- FEBRUARY 28 – Form 1099-Rs for prior year Distributions due to IRS.

- **MARCH:**

- MARCH 15 – Deadline to complete discrimination testing and correct ADP / ACP failure.
- MARCH 15 – Employer contributions due (unless extension is filed) – S Corp & multi-member LLC's (K-1 entities)
- MARCH 31 / APRIL 2 (this year)\* – 1099-R electronic filing deadline with IRS



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# IMPORTANT DATES & NOTICES: Q2

- **APRIL:**

- APRIL 1 – Initial required minimum distributions for any employees who turned 70 ½ or retired in prior year.
- APRIL 17 (this year)\* – Deadline for 402(g) excess deferral refunds to participants.
- APRIL 17 (this year)\* - Employer contributions due (unless extension is filed) –
  - C-Corp & Sole-proprietors

- **JUNE:**

- JUNE 30 – Deadline for processing corrective distributions for failed ADP / ACP tests from plans with EACA without 10% excise tax.



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# IMPORTANT DATES & NOTICES: Q3

- **JULY:**

- JULY 28 – Summary of Material Modifications (SMM) due to participants
- JULY 31 – Deadline to file Form 5500 (unless extension filed)
- JULY 31 – Deadline to file Form 5330 (excise taxes on prohibited transactions) if applicable

- **SEPTEMBER:**

- SEPTEMBER 15 – Required contribution to Money Purchase Pension, Target Benefit Pension, and defined benefit plans and prior year employer profit sharing and match contributions for those sponsors who filed corp. tax extension.
- SEPTEMBER 30 – Deadline for providing Summary Annual Report (SAR) to participants (unless Form 5500 extension is filed)

The logo for ERISA Services, Inc. is located in a white circle on a blue background. The text "ERISA Services, Inc." is in a bold, sans-serif font, with "ERISA" in a larger size. Below it, the tagline "Helping You Become Retirement Ready" is written in a smaller, italicized font.

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# IMPORTANT DATES & NOTICES: Q4

- **OCTOBER:**

- OCTOBER 1 – 401(k) Plan Safe Harbor Notice (must be delivered between 10/1 and 12/1 for Plans with a 12/31 plan year-end).
- OCTOBER 15 – Extended deadline for filing Form 5500 and Form 8955-SSA

- **DECEMBER:**

- DECEMBER 1 – Deadline to provide annual notice to employees of ADP / ACP testing safe harbor provisions, automatic enrollment / contribution provisions and Qualified Default Investment Alternative (QDIA) arrangements.
- DECEMBER 31 – Age 70 ½ Required Minimum Distribution Due to participants who have begun receiving

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# Top 10 Issues Found in 401(k) Plans

1. Failure to understand & Follow the plan's definition of compensation
2. Late or erratic contribution of employee deferrals
3. Failure to amend the plan document for tax law changes
4. Misunderstanding of eligibility & vesting rules
5. Growing forfeiture accounts
6. Impermissible in-service withdrawals
7. Failure to follow plan loan provisions
8. Failure to accurately perform or pass the ADP / ACP nondiscrimination tests
9. Matching / Profit sharing calculated incorrectly
10. Is your plan "Top Heavy" – how does it comply with Top Heavy rules?



# Top 10 Issues found in EPTA Audits

1. Termination or Partial Termination – Potential Vesting / Distribution Issues
2. Acquisitions
3. Deferral Percentage Tests
4. Compensation
5. Plan Document
6. Vesting
7. Distributions and Loans
8. Assets
9. Limits
10. Miscellaneous



# INDUSTRY TRENDS

- **ADVISOR CONSOLIDATION**
- **ADVISOR VERSUS FIDUCIARY**
- **PAYROLL INTEGRATION**
- **TECHNOLOGY UPDATES WITH RECORDKEEPING PLATFORMS**
- **ENHANCEMENTS (WEBSITE → MOBILE APP)**
- **FULLFILLMENT SERVICES**
- **PARTICIPANT INTERACTION**

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# INDUSTRY CHATTER

- **LITIGATION (CURRENT)**
- **FEE COMPRESSION**
- **CLEAN PRICING (TAX ADVANTAGES)**
- **ZERO REVENUE SHARING**
- **ERISA BUDGET ACCOUNTS**
- **3(16) SERVICES**
- **CASH BALANCE / DEFINED BENEFIT PLAN DESIGN**

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# EBSA CONTACT INFORMATION: IMPORTANT RESOURCES

- IRS WEBSITE

<https://www.irs.gov/retirement-plans>

- EBSA WEBSITE

[www.dol.gov/ebsa](http://www.dol.gov/ebsa)

- EBSA Regional Offices

(866) 444-EBSA

- Office of Regulations & Interpretations

(202) 693-8500

- Office of Exemption Determinations

(202) 693-8540

- 401(K) PLAN CHECKLIST

- SIMPLE IRA PLAN CHECKLIST

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OUR SERVICES | ABOUT US | OUR PARTNERS | USEFUL LINKS | CONTACT

**It's imperative**  
that we stay abreast of the current changes in the ERISA Code and act in the best interests of our clients.  
Date Posted: 01/01/2013

HELPFUL RESOURCES

- Request Proposal
- Download Our Brochure
- Financial Calculators
- Advisor Resources
- Client Resources
- Helping Here

Over half of workers

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ERISA Services, Inc. is proud to announce that we have been named one of the top 100 financial advisors in the country by *Investment Advisor* magazine.

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**About us**

ERISA Services, Inc. was founded in 1981 to help individuals focus on retirement in a simplified, and to make the process of working, saving and investing easier.

**Recent update**

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**Year End Package Overview**

- Year End Packet Introduction · 1:58
- Highly Compensated and Key Employee worksheet · 3:06

VIEW FULL PLAYLIST (7 VIDEOS)



ALL THINGS  
ONLINE!

QUESTIONS

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**WE APPRECIATE YOU!**  
THANK YOU FOR COMING!