



KB PENSION SERVICES ALERT!

April 2004 * No: 04-01

IMPORTANT INFORMATION FROM THE DEPARTMENT OF LABOR

The Department of Labor (DOL) has devoted more resources to enforcing the rule regarding the **timing of the deposit of 401(k) elective deferrals** during the past several years, and will continue to do so in the future. The regulations require an employer deposit employee deferrals on the earliest date the employer can reasonably segregate the contributions from its general assets, but in no event later than the 15th business day of the month following the month in which the employer withheld the contribution from employees' pay. Unfortunately, some employers have erroneously interpreted this regulation to permit them to have until the 15th business day of the following month to deposit the participant contributions, even if they could have segregated the funds sooner.

The DOL is stepping up their pressure on late depositors and more strictly enforcing the requirement that contributions be deposited as soon as you can reasonably segregate the contributions from the general assets of the company.

Form 5500 specifically asks if deposits were made timely throughout the year. Auditors performing large plan audits are obligated to review the deposit history to determine whether they were made timely. Auditors **must** disclose their findings on their audit report. If late deposits are reported, it is likely the DOL will target the plan for audit.

To comply with regulations, we strongly urge you to deposit employee deferrals on the same cycle as your payroll and federal withholding deposits. For example, if your payroll cycle is bi-weekly, deferrals should be deposited on the same basis. If you are not currently making your deposits on the same basis as your payroll, please contact us to discuss available options for meeting this DOL requirement. If you have previously encountered problems with timely deposits, **KB Pension Services, Inc.** is available to assist you with correction through voluntary compliance programs.

Our goal is to partner with you to ensure that your plan continues to meet your business and retirement needs. Please contact our office to discuss your plan in general, or this alert specifically.

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We are implementing the **KB PENSION SERVICES ALERT!** to keep you informed of retirement plan issues requiring your ongoing attention. This first **ALERT!** is of **high importance** and may require immediate action by 401(k) Plan Sponsors.