



Retaining Plan Records

As a plan sponsor, there are significant reporting and disclosure responsibilities under The Employee Retirement Income Security Act of 1974 (ERISA). Additionally, ERISA requires plan sponsors to retain broad categories of records related to meeting those responsibilities. To do so, a plan sponsor should understand the applicable rules and put in place a record retention policy governing how it periodically reviews, updates, preserves, and discards documents related to plan administration.

Six-year Requirement

ERISA Section 107 requires that any person required by ERISA to file any report (such as Form 5500) for a qualified plan must maintain, generally, for a period of “not less than six years” after the document is filed, a copy of such report. Also required is retention of all records supporting information detailed in a plan’s Form 5500 and other reports and disclosures.

Supporting documents on this list include any records an auditor might need to confirm the accuracy and completeness of any information in the original report or disclosure. These include, but are not limited to, service provider information, corporate income tax returns (for reconciling deductions), and the plan’s nondiscrimination and coverage test results.

Indefinite Period

Records that need to be kept for an indefinite period include those necessary to determine benefits and eligibility for plan participation. By necessity, such records would include any related to dates of service, eligibility, vesting, contributions, and more. These records must be maintained for as long as the possibility exists — whether through request or litigation — that they might be relevant to determine any benefits due (or which may become due) to employees and beneficiaries. In some cases, former employees may wait many years — possibly until retirement — to inquire about benefits.

Specific Information To Keep

Records that should be retained by plan sponsors include:

- The original signed and dated plan document
- Plan documents and communications given to plan participants
- The determination, advisory, or opinion letter for the plan
- Any financial records
- Copies of Form 5500
- Payroll records used to determine eligibility and contributions
- Proof of the plan’s fidelity bond
- Documents relating to plan loans, withdrawals, and distributions
- Nondiscrimination and coverage test results

- Personal information of employees, including name, Social Security number, date of birth, and marital/family status
- Employment history information
- Officer and ownership history and familial relationships
- Election forms for deferral amount, investment direction, beneficiary designation, and distribution requests
- Listing of contribution and distribution transactions
- Notarized spousal consents and waivers

Electronic Documentation

As long as the record retention system meets ERISA requirements, records for the most part can be stored electronically. Generally, the retention process must:

- Allow easy conversion to legible and readable paper copies to satisfy ERISA's reporting and disclosure requirements
- Have reasonable controls to ensure the accuracy, reliability, and authenticity of the records
- Maintain records in reasonable order and in a safe and accessible place to allow indexing, retaining, preserving, retrieving, and reproducing
- Not be subject to any agreements or restrictions that would compromise or limit compliance with ERISA's reporting and disclosure requirements
- Establish and implement adequate records management practices including, but not limited to, following procedures for labeling of electronic records and saving backup electronic copies
- Generally, paper records can be disposed of any time after being transferred to a compliant electronic record system. However, the retention of an original paper record is required if the electronic record would not constitute a duplicate or substitute record under the terms of the plan and applicable federal or state law.

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