

RECORD RETENTION REQUIREMENTS

It is a well-known fact that the Employee Retirement Income Security Act of 1974 (ERISA) established specific reporting and disclosure requirements for qualified retirement plans. In addition, ERISA spelled out how long a plan sponsor must retain plan documents and records that support those requirements.

The topic of record retention can be broken into three general areas:

1. What records should be kept?
2. How long should they be kept?
3. How should they be archived?

The short answers are:

1. All records that support the plan's annual reporting form (Form 5500, 5500-SF or 5500-EZ) and disclosure requirements should be retained.
2. All plan related materials and records should be kept for a period of at least six years after the reporting form's filing date.
3. Records should be preserved in a manner and format (electronic or otherwise) that permit ready retrieval.

Who is responsible for keeping these records?

The responsibility to retain these records lies with the plan administrator (the employer). While it is common for a plan sponsor to contract with an outside service provider who may provide certain documents, reports and prepare the form 5500, the plan administrator is ultimately responsible for retaining adequate records to support the records and filings.

Retaining the Plan Document

ERISA requires that the plan administrator retain the actual plan documents from its initial adoption until the plan is terminated. The types of plan documents include: original signed and dated plan document, all amendments signed and dated and a copy of the corresponding IRS approval letter. During recent audits, the IRS has requested up to three versions of the plan documents (PPA (current), EGTRRA and GUST).

Retaining Supporting Documents

ERISA requires the employer to retain all records necessary to determine the benefit that is due to each participant. Participant records include (but are not limited to) items such as dates of birth, hire, or termination; compensation; contribution election forms; and records of distributions. In addition, documents supporting the plan's investments must be retained.

Use of Electronic Media

The information required to be retained may be stored using electronic media if the following conditions are met:

1. The electronic recordkeeping system can ensure the integrity, accuracy and reliability of the records kept.
2. The records are maintained in reasonable order and in a safe accessible place.
3. The records are convertible into legible paper copy.
4. Adequate records management practices are established and implemented.

The original paper records may be disposed of any time after they are transferred into an electronic system

Importance of Record Retention

Proper data retention will assist the plan sponsor with meeting their fiduciary duties including the "prudent man" rule by providing information needed to complete a plan audit, documentation demonstrating that the plan has been in operational compliance and detailed participant level records that will prove that benefits to participants have been calculated accurately and distributed in accordance with the plan document.

If you have any questions about these document retention rules, feel free to contact us.